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Rulemaking Hearing Rule(s) Filing Form

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Revision Type (check all that apply):

___ Amendment
X New
X Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0400-12-01	Hazardous Waste Management
Rule Number	**Rule Title**
0400-12-01-.07	Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities
0400-12-01-.08	Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Wastes and for Certain Used Oil Facilities or Transporters
0400-12-01-.09	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

Chapter Number	**Chapter Title**
1200-01-11	Hazardous Waste Management Regulations
Rule Number	**Rule Title**
1200-01-11-.07	Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities
1200-01-11-.08	Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Wastes and for Certain Used Oil Facilities or Transporters
1200-01-11-.09	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://tn.gov/sos/rules/1360/1360.htm)

Repeals

Chapter 1200-01-11
Hazardous Waste Management Regulations

Rule 1200-01-11-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities, Rule 1200-01-11-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Wastes and for Certain Used Oil Facilities or Transporters, and Rule 1200-01-11-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities are repealed.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

New Rules

Chapter 0400-12-01
Hazardous Waste Management

0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities

(1) General

(a) Purpose [40 CFR 270.1]

The purpose of this rule is to establish the procedures, documentation, and other requirements which must be met in order for a person to be permitted to operate a hazardous waste treatment, storage, or disposal facility in Tennessee.

(b) Scope/Applicability [40 CFR 270.1]

1. The requirements of this rule apply as specified to owners and operators of new and existing hazardous waste management facilities in Tennessee. Except as may be specifically provided otherwise in this rule or in Rule 0400-12-01-.02:

(i) No new hazardous waste management facility in Tennessee can lawfully treat, store, or dispose of hazardous waste unless the owner or operator has a permit under the Act; and

(ii) No existing hazardous waste management facility in Tennessee can lawfully treat, store, or dispose of hazardous waste unless the owner and operator has a permit under the Act or interim status as provided in paragraph (3) of this rule.

2. A permit is required for the treatment, storage, and disposal of any "hazardous waste" as identified or listed in Rule 0400-12-01-.02. The terms "treatment", "storage", "disposal" and "hazardous waste" are defined in Rule 0400-12-01-.01(2)(a). Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners and operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to Rule 0400-12-01-.05(7)(f)) after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal or decontamination as provided under parts 7 and 8 of this subparagraph, or obtain an enforceable document in lieu of a post-closure permit, as provided under part 9 of this subparagraph. If a post-closure permit is required, the permit must address applicable Rule 0400-12-01-.06 Groundwater Monitoring, Unsaturated Zone Monitoring, Corrective Action, and Post-closure Care Requirements. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this paragraph.

3. Owners and operators of certain facilities require permits under the Act as well as permits under other environmental regulatory programs for certain aspects of the facility operation. Permits under the Act are required for:

(i) Injection wells that dispose of hazardous waste, and associated surface facilities that treat, store, or dispose of hazardous waste. However, the owner or operator with permits issued under the Tennessee Water Quality Control Act (T.C.A. §§69-3-101 et seq.), through Chapter 1200-04-06 of the rules of the State of Tennessee, and under Part C of the Federal Safe Drinking Water Act (42 U.S.C. 3001 et seq.), will be deemed to have a permit under the Act for the injection well itself if they comply with the requirements of subpart (c)1(ii) and part (c)2 of this paragraph (permit by rule for injection wells).

(ii) Off-site wastewater treatment units. However, the owner or operator of an off-site wastewater treatment unit that complies with the requirements of subpart (c)1(iii) of this paragraph will be deemed to have a permit under the Act (permit-by-rule for off-site wastewater treatment units).

(iii) Treatment, storage, or disposal of hazardous waste at facilities requiring a pollutant discharge permit under T.C.A. §§69-3-101 et seq. However, the owner or operator of a publicly owned treatment works receiving hazardous waste will be deemed to have a permit under the Act for that waste if they comply with the requirements of subpart (c)1(i) and part (c)2 of this paragraph (permit by rule for POTWs).

4. The following persons are among those who are not required to obtain a permit under the Act and this rule:

(i) Generators who accumulate hazardous waste on-site for less than the time periods provided in Rule 0400-12-01-.03(4)(e), unless the generator is accumulating the waste in a unit otherwise subject to this rule;

(ii) Persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulation under this rule by Rules 0400-12-01-.02(1)(d) and (e) (exclusions or small generator exemption);

(iii) Owners or operators of totally enclosed treatment facilities as defined in Rule 0400-12-01-.01(2)(a);

(iv) Owners or operators of one of the following units, as defined in Rule 0400-12-01-.01(2)(a):

(I) an elementary neutralization unit;

(II) an on-site wastewater treatment unit; or

(III) an off-site wastewater treatment unit located at a facility otherwise required to have a permit issued pursuant to paragraph (7) of this rule.

(v) Transporters storing manifested shipments of hazardous waste in containers meeting applicable DOT and PSC packaging regulations at a transfer facility for a period of ten days or less;

(vi) Persons adding absorbent material to waste in a container (as defined in Rule 0400-12-01-.01(2)(a)) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container and Rule 0400-12-01-.06(2)(h)2 and Rule 0400-12-01-.06(9)(b) and (c) are complied with;

(vii) Owners and operators of facilities which treat or store hazardous waste that is to be recycled, except to the extent the requirements of this rule are referred to in Rule 0400-12-01-.02(1)(f) and Rule 0400-12-01-.09;

(viii) Farmers who dispose of hazardous waste pesticides from their own use as provided in Rule 0400-12-01-.02(1)(d)2(ii)(II);

(ix) Universal waste handlers and universal waste transporters (as defined in Rule 0400-12-01-.01(2)(a)) managing the wastes listed in Rule 0400-12-01-.12(1)(a). These handlers are subject to regulation under Rule 0400-12-01-.12.

5. (i) A person is not required to obtain a permit under the Act for treatment or containment activities taken during immediate response to any of the following situations:

(I) A discharge of a hazardous waste;

(II) An imminent and substantial threat of a discharge of hazardous waste;

(III) A discharge of a material which, when discharged, becomes a hazardous waste; or

(IV) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in Rule 0400-12-01-.01(2)(a).

(ii) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this rule for those activities.

(iii) In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

6. The Commissioner may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

7. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination standards under Rule 0400-12-01-.05(7)(b) must obtain a post-closure permit unless they can demonstrate to the Commissioner that the closure meets the standards for closure by removal or decontamination in Rule 0400-12-01-.06(11)(i), (12)(i) or (13)(k)5 respectively. The demonstration may be made in the following ways:

(i) If the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that closure by Rule 0400-12-01-.06 removal standards were met. If the Commissioner believes that Rule 0400-12-01-.06 standards were met, he/she will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in part 8 of this subparagraph.

(ii) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the Commissioner for a determination that a post-closure permit is not required because the closure met the applicable Rule 0400-12-01-.06 closure standards.

(I) The petition must include data demonstrating that closure by removal or decontamination standards were met, or it must demonstrate that the unit closed met or exceeded the applicable Rule 0400-12-01-.06 closure-by-removal standards.

(II) The Commissioner shall approve or deny the petition according to the procedures outlined in part 8 of this subparagraph.

8. (i) If a facility owner/operator seeks an equivalency demonstration under part 7 of this subparagraph, the Commissioner will provide the public, through a newspaper notice, published by the owner or operator, as provided for in subparagraph (7)(e) of this rule and as prepared and required by the Commissioner, the opportunity to submit written comments on the information submitted by the owner/operator within 30 days from the date of the notice. The Commissioner will also, in response to a request or at his/her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the Rule 0400-12-01-.05 closure to a Rule 0400-12-01-.06 closure. The Commissioner will give public notice, published by the owner or operator, as provided for in subparagraph (7)(e) of this rule and as prepared and required by the Commissioner, 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 owner or operator shall provide proof of the completion of all notice requirements to the Commissioner within ten (10) days following conclusion of the public notice procedures.

(ii) The Commissioner will determine whether the Rule 0400-12-01-.05 closure met Rule 0400-12-01-.06 closure by removal or decontamination requirements within 90 days of its receipt. If the Commissioner finds that the closure did not meet the applicable Rule 0400-12-01-.06 standards, he/she will provide the owner/operator with a written statement of the reasons why the closure failed to meet Rule 0400-12-01-.06 standards. The owner/operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The Commissioner will review any additional information submitted and make a final determination within 60 days.

(iii) If the Commissioner determines that the facility did not close in accordance with Rule 0400-12-01-.06 closure-by-removal standards, the facility is subject to post-closure permitting requirements.

9. Enforceable documents for post-closure care. At the discretion of the Commissioner, an owner or operator may obtain, in lieu of a post-closure permit, an enforceable document imposing the requirements of Rule 0400-12-01-.05(7)(l). "Enforceable document" means an order, a plan, or other document issued by EPA or by the Commissioner including, but not limited to a corrective action order, a remedial action order, or a closure or post-closure plan.

(Note: As provided in Rule 0400-12-01-.08(1)(d), no permit or other authorization shall be issued or renewed by the Division of Solid Waste Management pursuant to this Chapter or Chapter 0400-12-02 until all fees and/or penalties owed by the applicant to the Division are paid in full, unless a time schedule for payments has been approved and all payments are current or contested fees or penalties are under appeal.)

(c) Permits-By-Rule [40 CFR 270.60]

1. Notwithstanding any other provision of this rule, the following shall be deemed to have a permit under the Act if the conditions listed are met:

(i) The owner or operator of a POTW which accepts for treatment hazardous waste:

(I) If the owner or operator has a permit under T.C.A. §§69-3-101 et seq.;

(II) If the owner or operator complies with the conditions of that permit;

(III) If the owner or operator complies with the notification requirement of part 2 of this subparagraph;

(IV) If the owner or operator complies with the following regulations:

I. Rule 0400-12-01-.06(5)(b) (Use of Manifest System);

II. Rule 0400-12-01-.06(5)(c) (Manifest Discrepancies);

III. Rule 0400-12-01-.06(5)(d)1 and 2(i) (Operating Record);

IV. Rule 0400-12-01-.06(5)(f) (Annual Report); and

V. Rule 0400-12-01-.06(5)(g) (Unmanifested Waste Report);

VI. Rule 0400-12-01-.06(6)(l) (Corrective Action for Solid Waste Management Units) for NPDES permits issued after November 8, 1984; and

(V) If the waste meets all Federal, State, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance.

(ii) The owner or operator of an injection well disposing of hazardous wastes, if the owner or operator:

(I) Has permits for underground injection issued under the Tennessee Water Quality Control Act (T.C.A. §§69-3-101 et seq.), through Chapter 1200-04-06 of the rules of the State of Tennessee, and under Part C of the Federal Safe Drinking Water Act (42 U.S.C. 3001 et seq.).

(II) Complies with the conditions of those permits and the following requirements:

I. Rule 0400-12-01-.06(5)(b) (Use of Manifest System);

II. Rule 0400-12-01-.06(5)(c) (Manifest Discrepancies);

III. Rule 0400-12-01-.06(5)(d)1 and 2(i) (Operating Record);

IV. Rule 0400-12-01-.06(5)(f) (Annual Report);

V. Rule 0400-12-01-.06(5)(g) (Unmanifested Waste Report);

VI. Rule 0400-12-01-.06(2)(g) (Personnel Training);

VII. Submitted to the Commissioner, when abandonment is completed, of certification by the owner or operator and certification by an independent registered professional engineer

that the facility has been closed in accordance with the plugging and abandonment plan approved as part of his underground injection permit; and

VIII. Rule 0400-12-01-.06(6)(l) (Corrective Action for Solid Waste Management Units) for NPDES permits issued after November 8, 1984.

(III) For Underground Injection Control (UIC) permits issued after November 8, 1984:

I. Complies with Rule 0400-12-01-.06(6)(l); and

II. Where the UIC well is the only unit at a facility which requires a permit, complies with subparagraph (5)(e) of this rule.

(iii) The owner or operator of an off-site wastewater treatment unit (as defined in Rule 0400-12-01-.01(2)(a)) provided that the only wastes received by the unit from off-site are from facilities owned or operated by the same manufacturing corporation or subsidiaries of such corporation or from product distribution facilities operating under contract to that manufacturing corporation or subsidiaries, if the owner or operator:

(I) Complies with the notification requirement of part 2 of this subparagraph;

(II) Meets all appropriate standards of Tennessee Chapters 1200-04-01 through 1200-04-05 that are in effect on the effective date of this rulemaking;

(III) Complies with the following requirements relative to hazardous wastes received from off-site locations:

I. Rule 0400-12-01-.06(5)(b) (Use of Manifest System);

II. Rule 0400-12-01-.06(5)(c) (Manifest Discrepancies);

III. Rule 0400-12-01-.06(5)(f) (Annual Report); and

IV. Rule 0400-12-01-.06(5)(g) (Unmanifested Waste Report); and

(IV) Complies with the requirements set out in part (2)(h)2 of Rule 0400-12-01-.06 if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in Rule 0400-12-01-.10(3)(a), Table: Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal.

(iv) The owner or operator of a "controlled crusher system" used explicitly for the crushing of universal waste lamps listed in Rule 0400-12-01-.12(1)(a) to achieve volume reduction, if the owner or operator:

(I) Complies with the notification requirement of part 2 of this subparagraph;

(II) Complies with the following:

I. The lamps must be crushed in a system designed and operated to minimize the loss of mercury or other hazardous constituents to the atmosphere. Any air exhausted from the unit shall pass through a well-maintained high efficiency particulate air filter

(HEPA) designed to minimize such loss. Detailed records regarding this operation must be kept and made available for review for at least three (3) years, including, but not limited to, the technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit;

II. The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of Rule 0400-12-01-.03(4)(e), and has available equipment necessary to comply with this requirement;

III. The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable Occupational Safety and Health Administration (OSHA) exposure levels for mercury;

IV. The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury or other hazardous constituents handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and

V. The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation; and

(III) Complies with all other applicable aspects of Rule 0400-12-01-.12, including, but not limited to, the provisions of paragraph (8) of that rule.

(Note: A small or large quantity handler who crushes his own lamps on site may operate without a Permit-by-Rule pursuant to subparts (2)(d)4(ii) or (3)(d)4(ii) of Rule 0400-12-01-.12, respectively.)

2. An owner or operator of a facility or universal waste "crusher" subject to a permit-by-rule under part 1 of this subparagraph must notify the Department in accordance with the requirements of this part.

(i) For existing facilities or crushers, notification must be filed within 90 days of the date the facility or process becomes subject to these rules. For new facilities or processes, notification must be filed at least 30 days before the management of hazardous waste is to commence.

(ii) Notification must be filed only on notification forms obtained from the Department.

(iii) The notification shall include, but not necessarily be limited to, the following information about the facility or process:

(I) The organization/facility name and mailing address;

(II) The site location (county, city, street address);

(III) The Installation Identification Number assigned to the facility or process by EPA or the Department; or, if no EPA Installation Identification Number has been assigned, one of the following:

I. If known, the facility's Dunn and Bradstreet Universal Numbering System (DUNS) identification number, or

II. For a federal facility, its General Services Administration (GSA) Real Property Number;

(IV) The name, title, and telephone number of the facility or process operator or other responsible individual at the facility who could be contacted for clarification of information submitted;

(V) A description of hazardous waste or product handled, by listing or other identification based on the waste's hazardous characteristics (Rule 0400-12-01-.02);

(VI) An estimate of the quantity of each such waste handled in a year;

(VII) A brief description of hazardous waste storage and treatment methods utilized; and

(VIII) A certification, to be signed and dated by the facility or process operator or his authorized representative.

3. Upon being notified as per part 2 of this subparagraph, the Commissioner shall issue an Installation Identification Number to the facility or process; such number to be included on all manifests, all reports and official documents, and any other correspondence between the facility or process and the Department.

(d) Emergency Permits [40 CFR 270.61]

1. Notwithstanding any other provision of this rule, in the event the Commissioner finds an imminent and substantial endangerment to human health or the environment the Commissioner may issue a temporary emergency permit:

(i) To a non-permitted facility to allow treatment, storage, or disposal of hazardous waste; or

(ii) To a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit.

2. This emergency permit:

(i) May be oral or written. If oral, it shall be followed in five days by a written emergency permit;

(ii) Shall not exceed 90 days in duration;

(iii) Shall clearly specify the hazardous wastes to be received, and the manner and location of their treatment, storage, or disposal;

(iv) May be terminated by the Commissioner at any time without process if he or she determines that termination is appropriate to protect human health and the environment;

(v) Shall be accompanied by a public notice which is published by the owner or operator, as provided for in subparagraph (7)(e) of this rule and as prepared and required by the Commissioner, in a daily or weekly local newspaper of general circulation. (The owner or operator shall provide proof of the completion of all notice requirements to the Commissioner within ten (10) days following conclusion of the public notice procedures.) The public notice shall include the following information:

(I) Name and address of the office granting the emergency authorization;

(II) Name and location of the permitted HWM facility;

(III) A brief description of the wastes involved;

(IV) A brief description of the action authorized and reasons for authorizing it; and

(V) Duration of the emergency permit; and

(vi) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this rule and Rules 0400-12-01-.06 and .09.

(e) Hazardous Waste Incinerator Permits [40 CFR 270.62]

When an owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations in 40 CFR 63 Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of 40 CFR 63 Subpart EEE), the requirements of this subparagraph do not apply, except those provisions the Commissioner determines are necessary to ensure compliance with parts (15)(f)1 and 3 of Rule 0400-12-01-.06 if you elect to comply with item (12)(a)1(i)(I) of this rule to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Commissioner may apply the provisions of this subparagraph, on a case-by-case basis, for purposes of information collection in accordance with subparagraphs (2)(g) and (h) and subparts (8)(b)2(ii) and (iii) of this rule.

1. For the purposes of determining operational readiness following completion of physical construction, the Commissioner must establish permit conditions, including but not limited to allowable waste feeds and operating conditions, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to bring the incinerator to a point of operational readiness to conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The Commissioner may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to part (9)(c)5 of this rule.

(i) Applicants must submit a statement, with Part B of the permit application, which suggests the conditions necessary to operate in compliance with the performance standards of Rule 0400-12-01-.06(15)(d) during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in Rule 0400-12-01-.06(15)(f).

(ii) The Commissioner will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of Rule 0400-12-01-.06(15)(d) based on his engineering judgment.

2. For the purposes of determining feasibility of compliance with the performance standards of Rule 0400-12-01-.06(15)(d) and of determining adequate operating conditions under Rule 0400-12-01-.06(15)(f), the Commissioner must establish conditions in the permit for a new hazardous waste incinerator to be effective during the trial burn.

(i) Applicants must propose a trial burn plan, prepared under subpart (ii) of this subparagraph with a Part B of the permit application.

(ii) The trial burn plan must include the following information:

(I) An analysis of each waste or mixture of wastes to be burned which includes:

I. Heat value of the waste in the form and composition in which it will be burned.

II. Viscosity (if applicable), or description of the physical form of the waste.

III. An identification of any hazardous organic constituents listed in Appendix VIII of Rule 0400-12-01-.02, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix VIII of Rule 0400-12-01-.02 which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for the exclusion stated. The waste analysis must rely on appropriate analytical techniques.

IV. An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by appropriate analytical methods.

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

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

II. Type of incinerator.

III. Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber.

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

V. Capacity of prime mover.

VI. Description of automatic waste feed cut-off system(s).

VII. Stack gas monitoring and pollution control equipment.

VIII. Nozzle and burner design.

IX. Construction materials.

X. 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 each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other

factors relevant to the Commissioner's decision under subpart (v) of this part.

(V) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any 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, any 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) Such other information as the Commissioner reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this paragraph and the criteria in subpart (v) of this part.

(iii) The Commissioner, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this subparagraph.

(iv) Based on the waste analysis data in the trial burn plan, the Commissioner will specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Commissioner based on his estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in Rule 0400-12-01-.02(4), the hazardous waste organic constituent or constituents identified in Appendix VII of that rule as the basis for listing.

(v) The Commissioner shall approve a trial burn plan if he finds that:

(I) The trial burn is likely to determine whether the incinerator performance standard required by Rule 0400-12-01-.06(15)(d) can be met;

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

(III) The trial burn will help the Commissioner to determine operating requirements to be specified under Rule 0400-12-01-.06(15)(f); and

(IV) The information sought in items (v)(I) and (II) of this part cannot reasonably be developed through other means.

(vi) The Commissioner must send a notice to all persons on the facility mailing list as set forth in item (7)(e)3(i)(V) of this rule and to the appropriate units of State and local government as set forth in item (7)(e)3(i)(VI) of this rule announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Commissioner has issued such notice.

(I) This notice must be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the permitting agency.

(II) This notice must contain:

I. The name and telephone number of the applicant's contact person;

II. The name and telephone number of the permitting agency's contact office;

III. The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

IV. An expected time period for commencement and completion of the trial burn.

(vii) During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

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

(II) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, oxygen (O_2) and hydrogen chloride (HCl).

(III) 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.

(IV) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in Rule 0400-12-01-.06(15)(d)1.

(V) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with Rule 0400-12-01-.06(15)(d)2.

(VI) A computation of particulate emissions, in accordance with Rule 0400-12-01-.06(15)(d)3.

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

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

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

(X) Such other information as the Commissioner may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in Rule 0400-12-01-.06(15)(d) and to establish the operating conditions required by Rule 0400-12-01-.06(15)(f) as necessary to meet that performance standard.

(viii) The applicant must submit to the Commissioner a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in subpart (vi) of this part. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Commissioner.

(ix) All data collected during any trial burn must be submitted to the Commissioner following the completion of the trial burn.

(x) All submissions required by this part must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under subparagraph (2)(a) of this rule.

(xi) Based on the results of the trial burn, the Commissioner shall set the operating requirements in the final permit according to Rule 0400-12-01-.06(15)(f). The permit modification shall proceed according to part (9)(c)5 of this rule.

3. For the purposes of allowing operation of a new hazardous waste incinerator following completion of the trial burn and prior to final modification of the permit conditions to reflect the trial burn results, the Commissioner may establish permit conditions, including but not limited to allowable waste feeds and operating conditions sufficient to meet the requirements of Rule 0400-12-01-.06(15)(f), in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation and submission of the trial burn results by the applicant, and modification of the facility permit by the Commissioner.

(i) Applicants must submit a statement, with Part B of the permit application, which identifies the conditions necessary to operate in compliance with the performance standards of Rule 0400-12-01-.06(15)(d), during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters in Rule 0400-12-01-.06(15)(f).

(ii) The Commissioner will review this statement and any other relevant information submitted with Part B of the permit application and specify those requirements for this period most likely to meet the performance standards of Rule 0400-12-01-.06(15)(d) based on his engineering judgment.

4. For the purpose of determining feasibility of compliance with the performance standards of Rule 0400-12-01-.06(15)(d) and of determining adequate operating conditions under Rule 0400-12-01-.06(15)(f), the applicant for a permit for an existing hazardous waste incinerator must prepare and submit a trial burn plan and perform a trial burn in accordance with subpart (5)(b)5(ii) of this rule and subparts 2(ii) through (v) and (vii) through (x) of this subparagraph or, instead, submit other information as specified in subpart (5)(b)5(iii) of this rule. The Commissioner must announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of subpart 2(vi) of this subparagraph. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under subpart (5)(b)5(i) of this rule are exempt from compliance with Rules 0400-12-01-.06(15)(d) and (f) and, therefore, are exempt from the requirement to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in subpart 2(vii) of this subparagraph, with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Commissioner to establish a later date for submission of the Part B application or the trial burn results. Trial burn results must be submitted prior to issuance of the permit. When the applicant submits a trial burn plan with Part B of the permit application, the Commissioner will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

(f) Permits for Land Treatment Demonstrations Using Field Test or Laboratory Analyses [40 CFR 270.63]

1. For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of Rule 0400-12-01-.06(13)(c), the Commissioner may issue a treatment demonstration permit. The permit must contain only those requirements necessary to meet the standards in Rule 0400-12-01-.06(13)(c)3. The permit may be issued either as a treatment or disposal permit covering only the field test or laboratory analyses, or as a two-phase facility permit covering the field tests, or laboratory analyses, and design, construction operation and maintenance of the land treatment unit.

   (i) The Commissioner may issue a two-phase facility permit if he finds that, based on information submitted in Part B of the application, substantial, although incomplete or inconclusive, information already exists upon which to base the issuance of a facility permit.

   (ii) If the Commissioner finds that not enough information exists upon which he can establish permit conditions to attempt to provide for compliance with all of the requirements of paragraph (13) of Rule 0400-12-01-.06, he must issue a treatment demonstration permit covering only the field test or laboratory analyses.

2. If the Commissioner finds that a phased permit may be issued, he will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration clean-up activities, and any other conditions which the Commissioner finds may be necessary under Rule 0400-12-01-.06(13)(c)3. The Commissioner will include conditions in the second phase of the facility permit to attempt to meet all requirements of paragraph (13) of Rule 0400-12-01-.06 pertaining to unit design, construction, operation, and maintenance. The Commissioner will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application.

   (i) The first phase of the permit will be effective as provided in part (7)(i)2 of this rule.

   (ii) The second phase of the permit will be effective as provided in part 4 of this subparagraph.

3. When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the Commissioner a certification, signed by a person authorized to sign a permit application or report under parts (2)(a)7 and 8 of this rule, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the Commissioner approves a later date.

4. If the Commissioner determines that the results of the field tests or laboratory analyses meet the requirements of Rule 0400-12-01-.06(13)(c), he will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with Rule 0400-12-01-.06(13), based upon the results of the field tests or laboratory analyses.

   (i) This permit modification may proceed under part (9)(c)5 of this rule, or otherwise will proceed as a modification under subpart (9)(c)3(ii) of this rule. If such modifications are necessary, the second phase of the permit will become effective only after those modifications have been made.

(ii) If no modifications of the second phase of the permit are necessary, the Commissioner will give notice of his final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of the final decision on the second phase of the permit. The second phase of the permit then will become effective as specified in part (7)(i)2 of this rule.

(g) Research, Development, and Demonstration Permits [40 CFR 270.65]

1. The Commissioner may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under Rule 0400-12-01-.06 or .09. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:

(i) Shall provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in part 4 of this subparagraph, and

(ii) Shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the Commissioner deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and

(iii) Shall include such requirements as the Commissioner deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure, and remedial action), and such requirements as the Commissioner deems necessary regarding testing and providing of information to the Commissioner with respect to the operation of the facility.

2. For the purpose of expediting review and issuance of permits under this subparagraph, the Commissioner may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in this rule except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

3. The Commissioner may order an immediate termination of all operations at the facility at any time he determines that termination is necessary to protect human health and the environment.

4. Any permit issued under this subparagraph may be renewed not more than three times. Each such renewal shall be for a period of not more than 1 year.

(h) Confidentiality of Information

Permit application information which meets the definition of proprietary information set forth in Rule 0400-12-01-.01(7) shall be subject to the confidential handling provided in that paragraph. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the Commissioner may make the information available to the public without further notice. However, such proprietary information shall not include the name and address of permit applicants or permittees.

(i) Project Supervision

A registered engineer must plan, design, and inspect the construction of any hazardous waste treatment, storage, or disposal works; also, a registered engineer must assist in the start-up of, and outline correct operating procedures for, any new or altered facility. Any registered engineer herein required shall be governed by the terms of T.C.A. Title 62, Chapter 2.

(j) Permits for Boilers and Industrial Furnaces Burning Hazardous Waste [40 CFR 270.66]

When an owner or operator of a cement kiln , lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005 or when an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations in 40 CFR 63 Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of 40 CFR 63 Subpart EEE), the requirements of this subparagraph do not apply. The requirements of this subparagraph do apply, however, if the Commissioner determines certain provisions are necessary to ensure compliance with subpart (8)(c)5(i) and item (8)(c)5(ii)(III) of Rule 0400-12-01-.09 if you elect to comply with subpart (12)(a)1(i) of this rule to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; or if you are an area source and elect to comply with subparagraphs (8)(f), (g), and (h) of Rule 0400-12-01-.09 standards and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or the Commissioner determines certain provisions apply, on a case-by-case basis, for purposes of information collection in accordance with subparagraphs (2)(g) and (h) and subparts (8)(b)2(ii) and (iii) of this rule.

1. General

Owners and operators of new boilers and industrial furnaces (those not operating under the interim status standards of Rule 0400-12-01-.09(8)(d)) are subject to parts 2 through 6 of this subparagraph. Boilers and industrial furnaces operating under the interim status standards of Rule 0400-12-01-.09(8)(d) are subject to part 7 of this subparagraph.

2. Permit Operating Periods for New Boilers and Industrial Furnaces

A permit for a new boiler or industrial furnace shall specify appropriate conditions for the following operating periods:

(i) Pretrial Burn Period

For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the boiler or industrial furnace to a point of operational readiness to conduct a trial burn, not to exceed 720 hours operating time when burning hazardous waste, the Commissioner must establish in the Pretrial Burn Period of the permit conditions, including but not limited to, allowable hazardous waste feed rates and operating conditions. The Commissioner may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to part (9)(c)5 of this rule.

(I) Applicants must submit a statement, with Part B of the permit application, that suggests the conditions necessary to operate in compliance with the standards of Rules 0400-12-01-.09(8)(e) through (h) during this period. This statement should include, at a minimum, restrictions on the applicable operating requirements identified in Rule 0400-12-01-.09(8)(c)5.

(II) The Commissioner will review this statement and any other relevant information submitted with Part B of the permit application and specify

requirements for this period sufficient to meet the performance standards of Rules 0400-12-01-.09(8)(e) through (h) based on his/her engineering judgment.

(ii) Trial Burn Period

For the duration of the trial burn, the Commissioner must establish conditions in the permit for the purposes of determining feasibility of compliance with the performance standards of Rules 0400-12-01-.09(8)(e) through (h) and determining adequate operating conditions under Rule 0400-12-01-.09(8)(c)5. Applicants must propose a trial burn plan, prepared under part 3 of this subparagraph, to be submitted with Part B of the permit application.

(iii) Post-trial Burn Period

(I) 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 Commissioner to reflect the trial burn results, the Director will establish the operating requirements most likely to ensure compliance with the performance standards of Rules 0400-12-01-.09(8)(e) through (h) based on his engineering judgment.

(II) Applicants must submit a statement, with part B of the application, that identifies the conditions necessary to operate during this period in compliance with the performance standards of Rules 0400-12-01-.09(8)(e) through (h). This statement should include, at a minimum, restrictions on the operating requirements provided by Rule 0400-12-01-.09(8)(c)5.

(III) The Commissioner will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of Rules 0400-12-01-.09(8)(e) through (h) based on his/her engineering judgment.

(iv) Final Permit Period

For the final period of operation, the Commissioner will develop operating requirements in conformance with Rules 0400-12-01-.09(8)(c)5 that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of Rules 0400-12-01-.09(8)(e) through (h). Based on the trial burn results, the Commissioner shall make any necessary modifications to the operating requirements to ensure compliance with the performance standards. The permit modification shall proceed according to part (9)(c)5 of this rule.

3. Requirements for Trial Burn Plans

The trial burn plan must include the following information. The Commissioner, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this paragraph:

(i) An analysis of each feed stream, including hazardous waste, other fuels, and industrial furnace feed stocks, as fired, that includes:

(I) Heating value, levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, thallium, total chlorine/chloride, and ash;

(II) Viscosity or description of the physical form of the feed stream;

(ii) An analysis of each hazardous waste, as fired, including:

(I) An identification of any hazardous organic constituents listed in Appendix VIII, of Rule 0400-12-01-.02 that are present in the feed stream, except that the applicant need not analyze for constituents listed in appendix VIII that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The waste analysis must be conducted in accordance with appropriate analytical techniques.

(II) An approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by appropriate analytical methods.

(III) A description of blending procedures, if applicable, prior to firing the hazardous waste, including a detailed analysis of the hazardous waste prior to blending, an analysis of the material with which the hazardous waste is blended, and blending ratios.

(iii) A detailed engineering description of the boiler or industrial furnace, including:

(I) Manufacturer's name and model number of the boiler or industrial furnace;

(II) Type of boiler or industrial furnace;

(III) Maximum design capacity in appropriate units;

(IV) Description of the feed system for the hazardous waste, and, as appropriate, other fuels and industrial furnace feedstocks;

(V) Capacity of hazardous waste feed system;

(VI) Description of automatic hazardous waste feed cutoff system(s); and

(VII) Description of any pollution control system; and

(VIII) Description of stack gas monitoring and any pollution control monitoring systems.

(iv) 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.

(v) A detailed test schedule for each hazardous waste for which the trial burn is planned, including date(s), duration, quantity of hazardous waste to be burned, and other factors relevant to the Commissioner's decision under subpart 2(ii) of this subparagraph.

(vi) A detailed test protocol, including, for each hazardous waste identified, the ranges of hazardous waste feed rate, and, as appropriate, the feed rates of other fuels and industrial furnace feedstocks, and any other relevant parameters that may affect the ability of the boiler or industrial furnace to meet the performance standards in Rules 0400-12-01-.09(8)(e) through (h).

(vii) A description of, and planned operating conditions for, any emission control equipment that will be used.

(viii) Procedures for rapidly stopping the hazardous waste feed and controlling emissions in the event of an equipment malfunction.

(ix) Such other information as the Commissioner reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this subpart and the criteria in subpart 2(ii) of this subparagraph.

4. Trial Burn Procedures

(i) A trial burn must be conducted to demonstrate conformance with the standards of Rules 0400-12-01-.09(8)(e) through (h) under an approved trial burn plan.

(ii) The Commissioner shall approve a trial burn plan if he/she finds that:

(I) The trial burn is likely to determine whether the boiler or industrial furnace can meet the performance standards of Rules 0400-12-01-.09(8)(e) through (h);

(II) The trial burn itself will not present an imminent hazard to human health and the environment;

(III) The trial burn will help the Commissioner to determine operating requirements to be specified under Rule 0400-12-01-.09(8)(c)5; and

(IV) The information sought in the trial burn cannot reasonably be developed through other means.

(iii) The Commissioner must send a notice to all persons on the facility mailing list as set forth in item (7)(e)3(i)(V) of this rule and to the appropriate units of State and local government as set forth in item (7)(e)3(i)(VI) of this rule announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Commissioner has issued such notice.

(I) This notice must be mailed within a reasonable time period before the trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the permitting agency.

(II) This notice must contain:

I. The name and telephone number of applicant's contact person;

II. The name and telephone number of the permitting agency contact office;

III. The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

IV. An expected time period for commencement and completion of the trial burn.

(iv) The applicant must submit to the Commissioner a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in part 3 of this

subparagraph. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Commissioner.

(v) All data collected during any trial burn must be submitted to the Commissioner following completion of the trial burn.

(vi) All submissions required by this subparagraph must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report described in part (2)(a)7 of this rule.

5. Special Procedures for DRE Trial Burns

When a DRE trial burn is required under Rule 0400-12-01-.09(8)(e)1, the Commissioner will specify (based on the hazardous waste analysis data and other information in the trial burn plan) as trial Principal Organic Hazardous Constituents (POHCs) those compounds for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Commissioner based on information including his/her estimate of the difficulty of destroying the constituents identified in the hazardous waste analysis, their concentrations or mass in the hazardous waste feed, and, for hazardous waste containing or derived from wastes listed in Rule 0400-12-01-.02(4), the hazardous waste organic constituent(s) identified in Appendix VII of that rule as the basis for listing.

6. Determinations Based on Trial Burn

During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(i) A quantitative analysis of the levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, thallium, silver, and chlorine/chloride, in the feed streams (hazardous waste, other fuels, and industrial furnace feedstocks);

(ii) When a DRE trial burn is required under Rule 0400-12-01-.09(8)(e)1:

(I) A quantitative analysis of the trial POHCs in the hazardous waste feed;

(II) A quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs; and

(III) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in Rule 0400-12-01-.09(8)(e);

(iii) When a trial burn for chlorinated dioxins and furans is required under Rule 0400-12-01-.09(8)(e)5, a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra-octa congeners of chlorinated dibenzo-p-dioxins and furans, and a computation showing conformance with the emission standard;

(iv) When a trial burn for particulate matter, metals, or HCl/Cl_2 is required under subparagraph (8)(f) of Rule 0400-12-01-.09, part (8)(g)3 or 4 of Rule 0400-12-01-.09, subpart (8)(h)2(ii) of Rule 0400-12-01-.09 or part (8)(h)3 of Rule 0400-12-01-.09, a quantitative analysis of the stack gas for the concentrations and mass emissions of particulate matter, metals, or hydrogen chloride (HCl) and chlorine (Cl_2), and computations showing conformance with the applicable emission performance standards;

(v) When a trial burn for DRE, metals, or HCl/Cl_2 is required under subparagraph (8)(f) of Rule 0400-12-01-.09, part (8)(g)3 or 4 of Rule 0400-12-01-.09, subpart (8)(h)2(ii) of Rule 0400-12-01-.09 or part (8)(h)3 of Rule 0400-12-01-.09, a

quantitative analysis of the scrubber water (if any), ash residues, other residues, and products for the purpose of estimating the fate of the trial POHCs, metals, and chlorine/chloride;

(vi) An identification of sources of fugitive emissions and their means of control;

(vii) A continuous measurement of carbon monoxide (CO), oxygen, and where required, hydrocarbons (HC), in the stack gas; and

(viii) Such other information as the Commissioner may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in Rules 0400-12-01-.09(8)(e) through (h) and to establish the operating conditions required by Rule 0400-12-01-.09(8)(c)5 as necessary to meet those performance standards.

7. Interim Status Boilers and Industrial Furnaces

For the purpose of determining feasibility of compliance with the performance standards of Rules 0400-12-01-.09(8)(e) through (h) and of determining adequate operating conditions under Rule 0400-12-01-.09(8)(d), applicants owning or operating existing boilers or industrial furnaces operated under the interim status standards of Rule 0400-12-01-.09(8)(d) must either prepare and submit a trial burn plan and perform a trial burn in accordance with the requirements of this subparagraph or submit other information as specified in item (5)(b)8(i)(VI) of this rule. The Commissioner must announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of subpart 4(iii) of this subparagraph. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants who submit a trial burn plan and receive approval before submission of the Part B permit application must complete the trial burn and submit the results specified in part 6 of this subparagraph with the Part B permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Commissioner to establish a later date for submission of the Part B application or the trial burn results. If the applicant submits a trial burn plan with Part B of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the Commissioner.

(k) (RESERVED) [40 CFR 270.67]

(l) Remedial Action Plans (RAPs) [40 CFR 270.68]

Remedial Action Plans (RAPs) are special forms of permits that are regulated under paragraph (11) of this rule.

(m) Pre-application public meeting and notice for a new hazardous waste treatment, storage or disposal facility permit or a permit renewal.

1. The requirements of this subparagraph shall apply to all permit applicants seeking a new hazardous waste facility permit or applicants seeking a hazardous waste facility permit renewal.

2. Prior to submission of a Part B permit application for a facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for

attendees to provide their names and addresses. At the pre-application community meeting the applicant must provide a community impact statement which shall also be maintained in the facility file. The community impact statement shall include the following:

(i) A description of the facility (including a scale drawing or photograph of the facility) and the proposed hazardous waste management activities;

(ii) A description of security procedures at the facility;

(iii) Information on hazard prevention and preparedness, including a summary of the contingency plan and arrangements with local emergency authorities;

(iv) A description of procedures, structures or equipment used to prevent employee exposure, hazards during unloading, runoff from handling areas and contamination of water supplies;

(v) A description of traffic patterns, traffic volume and control, condition of access roads, and the adequacy of traffic control signals; and

(vi) A description of the facility location information relative to compliance with flood plain requirements and with respect to any commercial applicant, seismic requirements.

3. The applicant shall submit documentation of the public notices, a summary of the meeting, along with the list of attendees and their addresses developed under part 2 of this subparagraph, and copies of any written comments or materials submitted at the meeting, to the permitting agency as a part of the Part B application, in accordance with part (5)(a)1 of this rule.

4. The applicant must provide public notice of the pre-application meeting at least 30 days prior to the meeting.

(i) The applicant shall provide public notice in all of the following forms:

(I) A newspaper advertisement.

The applicant shall publish a notice, fulfilling the requirements in subpart (ii) of this part, in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Commissioner shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Commissioner determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.

(II) A visible and accessible sign.

The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in subpart (ii) of this part. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.

(III) A broadcast media announcement.

The applicant shall broadcast a notice, fulfilling the requirements in subpart (ii) of this part, at least once on at least one local radio station or

television station. The applicant may employ another medium with prior approval of the Commissioner.

(IV) A notice to the permitting agency.

The applicant shall send a copy of the newspaper notice to the permitting agency and to the appropriate units of State and local government, in accordance with item (7)(e)3(i)(III) and (IV) of this rule.

(ii) The notices required under subpart (i) of this part must include:

(I) The date, time, and location of the meeting;

(II) A brief description of the purpose of the meeting;

(III) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

(IV) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

(V) The name, address, and telephone number of a contact person for the applicant.

(2) Application For a Permit

(a) General [40 CFR 270.10 & 270.11]

1. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Commissioner as described in this paragraph. Persons currently authorized with interim status (paragraph (3) of this rule) shall apply for permits when required by the Commissioner. Persons covered by permits-by-rule (subparagraph (1)(c) of this rule) need not apply. Procedures for application, issuance, and administration of emergency permits are found in subparagraph (1)(d) of this rule. Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in subparagraph (1)(g) of this rule. Additionally, subparagraphs (1)(e) and (f) of this rule provide special requirements concerning applications for, respectively, hazardous waste incinerator permits and permits for land treatment demonstrations.

2. When a facility is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, except that the owner must also sign the permit application.

3. The Commissioner shall not issue a permit before receiving a complete application for a permit except for permits-by-rule or emergency permits. An application for a permit is complete when the Commissioner receives an application form and any supplemental information which are completed to his or her satisfaction. An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in subparagraph (f) of this paragraph. The Commissioner may deny a permit for the active life of a hazardous waste management facility or unit before receiving a complete application for a permit.

4. Permit applicants shall keep records of all data and supplemental information used to complete permit applications for a period of at least 3 years from the date the application is signed.

5. Four copies of the required permit application information must be submitted to the Commissioner.

6. All reports, plans, specifications, and manuals must be prepared in proper technical format, typewritten, and bound (in 8 1/2 x 11 inch format). Any documents prepared by firms other than the owner or operator of the facility shall be accompanied by the letter of transmittal to the client.

7. All permit applications will be signed as follows:

   (i) For a corporation: by a responsible corporate officer. For the purpose of this part, a responsible corporate officer means:

      (I) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or

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

      (Note: The Department does not require specific assignments or delegations of authority to responsible corporate officers identified in this subpart. The Department will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Commissioner to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under item (II) of this subpart rather than to specific individuals.)

   (ii) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

   (iii) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this part, a principal executive officer of a Federal agency includes:

      (I) The chief executive officer of the agency, or

      (II) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

8. All reports required by permits and other information requested by the Commissioner shall be signed by a person described in part 7 of this paragraph or by a duly authorized representative of that person. A person is a duly authorized representative only if:

   (i) The authorization is made in writing by a person described in part 7 of this subparagraph;

   (ii) The authorization specifies either an individual or a position having responsibility for the 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 person of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(iii) The written authorization is submitted to the Commissioner.

9. If an authorization under part 8 of this subparagraph is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of part 8 of this subparagraph must be submitted to the Commissioner prior to or together with any reports, information, or applications to be signed by an authorized representative.

10. (i) Any person signing a document under parts 7 or 8 of this subparagraph must make the following certification:

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

(ii) For remedial action plans (RAPs) under paragraph (11) of this rule, if the operator certifies according to subpart (i) of this part, then the owner may choose to make the following certification instead of the certification in subpart (i) of this part:

"Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons who manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(b) Existing Facilities [40 CFR 270.10(e)]

1. Owners and operators of existing hazardous waste management facilities or of hazardous waste management facilities in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to the requirement to have a permit must submit Part A of their permit application no later than whichever of the following dates first occurs:

(i) Ninety days after the effective date of regulations which first require them to comply with the standards set forth in Rules 0400-12-01-.05 or 0400-12-01-.09; or

(ii) Thirty days after the date they first became subject to the standards set forth in Rules 0400-12-01-.05 or 0400-12-01-.09; or

(iii) For generators generating greater than 100 kilograms but less than 1000 kilograms in a calendar month and treating, storing, or disposing of these wastes in an on-site facility for which he is required to apply for and obtain a permit under this rule, by March 24, 1987.

2. Owners and operators of existing facilities who submitted Part A application (or their equivalent) to the Commissioner under emergency rules promulgated earlier under the Act shall not be required to resubmit their Part A application unless required to do so under subparagraph (d) of this paragraph.

3. The Commissioner may by issuance of a public notice extend the date by which owners and operators of specified classes of existing hazardous waste management facilities must submit Part A of their permit application if he finds that

   (i) there has been substantial confusion as to whether the owners and operators of such facilities were required to file a permit application and

   (ii) such confusion is attributable to ambiguities in Rules 0400-12-01-.01, 0400-12-01-.02, or 0400-12-01-.05.

4. The Commissioner may by compliance order issued under T.C.A. §68-212-111 extend the date by which the owner and operator of an existing hazardous waste management facility must submit Part A of their permit application.

5. The owner or operator of an existing facility must submit Part B of their permit application as required by the Commissioner or Board. The Commissioner or Board may require such submission at any time after the due date of the Part A application for the facility, except that any owner or operator of an existing facility shall be allowed at least six months from the date of request to submit Part B of the application. Any owner or operator of an existing facility may voluntarily submit Part B of the application at any time.

6. Failure to furnish a requested Part B application on time, or to furnish in full the information required by the Part B application, is grounds for termination of interim status.

7. The Commissioner shall assign an Installation Identification Number to the owner or operator of an existing facility upon receipt of the Part A application.

8. All existing facilities shall follow the procedure requirements of subparagraph (1)(m) of this rule as part of the Part B application process.

(c) New Facilities [40 CFR 270.10(f),124.31]

1. Except as provided in part 4 of this subparagraph, no person shall begin physical construction of a new hazardous waste management facility without having submitted Part A and Part B of the permit application and having received an effective permit.

2. An application for a permit for a new facility (including both Part A and Part B) may be filed with the Commissioner at any time after promulgation of those standards in Rule 0400-12-01-.06, paragraph (9) et seq. applicable to such facility. Except as provided in part 4 of this subparagraph, all applications must be submitted at least 180 days before physical construction is expected to commence.

3. The owner or operator of a hazardous waste treatment or disposal facility which he anticipates will receive hazardous wastes generated off-site must submit his Part A permit application, completed to the best of his ability, to the Commissioner at least 120 days prior to submission of his Part B permit application. Failure to do so will result in the Commissioner delaying the processing of the Part B application for an equivalent amount of time.

4. Notwithstanding part 1 of this subparagraph, a person may construct a facility for the incineration of polychlorinated biphenyls pursuant to an approval issued by the EPA under section (6)(e) of the federal Toxic Substance Control Act and any person owning or operating such a facility may, at any time after construction or operation of such facility has begun, file an application for a permit to incinerate hazardous waste pursuant to this rule.

(d) Updating Permit Application [40 CFR 270.10(g)]

1. If any owner or operator of a hazardous waste management facility has filed Part A of a permit application, the owner or operator shall file an amended Part A application with the Commissioner:

   (i) No later than thirty days after the date on which additional hazardous wastes listed or otherwise identified by revision of Rule 0400-12-01-.02 become subject to the requirements of this rule, if the facility is treating, storing, or disposing of any those newly listed or identified wastes;

   (ii) As necessary to comply with provisions of paragraph (3)(c) of this rule for changes during interim status.

2. The owner or operator of a facility who fails to comply with the updating requirements of part 1 of this subparagraph does not receive interim status as to the wastes not covered by duly filed Part A applications.

(e) Reapplications [40 CFR 270.10(h)]

Any hazardous waste management facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Commissioner. (The Commissioner shall not grant permission for applications to be submitted later than the expiration date of the existing permit.) Facilities shall follow the procedure requirements of subparagraph (1)(m) of this rule for all reapplications for a permit.

(f) Exposure Information [40 CFR 270.10(j)]

1. After February 2, 1986, any Part B permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:

   (i) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

   (ii) The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under subpart (i) of this part; and

   (iii) The potential magnitude and nature of the human exposure resulting from such releases.

2. By 30 days after February 2, 1986, owners and operators of a landfill or a surface impoundment who have already submitted a Part B application must submit the exposure information required in part 1 of this subparagraph.

(g) The Commissioner may require a permittee or an applicant to submit information in order to establish permit conditions under subpart (8)(b)2(ii) and under part (8)(c)4 of this rule.

(h) General application requirements [40 CFR 270.10(l)]

1. If the Commissioner concludes, based on one or more of the factors listed in subpart (i) of this part that compliance with the standards of 40 CFR 63 Subpart EEE alone may not be protective of human health or the environment, the Commissioner shall require the additional information or assessment(s) necessary to determine whether additional controls are necessary to ensure protection of human health and the environment. This includes information necessary to evaluate the potential risk to human health and/or the

environment resulting from both direct and indirect exposure pathways. The Commissioner may also require a permittee or applicant to prove information necessary to determine whether such an assessment(s) should be required.

(i) The Commissioner shall base the evaluation of whether compliance with the standards of 40 CFR 63 Subpart EEE alone is protective of human health or the environment on factors relevant to the potential risk from a hazardous waste combustion unit, including as appropriate, any of the following factors:

(I) Particular site-specific considerations such as proximity to receptors (such as schools, hospitals, nursing homes, day care centers, parks, community activity centers, or other potentially sensitive receptors), unique dispersion patterns, etc.;

(II) Identities and quantities of emissions of persistent, bioaccumulative or toxic pollutants considering enforceable controls in place to limit those pollutants;

(III) Identities and quantities of nondioxin products of incomplete combustion most likely to be emitted and to pose significant risk based on known toxicities (confirmation of which should be made through emissions testing);

(IV) Identities and quantities of other off-site sources of pollutants in proximity of the facility that significantly influence interpretation of a facility-specific risk assessment;

(V) Presence of significant ecological considerations, such as the proximity of a particularly sensitive ecological area;

(VI) Volume and types of wastes, for example wastes containing highly toxic constituents;

(VII) Other on-site sources of hazardous air pollutants that significantly influence interpretation of the risk posed by the operation of the source in question;

(VIII) Adequacy of any previously conducted risk assessment, given any subsequent changes in conditions likely to affect risk; and

(IX) Such other factors as may be appropriate.

2. (RESERVED)

(3) Interim Status [40 CFR 270 Subpart G]

(a) Qualifying for Interim Status [40 CFR 270.70]

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

(i) Complied with the requirements of Rule 0400-12-01-.03(2) pertaining to notification of hazardous waste activity.

(Comment: Some existing facilities may not be required to file a notification under Rule 0400-12-01-.03(2). These facilities may qualify for interim status by meeting subpart (ii) of this part.)

(ii) Complied with the requirements of paragraph (2) of this rule governing submission of Part A applications;

2. Failure to Qualify for Interim Status

If the Department has reason to believe upon examination of a Part A application that it fails to meet the requirements of paragraph (4) of this rule, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for Department's belief that the application is deficient. The owner or operator shall have 30 days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, the Department determines that the application is deficient it may take appropriate enforcement action.

3. Part 1 of this subparagraph shall not apply to any facility which has been previously denied a RCRA or a Hazardous Waste Permit or if authority to operate the facility under the Act has been previously terminated.

(b) Operation during Interim Status [40 CFR 270.71]

1. During the interim status period the facility shall not:

(i) Treat, store, or dispose of hazardous waste not specified in Part A of the permit application;

(ii) Employ processes not specified in Part A of the permit application; or

(iii) Exceed the design capacities specified in Part A of the permit application.

2. Interim status standards. During interim status, owners or operators shall comply with the interim status standards at Rule 0400-12-01-.05.

(c) Changes during Interim Status [40 CFR 270.72]

1. Except as provided in part 2 of this subparagraph, the owner or operator of an interim status facility may make the following changes at the facility:

(i) Treatment, storage, or disposal of new hazardous wastes not previously identified in Part A of the permit application (and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the hazardous wastes on the effective date of the listing or identification) if the owner or operator submits a revised Part A permit application prior to such treatment, storage, or disposal;

(ii) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the Commissioner approves the changes because:

(I) There is a lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities, or

(II) The change is necessary to comply with a Federal, State, or local requirement.

(iii) Changes in the processes for the treatment, storage, or disposal of hazardous waste or addition of processes if the owner or operator submits a revised Part A

permit application prior to such change (along with a justification explaining the need for the change) and the Commissioner approves the change because:

(I) The change is necessary to prevent a threat to human health and the environment because of an emergency situation, or

(II) The change is necessary to comply with a Federal, State, or local requirement.

(iv) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of operational control of a facility occurs, the old owner or operator shall comply with the requirements of Rule 0400-12-01-.05(8) (Financial Requirements), until the new owner or operator has demonstrated to the Commissioner that he is complying with the requirements of that paragraph. The new owner or operator must demonstrate compliance with Rule 0400-12-01-.05(8) requirements within six months of the date of the change in ownership or operational control of the facility. Upon demonstration to the Commissioner by the new owner or operator of compliance with Rule 0400-12-01-.05(8), the Commissioner shall notify the old owner or operator in writing that he no longer needs to comply with Rule 0400-12-01-.05(8) as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the change in ownership or operational control of the facility.

(v) Changes made in accordance with an interim status corrective action order issued by EPA under section 3008(h) or other Federal authority, by an authorized State under comparable State authority, or by a court in a judicial action brought by EPA or by an authorized State. Changes under this paragraph are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

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

2. Except as specifically allowed under this paragraph, changes listed under part 1 of this subparagraph may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

(i) Changes made solely for the purposes of complying with the requirements of Rule 0400-12-01-.05(10)(d) for tanks and ancillary equipment.

(ii) If necessary to comply with Federal, State, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of federal RCRA section 3004(o).

(iii) Changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

(iv) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

(v) Changes necessary to comply with an interim status corrective action order issued by EPA under section 3008(h) or other Federal authority, by an authorized State under comparable State authority, or by a court in a judicial proceeding brought by EPA or an authorized State, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(vi) Changes to treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed by Rule 0400-12-01-.10 or federal RCRA section 3004, provided that such changes are made solely for the purpose of complying with Rule 0400-12-01-.10 or federal RCRA section 3004.

(vii) Addition of newly regulated units under subpart 1(vi) of this subparagraph.

(viii) Changes necessary to comply with standards under 40 CFR part 63, Subpart EEE-National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.

(d) Termination of Interim Status [40 CFR 270.73]

Interim status terminates:

1. When final administrative disposition of a permit application, except an application for a remedial action plan (RAP) under paragraph (11) of this rule, is made.

2. When interim status is terminated as provided in part (2)(b)6 of this rule.

3. For owners or operators of each land disposal facility which has been granted interim status prior to November 8, 1984, on November 8, 1985, unless:

(i) The owner or operator submits a Part B application for a permit for such facility prior to that date; and

(ii) The owner or operator certifies that such facility is in compliance with all applicable ground-water monitoring and financial responsibility requirements.

4. For owners or operators of each land disposal facility which is in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to the requirement to have a permit and which is granted interim status, twelve months after the date on which the facility first becomes subject to such permit requirement unless the owner or operator of such facility:

(i) Submits a Part B application for a permit for such facility before the date 12 months after the date on which the facility first becomes subject to such permit requirement; and

(ii) Certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

5. For owners or operators of any land disposal unit that is granted authority to operate under subparts (3)(c)1(i), (ii) or (iii) of this rule, on the date 12 months after the effective date of such requirement, unless the owner or operator certifies that such unit is in compliance with all applicable ground-water monitoring and financial responsibility requirements.

6. For owners and operators of each incinerator facility which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1989, unless the

owner or operator of the facility submits a Part B application for a permit for an incinerator facility by November 8, 1986.

7. For owners or operators of any facility (other than a land disposal or an incinerator facility) which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1992, unless the owner or operator of the facility submits a Part B application for a permit for the facility by November 8, 1988.

8. For facilities where no hazardous waste remains after closure, when prior to the due date of his Part B application, the owner or operator voluntarily closes his facility in accordance with Rule 0400-12-01-.05(7)(b) through (f) and the Commissioner grants his request to withdraw his interim status and Part A application.

(4) Contents of Part A

(a) Required Information [40 CFR 270.13]

The Part A permit application must include, but shall not necessarily be limited to, the following information:

1. The activities conducted by the applicant which require it to obtain a permit under this rule;

2. The name, mailing address, and location of the facility for which the application is submitted;

3. Up to four SIC codes which best reflect the principal products or services provided by the facility;

4. The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity;

5. A listing of all permits or construction approvals received or applied for by this facility under any of the following programs:

(i) State or Federal programs regulating underground injections;

(ii) State or Federal programs regulating point source discharges to waters of the State;

(iii) State, Federal, or local programs regulating emissions to the air;

(iv) State or Federal programs regulating discharges of dredge or fill material to waters of the state; and

(v) Other relevant State or Federal environmental permit programs;

6. A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well 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 1/4 mile of the facility property boundary;

7. A brief description of the nature of the business;

8. The latitude and longitude of the facility;

9. The name, address, and telephone number of the owner of the facility;

10. An indication of whether the facility is new or existing and whether it is a first or revised application;

11. For existing facilities, a scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas;

12. For existing facilities, photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas;

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

14. A specification of the hazardous wastes listed or designated under Rule 0400-12-01-.02 to be treated, stored, or disposed of at the facility, an estimate of the quantity of such wastes to be treated, stored, or disposed of annually, and a general description of the processes to be used for such wastes; and

15. For hazardous debris, a description of the debris category(ies) and contaminant category(ies) to be treated, stored, or disposed of at the facility.

(b) Required Form

Part A permit applications must be submitted on forms provided by the Department and completed as per the accompanying instructions.

(Note: The Part A permit application information requirements as stated in this paragraph are substantially equivalent to those similarly required by EPA under 40 CFR 270.10 and 270.13. Thus, copies of the EPA Part A permit application submitted to EPA will, if properly completed, suffice as the copies of the Part A permit application required by this paragraph.)

(5) Contents of Part B

Part B of the permit application consists of the general information requirements of this rule, and the specific information requirements in paragraphs (5) and (6) of this rule applicable to the facility. The part B information requirements presented in paragraphs (5) and (6) reflect the standards promulgated in Rule 0400-12-01-.06. These information requirements are necessary in order for the Department to determine compliance with Rule 0400-12-01-.06 standards. If owners and operators of HWM facilities can demonstrate that the information prescribed in Part B can not be provided to the extent required, the Commissioner may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the Commissioner and signed in accordance with the requirements in subparagraph (2)(a) of this rule. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a qualified Registered Professional Engineer. For post-closure permits, only the information specified in part (5)(b)14 of this rule is required in Part B of this permit application.

(a) General Requirements [40 CFR 270.14]

1. General Information Requirements [40 CFR 270.14(b)]

The following information is required for all HWM facilities, except as Rule 0400-12-01-.06(1) provides otherwise:

(i) A general description of the facility.

(ii) Chemical and physical analyses of the hazardous waste and hazardous debris to be handled at the facility. At a minimum, these analyses shall contain all the

information which must be known to treat, store, or dispose of the wastes properly in accordance with Rule 0400-12-01-.06.

(iii) A copy of the waste analysis plan required by Rule 0400-12-01-.06(2)(d)2 and, if applicable Rule 0400-12-01-.06(2)(d)3.

(iv) A description of the security procedures and equipment required by Rule 0400-12-01-.06(2)(e), or a justification demonstrating the reasons for requesting a waiver of this requirement.

(v) A copy of the general inspection schedule required by Rule 0400-12-01-.06(2)(f)2. Include, where applicable, as part of the inspection schedule, specific requirements in Rules 0400-12-01-.06(9)(e), (10)(d)9, (10)(f), (11)(g), (12)(e), (13)(d), (14)(d), (27)(c), (30)(d), (31)(c), (31)(d), (31)(i), (32)(e), (32)(f), (32)(g), and (32)(i).

(vi) A justification of any request for (a) waiver(s) of the preparedness and prevention requirements of Rule 0400-12-01-.06(3).

(vii) A copy of the contingency plan required by Rule 0400-12-01-.06(4). Note: Include, where applicable, as part of the contingency plan, specific requirements in Rules 0400-12-01-.06(11)(h) and (12)(f).

(viii) A description of procedures, structures, or equipment used at the facility to:

(I) Prevent hazards in unloading operations (for example, ramps, special forklifts);

(II) Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(III) Prevent contamination of water supplies;

(IV) Mitigate effects of equipment failure and power outages;

(V) Prevent undue exposure of personnel to hazardous waste (for example, protective clothing); and

(VI) Prevent releases to atmosphere.

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with Rule 0400-12-01-.06(2)(h) including documentation demonstrating compliance with Rule 0400-12-01-.06(2)(h)3.

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(xi) Facility location information:

(I) In order to determine the applicability of the seismic standard [Rule 0400-12-01-.06(2)(i)1] the owner or operator of a new facility must identify the political jurisdiction (e.g., county, township, or election district) in which the facility is proposed to be located.

(Comment: If the county or election district is not listed in Appendix VI of Rule 0400-12-01-.06, no further information is required to demonstrate compliance with Rule 0400-12-01-.06(2)(i)1.)

(II) If the facility is proposed to be located in an area listed in Appendix VI of Rule 0400-12-01-.06, the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:

I. No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within 3,000 feet of a facility are present, based on data from:

A. Published geologic studies,

B. Aerial reconnaissance of the area within a five-mile radius from the facility,

C. An analysis of aerial photographs covering a 3,000 foot radius of the facility, and

D. If needed to clarify the above data, a reconnaissance based on walking portions of the area within 3,000 feet of the facility, or

II. If faults (to include lineations) which have had displacement in Holocene time are present within 3,000 feet of a facility, no faults pass within 200 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within 200 feet of such portions of the facility data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than 200 feet from portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within 3,000 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such investigation shall document with supporting maps and other analyses, the location of faults found.

(Comment: The Guidance Manual for the Location Standards provides greater detail on the content of each type of seismic investigation and the appropriate conditions under which each approach or a combination of approaches would be used.)

(III) Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the 100-

year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.

(Comment: Where maps for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the 100-year floodplain. However, where the FIA map excludes an area (usually areas of the floodplain less than 200 feet in width), these areas must be considered and a determination made as to whether they are in the 100-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the 100-year floodplain, and if so located, what the 100-year flood elevation would be.)

(IV) Owners and operators of facilities located in the 100-year floodplain must provide the following information:

I. Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as consequence of a 100-year flood.

II. Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout.

III. If applicable, and in lieu of subitems I and II of this item, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:

A. Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility.

B. A description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with the regulations under Rules 0400-12-01-.05 through .07 and .09.

C. The planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use.

D. The potential for accidental discharges of the waste during movement.

(V) Existing facilities NOT in compliance with Rule 0400-12-01-.06(2)(i)2 shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the HWM facility in a safe manner as required to demonstrate compliance with Rule 0400-12-01-.06(2)(g). A brief description of how training will be designed to meet actual job tasks in accordance with requirements in Rule 0400-12-01-.06(2)(g)1(iii).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by Rule 0400-12-01-.06(7)(c), (7)(i) and (10)(h). Include, where applicable, as part of the plans, specific requirements in Rules 0400-12-01-.06(9)(i), (10(h), (11)(i), (12)(i), (13)(k), (14)(k), (15)(i), (27)(b) and (27)(d).

(xiv) For hazardous waste disposal units that have been closed, documentation that notices required under subparagraph (7)(j) of Rule 0400-12-01-.06 have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with Rule 0400-12-01-.06(8)(c) and a copy of the documentation required to demonstrate financial assurance under Rule 0400-12-01-.06(8)(d). For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with Rule 0400-12-01-.06(8)(e) plus a copy of the documentation required to demonstrate financial assurance under Rule 0400-12-01-.06(8)(f). For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of Rule 0400-12-01-.06(8)(n). For a new facility, documentation showing the amount of insurance meeting the specification of Rule 0400-12-01-.06(8)(n)1 and, if applicable, Rule 0400-12-01-.06(8)(n)2, that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in Rule 0400-12-01-.06(8)(n)3.

(xviii) (Reserved) [40 CFR 270.14(b)(18)]

(xix) A topographic map showing a distance of 1000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of HWM facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

(I) Map scale and date.

(II) 100-year floodplain area.

(III) Surface waters including intermittent streams.

(IV) Surrounding land uses (residential, commercial, agricultural, recreational).

(V) A wind rose (i.e., prevailing wind-speed and direction).

(VI) Orientation of the map (north arrow).

(VII) Legal boundaries of the HWM facility site.

(VIII) Access control (fences, gates).

(IX) Injection and withdrawal wells both on-site and off-site.

(X) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.)

(XI) Barriers for drainage or flood control.

(XII) Location of operational units within the HWM facility site, where hazardous waste is (or will be) treated, stored, or disposed (include equipment cleanup areas).

(Note: For large HWM facilities the Department will allow the use of other scales on a case-by-case basis.)

(xx) (Reserved) [40 CFR 270.14(b)(20)]

(xxi) For land disposal facilities, if a case-by-case extension has been approved under Rule 0400-12-01-.10(1)(e) or a petition has been approved under Rule 0400-12-01-.10(1)(f), a copy of the notice of approval for the extension or petition is required.

(xxii) A summary of the pre-application meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under part (1)(m)3 of this rule.

2. The following additional information is also required:

(i) A description of the forms and procedures used or to be used to maintain the operating record required by Rule 0400-12-01-.06(5)(d).

(ii) A description of any other wastes or other materials planned to be stored, treated, or disposed of along with hazardous waste in the hazardous waste management units covered by the permit application, and a description of how such other wastes or other materials will be managed in order to comply with the requirements of Rule 0400-12-01-.06(2)(k).

(iii) The name, address, and telephone number of each person who is the legal or beneficial owner of ten percent or more of the stock of the company or corporation applying for the permit; a statement as to whether any of these persons have been convicted of any felony or have been convicted of a misdemeanor for the unlawful storage, treatment, or disposal of hazardous waste; and a full description of such convictions.

(b) Specific Information Requirements

1. Specific Part B Information Requirements For Containers [40 CFR 270.15]

Except as otherwise provided in Rule 0400-12-01-.06(9)(a), owners or operators of facilities that store containers of hazardous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with Rule 0400-12-01-.06(9)(f). Show at least the following:

(I) Basic design parameters, dimensions, and materials of construction;

(II) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system;

(III) Capacity of the containment system relative to the number and volume of containers to be stored;

(IV) Provisions for preventing or managing run-on; and

(V) How accumulated liquids can be analyzed and removed to prevent overflow.

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with Rule 0400-12-01-.06(9)(f)3, including:

(I) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids;

(II) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) Sketches, drawings, or data demonstrating compliance with Rule 0400-12-01-.06(9)(g) (location of buffer zone and containers holding ignitable or reactive wastes) and Rule 0400-12-01-.06(9)(h)3 (location of incompatible wastes), where applicable;

(iv) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with Rules 0400-12-01-.06(9)(h)1 and 2, and Rules 0400-12-01-.06(2)(h)2 and 3; and

(v) Information on air emission control equipment as required in part 13 of this subparagraph.

2. Specific Part B Information Requirements for Tank Systems [40 CFR 270.16]

Except as otherwise provided in Rule 0400-12-01-.06(10)(a), owners and operators of facilities that use tanks to store or treat hazardous waste must provide the following additional information:

(i) A written assessment that is reviewed and certified by a qualified Professional Engineer as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under Rules 0400-12-01-.06(10)(b) and (10)(c);

(ii) Dimensions and capacity of each tank;

(iii) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(iv) A diagram of piping, instrumentation, and process flow for each tank system;

(v) A description of materials and equipment used to provide external corrosion protection, as required under Rule 0400-12-01-.06(10)(c)1(iii)(II);

(vi) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with Rule 0400-12-01-.06(10)(c)2, 3, 4, and 5;

(vii) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of Rule 0400-12-01-.06(10)(d)1, 2, 3, 4, 5, and 6;

(viii) For tank systems for which a variance from the requirements of Rule 0400-12-01-.06(10)(d) is sought (as provided by Rule 0400-12-01-.06(10)(d)7):

(I) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous waste or hazardous constituents into the ground water or surface water during the life of the facility, or

(II) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment;

(ix) Description of controls and practices to prevent spills and overflows, as required under Rule 0400-12-01-.06(10)(e)2;

(x) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of Rules 0400-12-01-.06(10)(i) and (j); and

(xi) Information on air emission control equipment as required in part 13 of this subparagraph.

3. Specific Part B Information Requirements for Surface Impoundments [40 CFR 270.17]

Except as otherwise provided in Rule 0400-12-01-.06(1)(b) or (d), owners and operators of facilities that store, treat or dispose of hazardous waste in surface impoundments must provide the following additional information:

(i) A list of the hazardous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is designed and is or will be constructed, operated, and maintained to meet the requirements of Rules 0400-12-01-.06(2)(j), (11)((b), (11)(c), and (11)(d), addressing the following items:

(I) The liner system (except for an existing portion of a surface impoundment). If an exemption from the requirement for a liner is sought as provided by Rule 0400-12-01-.06(11)(b)2, submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the surface impoundment must meet the requirements of Rule 0400-12-01-.06(11)(b)3. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by Rule 0400-12-01-.06(11)(b)4, 5, or 6, submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under Rule 0400-12-01-.06(2)(j);

(V) Proposed action leakage rate, with rationale, if required under Rule 0400-12-01-.06(2)(c), and response action plan, if required under Rule 0400-12-01-.06(11)(d);

(VI) Prevention of overtopping; and

(VII) Structural integrity of dikes;

(iii) A description of how each surface impoundment, including the double liner system, leak detection system, cover system, and appurtenances for control of overtopping, will be inspected in order to meet the requirements of Rule 0400-12-01-.06(11)(g)1, 2, and 4. This information must be included in the inspection plan submitted under subpart (a)1(v) of this paragraph;

(iv) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under Rule 0400-12-01-.06(11)(g)3. For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(v) A description of the procedure to be used for removing a surface impoundment from service, as required under Rule 0400-12-01-.06(11)(h)2 and 3. This information should be included in the contingency plan submitted under subpart (a)1(vii) of this paragraph;

(vi) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under Rule 0400-12-01-.06(11)(i)1(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how Rule 0400-12-01-.06(11)(i)1(ii) and 2 will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under subpart (a)1(xiii) of this paragraph;

(vii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how Rule 0400-12-01-.06(11)(j) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how Rule 0400-12-01-.06(11)(k) will be complied with;

(ix) A waste management plan for Hazardous Waste Codes F020, F021, F022, F023, F026, and F027 describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of Rule 0400-12-01-.06(11)(l). This submission must address the following items as specified in Rule 0400-12-01-.06(11)(l):

(I) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(II) The attenuative properties of underlying and surrounding soils or other materials;

(III) The mobilizing properties of other materials co-disposed with these wastes; and

(IV) The effectiveness of additional treatment, design, or monitoring techniques; and

(x) Information on air emission control equipment as required in part 13 of this subparagraph.

4. Specific Part B Information Requirements for Waste Piles [40 CFR 270.18]

Except as otherwise provided in Rule 0400-12-01-.06(1)(b) or (d), owners and operators of facilities that store or treat hazardous waste in waste piles must provide the following additional information:

(i) A list of hazardous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to Rule 0400-12-01-.06(2)(b) and Rule 0400-12-01-.06(6) as provided by Rule 0400-12-01-.06(12)(a)3 or Rule 0400-12-01-.06(6)(a)2(ii), an explanation of how the standards of Rule 0400-12-01-.06(12)(a)3 will be complied with or detailed plans and an engineering report describing how the requirements of Rule 0400-12-01-.06(6)(a)2(ii) will be met;

(iii) Detailed plans and an engineering report describing how the waste pile is designed and is or will be constructed, operated, and maintained to meet the requirements of Rules 0400-12-01-.06(2)(j), (12)(b), (12)(c) and (12)(d), addressing the following items:

(I) I. The liner system (except for an existing portion of a waste pile), if the waste pile must meet the requirements of Rule 0400-12-01-.06(12)(b)1. If an exemption from the requirement for a liner is sought as provided by Rule 0400-12-01-.06(12)(b)2, submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

II. The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of Rule 0400-12-01-.06(12)(b)3. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by Rule 0400-12-01-.06(12)(b)4, 5, or 6, submit appropriate information;

III. If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

IV. The construction quality assurance (CQA) plan if required under Rule 0400-12-01-.06(2)(j); and

V. Proposed action leakage rate, with rationale, if required under Rule 0400-12-01-.06(12)(c), and response action plan, if required under Rule 0400-12-01-.06(12)(d);

(II) Control of run-on;

(III) Control of run-off;

(IV) Management of collection and holding units associated with run-on and run-off control systems; and

(V) Control of wind dispersal of particulate matter, where applicable;

(iv) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of Rule 0400-12-01-.06(12)(e)1, 2, and 3. This information must be included in the inspection plan submitted under subpart (a)1(v) of this paragraph;

(v) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vi) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of Rule 0400-12-01-.06(12)(g) will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how Rule 0400-12-01-.06(12)(h) will be complied with;

(viii) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under Rule 0400-12-01-.06(12)(i)1. For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how Rule 0400-12-01-.06(14)(k)1 and 2 will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under subpart (a)1(xiii) of this paragraph; and

(ix) A waste management plan for Hazardous Waste Codes F020, F021, F022, F023, F026, and F027 describing how a waste pile that is not enclosed (as defined in Rule 0400-12-01-.06(12)(a)3) is or will be designed, constructed, operated, and maintained to meet the requirements of Rule 0400-12-01-.06(12)(j). This submission must address the following items as specified in Rule 0400-12-01-.06(12)(j):

(I) The volume, physical, and chemical characteristics of the wastes to be disposed in the waste pile, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(II) The attenuative properties of underlying and surrounding soils or other materials;

(III) The mobilizing properties of other materials co-disposed with these wastes; and

(IV) The effectiveness of additional treatment, design, or monitoring techniques.

5. Specific Part B Information Requirements for Incinerators [40 CFR 270.19]

Except as Rule 0400-12-01-.06(15)(a) and subpart (v) of this part provide otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of subparts (i), (ii), or (iii) of this part.

(i) When seeking an exemption under Rule 0400-12-01-.06(15)(a)(ii) or (iii) (Ignitable, corrosive, or reactive wastes only):

(I) Documentation that the waste is listed as a hazardous waste in Rule 0400-12-01-.02(4), because it is ignitable (Hazard Code I) or corrosive (Hazard Code C) or both; or

(II) Documentation that the waste is listed as a hazardous waste in Rule 0400-12-01-.02(4), solely because it is reactive (Hazard Code R) for characteristics other than those listed in Rule 0400-12-01-.02(3)(d)1(iv) and (v), and will not be burned when other hazardous wastes are present in the combustion zone; or

(III) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous waste under Rule 0400-12-01-.02(3); or

(IV) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in Rule 0400-12-01-.02(3)(d)1(i), (ii), (iii), (vi), (vii), or (viii), and that it will not be burned when other hazardous wastes are present in the combustion zone; or

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with subparagraph (1)(e) of this rule; or

(iii) In lieu of a trial burn, the applicant may submit the following information:

(I) An analysis of each waste or mixture of wastes to be burned including:

I. Heat value of the waste in the form and composition in which it will be burned.

II. Viscosity (if applicable), or description of physical form of the waste.

III. An identification of any hazardous organic constituents listed in Rule 0400-12-01-.02, Appendix VIII, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Rule 0400-12-01-.02, Appendix VIII, which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on appropriate analytical techniques.

IV. An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by appropriate analytical methods.

V. A quantification of those hazardous constituents in the waste which may be designated as POHC's based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in Rule 0400-12-01-.06(15)(d).

(II) A detailed engineering description of the incinerator, including:

I. Manufacturer's name and model number of incinerator.

II. Type of incinerator.

III. Linear dimension of incinerator unit including cross sectional area of combustion chamber.

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

V. Capacity of prime mover.

VI. Description of automatic waste feed cutoff system(s).

VII. Stack gas monitoring and pollution control monitoring system.

VIII. Nozzle and burner design.

IX. Construction materials.

X. Location and description of temperature, pressure, and flow indicating devices and control devices.

(III) 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 should include those items listed in item (I) of this subpart. This analysis should specify the POHC's which the applicant has identified in the waste for which a permit is sought, and any differences from the POHC's in the waste for which burn data are provided.

(IV) The design and operating conditions of the incinerator unit to be used compared with that for which comparative burn data are available.

(V) A description of the results submitted from any previously conducted trial burn(s) including:

I. Sampling and analysis techniques used to calculate performance standards in Rule 0400-12-01-.06(15)(d), and

II. Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement).

(VI) The expected incinerator operation information to demonstrate compliance with Rule 0400-12-01-.06(15)(d) and (15)(f) including:

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

II. Waste feed rate.

III. Combustion zone temperature.

IV. Indication of combustion gas velocity.

V. Expected stack gas volume, flow rate, and temperature.

VI. Computed residence time for waste in the combustion zone.

VII. Expected hydrochloric acid removal efficiency.

VIII. Expected fugitive emissions and their control procedures.

IX. Proposed waste feed cut-off limits based on the identified significant operating parameters.

(VII) Such supplemental information as the Commissioner finds necessary to achieve the purposes of this subpart.

(VIII) Waste analysis data, including that submitted in item (I) of this subpart, sufficient to allow the Commissioner to specify as permit Principal Organic Hazardous Constituents (permit POHC's) those constituents for which destruction and removal efficiencies will be required.

(iv) The Commissioner shall approve a permit application without a trial burn if he finds that:

(I) The wastes are sufficiently similar; and

(II) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under Rule 0400-12-01-.06(15)(f)) operating conditions that will ensure that the performance standards in Rule 0400-12-01-.06(15)(d) will be met by the incinerator.

(v) When an owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations in 40 CFR 63 Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of 40 CFR 63 Subpart EEE), the requirements of this part do not apply, except those provisions the Commissioner determines are necessary to ensure compliance with parts (15)(f) 1 and 3 of Rule 0400-12-01-.06 if you elect to comply with subpart (12)(a)1(i)(I) of this rule to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Commissioner may apply the provisions of this part, on a case-by-case basis, for purposes of information collection in accordance with subparagraphs (2)(g) and (2)(h) and subparts (8)(b)2(ii) and (iii) of this rule.

6. Specific Part B Information Requirements for Land Treatment Facilities [40 CFR 270.20]

Except as otherwise provided in Rule 0400-12-01-.06(1)(b), owners and operators of facilities that use land treatment to dispose of hazardous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under Rule 0400-12-01-.06(13)(c). The description must include the following information:

(I) The wastes for which the demonstration will be made and the potential hazardous constituents in the waste;

(II) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(III) Any specific laboratory or field test that will be conducted, including:

I. The type of test (e.g., column leaching, degradation);

II. Materials and methods, including analytical procedures;

III. Expected time for completion;

IV. Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under Rule 0400-12-01-.06(13)(b). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(I) The wastes to be land treated;

(II) Design measures and operating practices necessary to maximize treatment in accordance with Rule 0400-12-01-.06(13)(d)1 including:

I. Waste application method and rate;

II. Measures to control soil pH;

III. Enhancement of microbial or chemical reactions;

IV. Control of moisture content;

(III) Provisions for unsaturated zone monitoring, including:

I. Sampling equipment, procedures, and frequency;

II. Procedures for selecting sampling locations;

III. Analytical procedures;

IV. Chain of custody control;

V. Procedures for establishing background values;

VI. Statistical methods for interpreting results;

VII. The justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for such selection in Rule 0400-12-01-.06(13)(i)1;

(IV) A list of hazardous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to Rule 0400-12-01-.06(2)(d);

(V) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of Rule 0400-12-01-.06(13)(d). This submission must address the following items:

(I) Control of run-on;

(II) Collection and control of run-off;

(III) Minimization of run-off of hazardous constituents from the treatment zone;

(IV) Management of collection and holding facilities associated with run-on and run-off control systems;

(V) Periodic inspection of the unit. This information should be included in the inspection plan submitted under subpart (a)1(v) of this paragraph;

(VI) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under Rule 0400-12-01-.06(13)(g)1 will be conducted including:

(I) Characteristics of the food-chain crop for which the demonstration will be made;

(II) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(III) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(IV) Characteristics of the comparison crop including the location and conditions under which it was or will be grown;

(v) If food-chain crops are to be grown, and cadmium is present in the land-treated waste, a description of how the requirements of Rule 0400-12-01-.06(13)(g)2 will be complied with;

(vi) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under Rule 0400-12-01-.06(13)(k)1(viii) and Rule 0400-12-01-.06(13)(k)3(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under subpart (a)1(xiii) of this paragraph;

(vii) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of Rule 0400-12-01-.06(13)(l) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how Rule 0400-12-01-.06(13)(m) will be complied with;

(ix) A waste management plan for Hazardous Waste Codes F020, F021, F022, F023, F026, and F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of Rule 0400-12-01-.06(13)(n). This submission must address the following items as specified in Rule 0400-12-01-.06(13)(n):

(I) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(II) The attenuative properties of underlying and surrounding soils or other materials;

(III) The mobilizing properties of other materials co-disposed with these wastes; and

(IV) The effectiveness of additional treatment, design, or monitoring techniques.

7. Specific Part B Information Requirements for Landfills [40 CFR 270.21]

Except as otherwise provided in Rule 0400-12-01-.06(1)(b) or (d), owners and operators of facilities that dispose of hazardous waste in landfills must provide the following additional information:

(i) A list of the hazardous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is designed and is or will be constructed, operated, and maintained to meet the requirements of Rule 0400-12-01-.06(2)(j), (14)(b), (14)(c), and (14)(d), addressing the following items:

(I) I. The liner system (except for an existing portion of a landfill), if the landfill must meet the requirements of Rule 0400-12-01-.06(14)(b)1. If an exemption from the requirement for a liner is sought as provided by Rule 0400-12-01-.06(14)(b)2, submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

II. The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of Rule 0400-12-01-.06(14)(b)3. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by Rule 0400-12-01-.06(14)(b)4, 5, or 6, submit appropriate information;

III. If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

IV. The construction quality assurance (CQA) plan if required under Rule 0400-12-01-.06(2)(j);

V. Proposed action leakage rate, with rationale, if required under Rule 0400-12-01-.06(14)(c), and response action plan, if required under Rule 0400-12-01-.06(14)(d);

(II) Control of run-on;

(III) Control of run-off;

(IV) Management of collection and holding facilities associated with run-on and run-off control systems; and

(V) Control of wind dispersal of particulate matter, where applicable;

(iii) A description of how each landfill, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of Rule 0400-12-01-.06(14)(d)1, 2, and 3. This information must be included in the inspection plan submitted under subpart (a)1(v) of this paragraph;

(iv) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of Rule 0400-12-01-.06(14)(d)1 and 2. This information should be included in the inspection plan submitted under subpart (a)1(v) of this paragraph;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with Rule 0400-12-01-.06(14)(k)1, and a description of how each landfill will be maintained and monitored after closure in accordance with Rule 0400-12-01-.06(14)(k). This information should be included in the closure and post-closure plans submitted under subpart (a)1(xiii) of this paragraph;

(vi) If ignitable or reactive wastes will be landfilled, an explanation of how the standards of Rule 0400-12-01-.06(14)(m) will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials, will be landfilled, an explanation of how Rule 0400-12-01-.06(14)(n) will be complied with;

(viii) If bulk or non-containerized liquid waste or wastes containing free liquids is to be landfilled prior to May 8, 1985, an explanation of how the requirements of Rule 0400-12-01-.06(14)(o) will be complied with;

(ix) If containers of hazardous waste are to be landfilled, an explanation of how the requirements of Rule 0400-12-01-.06(14)(p) or (14)(q), as applicable, will be complied with;

(x) A waste management plan for Hazardous Waste Codes F020, F021, F022, F023, F026, and F027 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of Rule 0400-12-01-.06(14)(r). This submission must address the following items as specified in Rule 0400-12-01-.06(14)(r):

(I) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(II) The attenuative properties of underlying and surrounding soils or other materials;

(III) The mobilizing properties of other materials co-disposed with these wastes; and

(IV) The effectiveness of additional treatment, design, or monitoring techniques.

8. Specific Part B Information Requirements for Boilers and Industrial Furnaces Burning Hazardous Waste [40 CFR 270.22]

When an owner or operator of a cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations in 40 CFR 63 Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of 40 CFR Subpart EEE the requirements of this part do not apply. The requirements of this part do apply, however, if the Commissioner determines certain provisions are necessary to ensure compliance with subpart (8)(c)5(i) and item (8)(c)5(ii)(III) of Rule 0400-12-01-.09 if you elect to comply with subpart (12)(a)1(i)(I) of this rule to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; or if you are an area source and elect to comply with the subparagraphs (8)(f), (8)(g), and (8)(h) of Rule 0400-12-01-.09 standards and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or the Commissioner determines certain provisions apply, on a case-by-case basis, for purposes of information collection in accordance with subparagraphs (2)(g) and (h) and subparts (8)(b)2(ii) and (iii) of this rule. Nevertheless, the Commissioner may apply the provisions of this part, on a case-by-case basis, for purposes of information collection in accordance with subparagraph (2)(g) and subpart (8)(b)2(ii) of this rule.

(i) Trial Burns

(I) General

Except as provided below, owners and operators that are subject to the standards to control organic emissions provided by Rule 0400-12-01-.09(8)(e), standards to control particulate matter provided by Rule 0400-12-01-.09(8)(f), standards to control metals emissions provided by Rule 0400-12-01-.09(8)(g), or standards to control hydrogen chloride or chlorine gas emissions provided by Rule 0400-12-01-.09(8)(h) must conduct a trial burn to demonstrate conformance with those standards and must submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with subparagraph (1)(j) of this Rule:

I. A trial burn to demonstrate conformance with a particular emission standard may be waived under provisions of Rules 0400-12-01-.09(8)(e) through (h) and items (II) through (V) of this subpart; and

II. The owner or operator may submit data in lieu of a trial burn, as prescribed in item (VI) of this subpart.

(II) Waiver of trial burn for DRE

I. Boilers operated under special operating requirements. When seeking to be permitted under Rules 0400-12-01-.09(8)(e)1(iv) and (8)(k) that automatically waive the DRE trial burn, the owner or operator of a boiler must submit documentation that the boiler operates under the special operating requirements provided by Rule 0400-12-01-.09(8)(k).

II. Boilers and industrial furnaces burning low risk waste. When seeking to be permitted under the provisions for low risk waste provided by Rules 0400-12-01-.09(8)(e)1(v) and (8)(j) that waive the DRE trial burn, the owner or operator must submit:

A. Documentation that the device is operated in conformance with the requirements of Rule 0400-12-01-.09(8)(j)1(i).

B. Results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in Appendix VIII of Rule 0400-12-01-.02, except for those constituents that would reasonably not be expected to be in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained. The analysis must rely on appropriate analytical techniques.

C. Documentation of hazardous waste firing rates and calculations of reasonable, worst-case emission rates of each constituent identified in section B of this subitem using procedures provided by Rule 0400-12-01-.09(8)(j)1(ii)(II).

D. Results of emissions dispersion modeling for emissions identified in section C of this subitem using modeling procedures prescribed by Rule 0400-12-01-.09(8)(g)8. The Commissioner will review the emission modeling conducted by the applicant to determine conformance with these procedures. The Commissioner will either approve the modeling or determine that alternate or supplementary modeling is appropriate.

E. Documentation that the maximum annual average ground level concentration of each constituent identified in section B of this subitem quantified in conformance with section D of this subitem does not exceed the allowable ambient level established in Appendix IV or V of Rule 0400-12-01-.09(30). The acceptable ambient concentration for emitted constituents for which a specific Reference Air Concentration has not been established in Appendix IV or Risk-Specific Dose has not been established in Appendix V is 0.1 micrograms per cubic meter, as noted in the footnote to Appendix IV.

(III) Waiver of trial burn for metals

When seeking to be permitted under the Tier I (or adjusted Tier I) metals feed rate screening limits provided by Rule 0400-12-01-.09(8)(g)2 and 5 that control metals emissions without requiring a trial burn, the owner or operator must submit:

I. Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;

II. Documentation of the concentration of each metal controlled by Rule 0400-12-01-.09(8)(g)2 or 5 in the hazardous waste, other fuels, and industrial furnace feedstocks, and calculations of the total feed rate of each metal;

III. Documentation of how the applicant will ensure that the Tier I feed rate screening limits provided by Rule 0400-12-01-

.09(8)(g)2 or 5 will not be exceeded during the averaging period provided by that subparagraph;

IV. Documentation to support the determination of the terrain-adjusted effective stack height, good engineering practice stack height, terrain type, and land use as provided by Rule 0400-12-01-.09(8)(g)2(iii) through (v);

V. Documentation of compliance with the provisions of Rule 0400-12-01-.09(8)(g)2(vi), if applicable, for facilities with multiple stacks;

VI. Documentation that the facility does not fail the criteria provided by Rule 0400-12-01-.09(8)(g)2(vii) for eligibility to comply with the screening limits; and

VII. Proposed sampling and metals analysis plan for the hazardous waste, other fuels, and industrial furnace feed stocks.

(IV) Waiver of trial burn for particulate matter

When seeking to be permitted under the low risk waste provisions of Rule 0400-12-01-.09(8)(j)2 which waives the particulate standard (and trial burn to demonstrate conformance with the particulate standard), applicants must submit documentation supporting conformance with subitem (II)II and item (III) of this subpart.

(V) Waiver of trial burn for HCl and Cl_2

When seeking to be permitted under the Tier I (or adjusted Tier I) feed rate screening limits for total chloride and chlorine provided by Rule 0400-12-01-.09(8)(h)2(i) and 5 that control emissions of hydrogen chloride (HCl) and chlorine gas (Cl_2) without requiring a trial burn, the owner or operator must submit:

I. Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;

II. Documentation of the levels of total chloride and chlorine in the hazardous waste, other fuels, and industrial furnace feedstocks, and calculations of the total feed rate of total chloride and chlorine;

III. Documentation of how the applicant will ensure that the Tier I (or adjusted Tier I) feed rate screening limits provided by Rule 0400-12-01-.09(8)(h)2(i) or 5 will not be exceeded during the averaging period provided by that subparagraph;

IV. Documentation to support the determination of the terrain-adjusted effective stack height, good engineering practice stack height, terrain type, and land use as provided by Rule 0400-12-01-.09(8)(h)2(iii);

V. Documentation of compliance with the provisions of Rule 0400-12-01-.09(8)(h)2(iv), if applicable, for facilities with multiple stacks;

VI. Documentation that the facility does not fail the criteria provided by Rule 0400-12-01-.09(8)(h)2(iii) for eligibility to comply with the screening limits; and

VII. Proposed sampling and analysis plan for total chloride and chlorine for the hazardous waste, other fuels, and industrial furnace feedstocks.

(VI) Data in lieu of trial burn

The owner or operator may seek an exemption from the trial burn requirements to demonstrate conformance with Rules 0400-12-01-.09(8)(e) through (h) and subparagraph (1)(j) of this rule by providing the information required by subparagraph (1)(j) of this rule from previous compliance testing of the device in conformance with Rule 0400-12-01-.09(8)(d), or from compliance testing or trial or operational burns of similar boilers or industrial furnaces burning similar hazardous wastes under similar conditions. If data from a similar device is used to support a trial burn waiver, the design and operating information required by subparagraph (1)(j) of this rule must be provided for both the similar device and the device to which the data is to be applied, and a comparison of the design and operating information must be provided. The Commissioner shall approve a permit application without a trial burn if he finds that the hazardous wastes are sufficiently similar, the devices are sufficiently similar, the operating conditions are sufficiently similar, and the data from other compliance tests, trial burns, or operational burns are adequate to specify (under Rule 0400-12-01-.09(8)(c)) operating conditions that will ensure conformance with Rule 0400-12-01-.09(8)(c)3. In addition, the following information shall be submitted:

I. For a waiver from any trial burn:

A. A description and analysis of the hazardous waste to be burned compared with the hazardous waste for which data from compliance testing, or operational or trial burns are provided to support the contention that a trial burn is not needed;

B. The design and operating conditions of the boiler or industrial furnace to be used, compared with that for which comparative burn data are available; and

C. Such supplemental information as the Commissioner finds necessary to achieve the purposes of this item.

II. For a waiver of the DRE trial burn, the basis for selection of POHCs used in the other trial or operational burns which demonstrate compliance with the DRE performance standard in Rule 0400-12-01-.09(8)(e)1. This analysis should specify the constituents in Appendix VIII of Rule 0400-12-01-.02(5), that the applicant has identified in the hazardous waste for which a permit is sought, and any differences from the POHCs in the hazardous waste for which burn data are provided.

(ii) Alternative HC limit for Industrial Furnaces with Organic Matter in Raw Materials

Owners and operators of industrial furnaces requesting an alternative HC limit under Rule 0400-12-01-.09(8)(e)6 shall submit the following information at a minimum:

(I) Documentation that the furnace is designed and operated to minimize HC emissions from fuels and raw materials;

(II) Documentation of the proposed baseline flue gas HC (and CO) concentration, including data on HC (and CO) levels during tests when the facility produced normal products under normal operating conditions from normal raw materials while burning normal fuels and when not burning hazardous waste;

(III) Test burn protocol to confirm the baseline HC (and CO) level including information on the type and flow rate of all feedstreams, point of introduction of all feedstreams, total organic carbon content (or other appropriate measure of organic content) of all nonfuel feedstreams, and operating conditions that affect combustion of fuel(s) and destruction of hydrocarbon emissions from nonfuel sources;

(IV) Trial burn plan to:

I. Demonstrate that flue gas HC (and CO) concentrations when burning hazardous waste do not exceed the baseline HC (and CO) level; and

II. Identify the types and concentrations of organic compounds listed in Appendix VIII of Rule 0400-12-01-.02(5), that are emitted when burning hazardous waste in conformance with procedures prescribed by the Commissioner;

(V) Implementation plan to monitor over time changes in the operation of the facility that could reduce the baseline HC level and procedures to periodically confirm the baseline HC level; and

(VI) Such other information as the Commissioner finds necessary to achieve the purposes of this subpart.

(iii) Alternative Metals Implementation Approach

When seeking to be permitted under an alternative metals implementation approach under Rule 0400-12-01-.09(8)(g)6, the owner or operator must submit documentation specifying how the approach ensures compliance with the metals emissions standards of Rule 0400-12-01-.09(8)(g)3 or 4 and how the approach can be effectively implemented and monitored. Further, the owner or operator shall provide such other information that the Commissioner finds necessary to achieve the purposes of this subpart.

(iv) Automatic Waste Feed Cutoff System

Owners and operators shall submit information describing the automatic waste feed cutoff system, including any pre-alarm systems that may be used.

(v) Direct Transfer

Owners and operators that use direct transfer operations to feed hazardous waste from transport vehicles (containers, as defined in Rule 0400-12-01-.09(8)(l) directly to the boiler or industrial furnace shall submit information supporting conformance with the standards for direct transfer provided by Rule 0400-12-01-.09(8)(l).

(vi) Residues

Owners and operators that claim that their residues are excluded from regulation under the provisions of Rule 0400-12-01-.09(8)(m) must submit information adequate to demonstrate conformance with those provisions.

9. Specific Part B Information Requirements for Miscellaneous Units [40 CFR 270.23]

Except as otherwise provided in Rule 0400-12-01-.06(27)(a), owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units must provide the following additional information:

(i) A detailed description of the unit being used or proposed for use, including the following:

(I) Physical characteristics, materials of construction, and dimensions of the unit;

(II) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of Rule 0400-12-01-.06(27)(b) and (c); and

(III) For disposal units, a detailed description of the plans to comply with the post-closure requirements of Rule 0400-12-01-.06(27)(d).

(ii) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of Rule 0400-12-01-.06(27)(b). If the applicant can demonstrate that he does not violate the environmental performance standards of Rule 0400-12-01-.06(27)(b) and the Commissioner agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(iii) Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of such exposures.

(iv) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

(v) Any additional information determined by the Commissioner to be necessary for evaluation of compliance of the unit with the environmental performance standards of Rule 0400-12-01-.06(27)(b).

10. Specific Part B information requirements for process vents [40 CFR 270.24]

Except as otherwise provided in Rule 0400-12-01-.06(1)(b), owners and operators of facilities that have process vents to which Rule 0400-12-01-.06(30) applies must provide the following additional information:

(i) For facilities that cannot install a closed-vent system and control device to comply with the provisions of Rule 0400-12-01-.06(30) on the effective date that the facility becomes subject to the provisions of Rule 0400-12-01-.06 or Rule 0400-12-01-.05(27), an implementation schedule as specified in Rule 0400-12-01-.06(30)(d)1(ii).

(ii) Documentation of compliance with the process vent standards in Rule 0400-12-01-.06(30)(c), including:

(I) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous waste management units on a facility plot plan).

(II) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(III) Information and data used to determine whether or not a process vent is subject to the requirements of Rule 0400-12-01-.06(30(c).

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of Rule 0400-12-01-.06(30)(c), and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in Rule 0400-12-01-.06(30)(f)2(iii).

(iv) Documentation of compliance with Rule 0400-12-01-.06(30)(d), including:

(I) A list of all information references and sources used in preparing the documentation.

(II) Records, including the dates, of each compliance test required by Rule 0400-12-01-.06(30)(d)11.

(III) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (listed in Rule 0400-12-01-.01(2)(b)) or other engineering texts acceptable to the Commissioner that present basic control device information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in Rule 0400-12-01-.06(30)(f)2(iv)(III).

(IV) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

(V) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of Rule 0400-12-01-.06(30)(c)1 for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

11. Specific Part B Information Requirements for Equipment [40 CFR 270.25]

Except as otherwise provided in Rule 0400-12-01-.06(1)(b), owners and operators of facilities that have equipment to which Rule 0400-12-01-.06(31) applies must provide the following additional information:

(i) For each piece of equipment to which Rule 0400-12-01-.06(31) applies:

(I) Equipment identification number and hazardous waste management unit identification.

(II) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan).

(III) Type of equipment (e.g., a pump or pipeline valve).

(IV) Percent by weight total organics in the hazardous waste stream at the equipment.

(V) Hazardous waste state at the equipment (e.g., gas/vapor or liquid).

(VI) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").

(ii) For facilities that cannot install a closed-vent system and control device to comply with the provisions of Rule 0400-12-01-.06(31) on the effective date that the facility becomes subject to the provisions of Rule 0400-12-01-.06 or Rule 0400-12-01-.05(28), an implementation schedule as specified in Rule 0400-12-01-.06(30)(d)1(ii).

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in Rule 0400-12-01-.06(30)(f)2(iii).

(iv) Documentation that demonstrates compliance with the equipment standards in Rules 0400-12-01-.06(31)(c) to (31)(j). This documentation shall contain the records required under Rule 0400-12-01-.06(31)(o). The Commissioner may request further documentation before deciding if compliance has been demonstrated.

(v) Documentation to demonstrate compliance with Rule 0400-12-01-.06(31)(k) shall include the following information:

(I) A list of all information references and sources used in preparing the documentation.

(II) Records, including the dates, of each compliance test required by Rule 0400-12-01-.06(30)(d)10.

(III) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "ATPI Course 415: Control of Gaseous Emissions" (listed in Rule 0400-12-01-.01(2)(b)) or other engineering texts acceptable to the Commissioner that present basic control device information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in Rule 0400-12-01-.06(30)(f)2(iv)(III).

(IV) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(V) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

12. Special Part B Information Requirements for Drip Pads [40 CFR 270.26]

Except as otherwise provided by Rule 0400-12-01-.06(1)(a) and (b), owners and operators of hazardous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads must provide the following additional information:

(i) A list of hazardous wastes placed or to be placed on each drip pad.

(ii) If an exemption is sought to Rule 0400-12-01-.06(6), as provided by Rule 0400-12-01-.06(6)(a), detailed plans and an engineering report describing how the requirements of Rule 0400-12-01-.06(6)(a)2(ii) will be met.

(iii) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet the requirements of Rule 0400-12-01-.06(26)(d), including the as-built drawings and specifications. This submission must address the following items as specified in Rule 0400-12-01-.06(26)(b):

(I) The design characteristics of the drip pad;

(II) The liner system;

(III) The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;

(IV) Practices designed to maintain drip pads;

(V) The associated collection system;

(VI) Control of run-on to the drip pad;

(VII) Control of run-off from the drip pad;

(VIII) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

(IX) Procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned;

(X) Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;

(XI) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and non-pressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;

(XII) Provisions for ensuring that collection and holding units associated with the run-on and run-off control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;

(XIII) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals;

(XIV) A description of how each drip pad, including appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of Rule 0400-12-01-.06(26)(d). This information should be included in the inspection plan submitted under subpart (a)1(v) of this paragraph;

(XV) A certification signed by a qualified Professional Engineer, stating that the drip pad design meets the requirements of parts 1 through 6 of Rule 0400-12-01-.06(26)(d); and

(XVI) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under Rule 0400-12-01-.06(26)(f)1. For any waste not to be removed from the drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how Rule 0400-12-01-.06(14)(k)1 and 2 will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under subpart (a)1(xiii) of this paragraph.

13. Specific Part B Information Requirements for Air Emission Controls for Tanks, Surface Impoundments, and Containers [40 CFR 270.27]

(i) Except as otherwise provided in Rule 0400-12-01-.06(1)(b), owners and operators of tanks, surface impoundments, or containers that use air emission controls in accordance with the requirements of Rule 0400-12-01-.06(32) shall provide the following additional information:

(I) Documentation for each floating roof cover installed on a tank subject to Rule 0400-12-01-.06(32)(e)4(i) or (ii) that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the applicable design specifications as listed in Rule 0400-12-01-.06(32)(e)5(i) or 6(i).

(II) Identification of each container area subject to the requirements of Rule 0400-12-01-.06(32) and certification by the owner or operator that the requirements of this paragraph are met.

(III) Documentation for each enclosure used to control air pollutant emissions from tanks or containers in accordance with the requirements of Rule 0400-12-01-.06(32)(e)4(v) or .06(32)(g)5(i)(II) that includes records for he most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T--Criteria for and Verification of a Permanent or Temporary Total Enclosure" under 40 CFR 52.741, Appendix B.

(IV) Documentation for each floating membrane cover installed on a surface impoundment in accordance with the requirements of Rule 0400-12-01-.06(32)(f)3 that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in Rule 0400-12-01-.06(32)(f)3(i).

(V) Documentation for each closed-vent system and control device installed in accordance with the requirements of Rule 0400-12-01-.06(32)(h) that includes design and performance information as specified in subparts 10(iii) and (iv) of this subparagraph.

(VI) An emission monitoring plan for both Method 21 in 40 CFR Part 60, Appendix A and control device monitoring methods. This plan shall include the following information: monitoring point(s), monitoring methods for control devices, monitoring frequency, procedures for documenting exceedances, and procedures for mitigating noncompliances.

(VII) When an owner or operator of a facility subject to Rule 0400-12-01-.05(29) cannot comply with Rule 0400-12-01-.06(32) by the date of permit issuance, the schedule of implementation required under Rule 0400-12-01-.05(29)(c).

14. Part B Information Requirements for Post-Closure Permits [270.28]

For post-closure permits, the owner or operator is required to submit only the information specified in subparts (a)1(i), (iv), (v), (vi), (xi), (xiii), (xiv), (xvi), (xviii), (xix), subparagraphs (c) and (e), and part (a)2 of this paragraph, unless the Commissioner determines that additional information from subparagraph (a), parts (b)2, (b)3, (b)4, (b)6, or (b)7 of this paragraph is necessary. The owner or operator is required to submit the same information when an alternative authority is used in lieu of a post-closure permit as provided in part (1)(b)9 of this rule.

(c) Additional Information Requirements [40 CFR 270.14(c)]

The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as provided in Rule 0400-12-01-.06(6)(a):

1. A summary of the ground-water monitoring data obtained during the interim status period under Rule 0400-12-01-.05(6)(a) through (e), where applicable.

2. Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground-water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area).

3. On the topographic map required under subpart (a)1(xix) of this paragraph, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under Rule 0400-12-01-.06(6)(f), the proposed location of ground-water monitoring wells as required under Rule 0400-12-01-.06(6)(h), and, to the extent possible, the information required in part 2 of this subparagraph.

4. A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(i) Delineates the extent of the plume on the topographic map required under subpart (a)1(xix) of this paragraph; and

(ii) Identifies the concentration of each Appendix IX, of Rule 0400-12-01-.06, constituent throughout the plume or identifies the maximum concentrations of each appendix IX constituent in the plume.

5. Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of Rule 0400-12-01-.06(6)(h).

6. If the presence of hazardous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of Rule 0400-12-01-.06(6)(i). This submission must address the following items specified under Rule 0400-12-01-.06(6)(i):

(i) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the ground water;

(ii) A proposed ground-water monitoring system;

(iii) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(iv) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground-water monitoring data.

7. If the presence of hazardous constituents has been detected in the ground water at the point of compliance at the time of the permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of Rule 0400-12-01-.06(6)(j). Except as provided in Rule 0400-12-01-.06(6)(i)8(v), the owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of Rule 0400-12-01-.06(6)(k), unless the owner or operator obtains written authorization in advance from the Commissioner to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with Rule 0400-12-01-.06(6)(j), the owner or operator must address the following items:

(i) A description of the wastes previously handled at the facility;

(ii) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(iii) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with Rules 0400-12-01-.06(6)(h) and (j);

(iv) Proposed concentration limits for each hazardous constituent, based on the criteria set forth in Rule 0400-12-01-.06(6)(e)1, including a justification for establishing any alternate concentration limits;

(v) Detailed plans and an engineering report describing the proposed ground-water monitoring system, in accordance with the requirements of Rule 0400-12-01-.06(6)(h); and

(vi) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground-water monitoring data.

8. If hazardous constituents have been measured in the ground water which exceed the concentration limits established under Table 1 of Rule 0400-12-01-.06(6)(e), or if ground

water monitoring conducted at the time of permit application under Rules 0400-12-01-.06(6)(a) through (e) at the waste boundary indicates the presence of hazardous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of Rule 0400-12-01-.06(6)(k). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the Commissioner that alternate concentration limits will protect human health and the environment after considering the criteria listed in Rule 0400-12-01-.06(6)(e)2. An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of Rule 0400-12-01-.06(6)(j) and part 6 of this subparagraph. To demonstrate compliance with Rule 0400-12-01-.06(6)(k), the owner or operator must address, at a minimum, the following items:

(i) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(ii) The concentration limit for each hazardous constituent found in the ground water as set forth in Rule 0400-12-01-.06(6)(e);

(iii) Detailed plans and an engineering report describing the corrective action to be taken;

(iv) A description of how the ground-water monitoring program will demonstrate the adequacy of the corrective action; and

(v) The permit may contain a schedule for submittal of the information required in subparts 8(iii) and (iv) of this subparagraph provided the owner or operator obtains written authorization from the Commissioner prior to submittal of the complete permit application.

(d) Treatment Facilities

The following information is required for treatment facilities:

1. A description of the treatment technologies and sequences utilized by types of hazardous wastes handled, to include flow diagrams and mass balances where appropriate; and

2. A description of procedures, structures, or equipment used at the facility to monitor treatment processes.

(e) Information Requirements for Solid Waste Management Units [40 CFR 270.14(d)]

1. The following information is required for each solid waste management unit at a facility seeking a permit:

(i) The location of the unit on the topographic map required under subpart (a)1(xix) of this paragraph;

(ii) Designation of type of unit;

(iii) General dimensions and structural description (supply any available drawings);

(iv) When the unit was operated; and

(v) Specification of all wastes that have been managed at the unit, to the extent available.

2. The owner or operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of hazardous wastes or hazardous constituents from such unit or units.

3. The owner/operator must conduct and provide the results of sampling and analysis of groundwater, landsurface, and subsurface strata, surface water, or air, which may include the installation of wells, where the Commissioner ascertains it is necessary to complete a Facility Assessment that will determine if a more complete investigation is necessary.

(6) Permit Denial [40 CFR 270.29]

The Commissioner may, pursuant to the procedures in paragraph (7) of this rule, deny the permit application either in its entirety or as to the active life of a hazardous waste management facility or unit only.

(7) Processing the Permit [40 CFR 124]

(a) Preliminary Notices

Within 30 days after the date of receipt of a complete application as specified below, the Commissioner shall require the applicant/permittee to issue a preliminary public notice under subparagraph (e) of this paragraph for:

1. Each complete Part A permit application received from new facilities; and

2. Each Part B application received from facilities.

(b) Review of the Permit Application

1. The Commissioner shall review every permit application for completeness. Upon completing the review, the Commissioner shall notify the applicant in writing whether the application is complete. For new facilities, the Commissioner shall complete his review and issue this notice within 45 days after receipt of the Part B permit application. If the application is incomplete, the Commissioner shall list the information necessary to make the application complete. When the application is for an existing facility, the Commissioner shall specify in the notice of deficiency a date for submitting the necessary information. The Commissioner shall notify the applicant that the application is complete upon receiving this information. After the application is completed, the Commissioner may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

2. If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under the Act.

3. When the Commissioner decides that a site visit is necessary for any reason in conjunction with the processing of an application, he shall notify the applicant and a date shall be scheduled.

(c) Draft Permits

1. Once an application is complete, the Commissioner shall tentatively decide whether the permit should be issued or denied.

2. If the Commissioner tentatively decides the permit should be denied, he or she shall prepare a notice of intent to deny. A notice of intent to deny the permit is a type of draft permit which follows the same procedures as any draft permit prepared under this subparagraph (see part 6 of this subparagraph). If the Commissioner finally decides (under subparagraph (h) of this paragraph) that the tentative decision to deny the permit

was incorrect, the Commissioner shall withdraw the notice of intent to deny and proceed to prepare a draft permit as set forth in part 4 of this subparagraph.

3. If the Commissioner tentatively decides the permit should be issued, he shall prepare a draft permit as set forth in part 4 of this subparagraph.

4. A draft permit shall contain (either expressly or by reference) all applicable terms and conditions from subparagraphs (8)(a) through (f) of this rule.

5. (i) For new facilities, except as provided in subpart (ii) of this part, the Commissioner shall issue the notice of intent to deny or the draft permit within 45 days after notifying the applicant that his application was complete (see part (b)1 of this paragraph).

(ii) If the Commissioner finds it necessary to request additional information from an applicant after the application is deemed complete (see part (b)1 of this paragraph), the 45-day time limit shall be automatically extended a period of time equal to the time it takes for the applicant to submit the requested information (such time to be calculated from the postmarked date of the Commissioner's written request to the date the Department receives the information).

6. All draft permits shall be subject to the procedures of subparagraphs (d), (e), (f), (g), (h), (i), and (j) of this paragraph, unless otherwise specified in those subparagraphs. The Commissioner shall give notice of opportunity for a public hearing (subparagraph (g) of this paragraph), issue a final decision (subparagraph (i) of this paragraph) and respond to comments (subparagraph (j) of this paragraph).

(d) Fact Sheets

1. A fact sheet shall be prepared for every draft permit (or notice of intent to deny the permit) for:

(i) Disposal facilities or sites (including landfills, injection wells, surface impoundments, and land treatment facilities);

(ii) Incinerators;

(iii) Storage facilities and treatment facilities which handle or are proposed to handle (other than possibly in emergencies) hazardous wastes which are generated off-site by persons other than the owner or operator; and

(iv) Other facilities which the Commissioner finds are the subject of widespread public interest or raise major issues.

2. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit; to include, 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 and appropriate supporting references to the permit application;

(iv) Reasons why any requested waivers 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:

(I) The beginning and ending dates of the comment period under subparagraph (e) of this paragraph and the address where comments will be received;

(II) Procedures for requesting a public hearing; and

(III) Any other procedures by which the public may participate in the final decision; and

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

3. The Commissioner shall send this fact sheet to the applicant and on request, to any other person.

(e) Public Notices and Public Comments

1. Scope

(i) A person shall give all public notices, as prepared and required by these rules, including, but not limited to, the following:

(I) I. A Part A permit application as described in subparagraph (a) of this paragraph has been received;

II. A Part B permit application as described in subpart 4(iv) of this subparagraph has been received;

(II) A draft permit prepared under parts (c)2 or (c)3 of this paragraph;

(III) A public hearing scheduled under subparagraph (g) of this paragraph;

(IV) A draft permit, a permit, or a permit modification pursuant to this rule; or

(V) Interim status closures pursuant to Rule 0400-12-01-.05(7)(c)4(iv).

(ii) A person shall provide proof of the completion of all notices required to be given by the Commissioner within 10 days following conclusion of the public notice procedures.

(iii) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under paragraph (9) of this rule. Written notice of that denial shall be given to the permittee.

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

(v) The Commissioner may prepare and public notice an intent to deny a permit prepared under part (c)2 of this paragraph.

2. Timing

(i) Public notice of the preparation of a notice of intent to deny a permit or of a draft permit, as required under part 1 of this subparagraph, shall allow at least 45 days for public comment.

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

3. Methods

Public notice of activities described in subpart 1(i) of this subparagraph shall be given by the following methods:

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

(I) The applicant;

(II) Any other agency which the Commissioner knows has issued or is required to issue an environmental permit for the same facility or activity;

(III) Any unit of local government having jurisdiction over the area where the facility is or is proposed to be located;

(IV) Each State agency having any authority under State law with respect to the construction or operation of such facility; and

(V) Persons on a mailing list developed by:

I. Including those who request in writing to be on the list;

II. Soliciting persons for "area lists" from participants in past permit proceedings in that area; and

III. Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in other publications deemed appropriate by the Commissioner;

(Note: The Commissioner may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Commissioner may delete from the list the name of any person who fails to respond to such a request.)

(ii) By one or more of the following as approved by the Commissioner:

(I) By publication of a notice in a daily or weekly local newspaper of general circulation;

(II) By broadcast over one or more local radio stations;

(III) By placement of signage at the entrance of the facility; and

(iii) By any other method deemed necessary or appropriate by the Commissioner to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation. Such additional notices shall be the financial responsibility of the Commissioner.

(iv) The Commissioner is financially responsible for radio station announcements in excess of two or newspaper notices in excess of one in each county or city where coverage is deemed necessary by the Commissioner.

4. Contents

(i) General Public Notices

Except for the preliminary public notices described in subparagraph (a) of this paragraph, all public notices issued under this part shall contain the following minimum information:

(I) Name and address of the office processing the permit action for which notice is being given;

(II) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(III) A brief description of the business conducted at the facility or activity described in the permit application;

(IV) A brief description of the comment procedures required by subparagraphs (f) and (g) of this paragraph and the time and place of any public hearing that will be held, including a statement of procedures to request a public hearing (unless a hearing has already been scheduled), and other procedures by which the public may participate in the final permit decision;

(V) Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of draft permits and fact sheets; and

(VI) Any additional information considered necessary or proper.

(ii) Public Notices for Public Hearing

In addition to the general public notice described in subpart (i) of this part, the public notice of a public hearing shall contain the following information:

(I) Reference to the dates of previous public notices relating to the permit action;

(II) Date, time, and place of the public hearing; and

(III) A brief description of the nature and purpose of the public hearing, including the applicable rules and procedures.

(iii) Preliminary Notices

The preliminary public notice described in subparagraph (a) of this paragraph shall contain the following information:

(I) The information from items (i)(I), (II), (III), (V), and (VI) of this part; and

(II) A brief description of the permitting procedures that will be followed, focusing especially upon the opportunities for public participation in the process.

(iv) Public Notice Requirements at the Application Stage

(I) Applicability

The requirements of this subpart shall apply to all Part B applications seeking initial permits for hazardous waste management units over which the Department has permit issuance authority. The requirements of this subpart shall also apply to Part B applications seeking renewal of permits for such units under subparagraph (9)(a) of this rule. The requirements of this subpart do not apply to permit modifications under part (9)(c)5 of this rule or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(II) Notification at Application Submittal

I. The Commissioner shall provide public notice as set forth in item 3(i)(V) of this subparagraph, and notice to appropriate units of State and local government as set forth in items 3(i)(III) and (IV) of this subparagraph, that a Part B permit application has been submitted to the Department and is available for review.

II. The notice shall be published within a reasonable period of time after the application is received by the Commissioner. The notice must include:

A. The name and telephone number of the applicant's contact person;

B. The name and telephone number of the permitting agency's contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

C. An address to which people can write in order to be put on the facility mailing list;

D. The location where copies of the permit application and any supporting documents can be viewed and copied;

E. A brief description of the facility and proposed operations, including the address, and directions from a state highway or interstate, or a map (e.g., a sketched or copied street map if the location is remote or not easily accessible) of the facility location on the front page of the notice; and

F. The date that the application was submitted.

(III) Concurrent with the notice required under item (II) of this subpart, the Commissioner must place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the permitting agency's office.

(v) Information Repository

(I) Applicability

The requirements of this subpart apply to all applications seeking permits for hazardous waste management units over which the Department has permit issuance authority.

(II) The Commissioner may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Commissioner shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Commissioner determines, at any time after submittal of a permit application, that there is a need for a repository, then the Commissioner shall notify the facility that it must establish and maintain an information repository. (See part (8)(a)13 of this rule for similar provisions relating to the information repository during the life of a permit.)

(III) The information repository shall contain all documents, reports, data, and information deemed necessary by the Commissioner to fulfill the purposes for which the repository is established. The Commissioner shall have the discretion to limit the contents of the repository.

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

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

(VI) The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the Commissioner. The Commissioner may close the repository at his or her discretion, based on the factors in item (II) of this subpart.

5. Attachments

In addition to the general public notice described in subpart 4(i) of this subparagraph, all persons identified in items 3(i)(I), (II), (III), and (IV) of this subparagraph shall be mailed a copy of the fact sheet (if any) and the draft permit (if any).

(f) Public Comments and Requests for Public Hearings

During the public comment period provided under subpart (e)2(i) of this paragraph, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in subparagraph (j) of this paragraph.

(g) Public Hearings

1. (i) The Commissioner shall hold a public hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit(s).

(ii) The Commissioner may also hold a public hearing at his or her discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision.

(iii) The Commissioner shall hold a public hearing whenever he or she receives written notice of opposition to a draft permit and a request for a hearing, within 45 days of public notice under subpart (e)2(i) of this paragraph.

(iv) Whenever possible, the Commissioner shall schedule a hearing under this subparagraph at a location convenient to the nearest population center to the subject facility.

(v) Public notice of the hearing shall be given as specified in subparagraph (e) of this paragraph.

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

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

(h) Reopening of the Public Comment Period

1. If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit action, the Commissioner may (at his or her discretion or as directed by the Board) take one or more of the following actions:

(i) Prepare a new draft permit, appropriately modified, under subparagraph (c) of this paragraph;

(ii) Prepare a fact sheet or revised fact sheet under subparagraph (d) of this paragraph and reopen the comment period under subparagraph (e) of this paragraph; or

(iii) Reopen or extend the comment period under subparagraph (e) of this paragraph to give interested persons an opportunity to comment on the information or arguments submitted.

2. Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under subparagraph (e) of this paragraph shall define the scope of the reopening.

3. Public notice of any of the actions of part 1 of this subparagraph shall be issued under subparagraph (e) of this paragraph.

(i) Final Permit Decision

1. After the close of the public comment period under subparagraph (e) of this paragraph on a draft permit (including a notice of intent to deny a permit), the Commissioner as set forth in T.C.A. §68-212-108(a) shall issue a final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or unit under paragraph (6) of this rule). For new facilities, this final decision shall be issued within 60 days after the close of the comment period. The Commissioner shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. For the purposes of this subparagraph, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

2. A final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or unit under paragraph (6) of this rule) shall become effective

30 days after the date of the service of notice of the decision under part 1 of this subparagraph unless a different date is specified in the decision or review is requested on the permit under subparagraph (k) of this paragraph.

(j) Response to Comments

1. At the time that a final permit decision is issued under subparagraph (i) of this paragraph, the Commissioner shall issue a response to comments. This response shall:

(i) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(ii) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any public hearing.

2. The response to comments shall be made available to the public.

(k) Appeals

If, in his final permit decision under subparagraph (i) of this paragraph, the Commissioner denied the permit or issued it subject to conditions with which the permit applicant disagrees, the applicant may appeal the decision to the Board as set forth in T.C.A. §68-212-113(a)2 and (b). If the Commissioner fails to take any action on a permit application within 45 days after it was submitted to him/her or fails to meet the time limits imposed by parts (b)1, (c)5, and (i)1 of this paragraph, the permit applicant may appeal to the Board as set forth in T.C.A. §68-212-113(a)3 and (b).

(8) Terms of the Permit

(a) Conditions Applicable to all Permits [40 CFR 270.30]

The following conditions apply to all permits, and shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to this subparagraph must be included in the permit.

1. Duty to Comply

The permittee must comply with all conditions of this permit, except that the permittee need not comply with the conditions of the permit to the extent and for the duration such noncompliance is authorized in an emergency permit (see subparagraph (1)(d) of this rule). Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to Mitigate

In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

5. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

6. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any existing permit condition.

7. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

8. Duty to Provide Information

The permittee shall furnish to the Commissioner, within a reasonable time, any relevant information which the Commissioner may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Commissioner, upon request, copies of records required to be kept by this permit.

9. Inspection and Entry

The permittee shall allow the Commissioner, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(i) Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(iii) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit;

(iv) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location; and

(v) Make photographs for the purpose of documenting items of compliance or noncompliance at waste management units, or where appropriate to protect legitimate proprietary interests, make such photographs for him or her.

10. Monitoring and Records

(i) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(ii) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by Rule 0400-12-01-.06(5)(d)2(ix), and records of all data used to complete the application for this permit, for a period of at least five (5) years from the date of the sample, measurement, report, certification, or application. The permittee shall maintain records from all ground-water monitoring wells and associated ground-water surface elevations, for the active life of the facility, and, for disposal facilities, for the post-closure care period as well. This period may be extended by request of the Commissioner at any time.

(iii) Records of monitoring information shall include:

(I) The date, exact place, and time of sampling or measurements;

(II) The individual(s) who performed the sampling or measurements;

(III) The date(s) analyses were performed;

(IV) The individual(s) who performed the analyses;

(V) The analytical techniques or methods used; and

(VI) The results of such analyses.

11. Signatory Requirement

All applications, reports, or information submitted to the Commissioner shall be signed and certified. (See subparagraph (2)(a) of this rule.)

12. Reporting Requirements

(i) Planned changes

The permittee shall give notice to the Commissioner as soon as possible of any planned physical alterations or additions to the permitted facility.

(ii) Anticipated noncompliance

The permittee shall give advance notice to the Commissioner as soon as possible of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee may not commence treatment, storage, or disposal of hazardous waste; and for a facility being modified, the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility except as provided in part (9)(c)5 of this rule, until:

(I) The permittee has submitted to the Commissioner by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

(II) I. The Commissioner has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

II. Within 15 days of the date of submission of the letter in item (I) of this subpart, the permittee has not received notice from the Commissioner of his or her intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of hazardous waste.

(iii) Transfers

This permit is not transferable to any person except after notice to the Commissioner. The Commissioner may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. (See subparagraph (9)(b) of this rule; in some cases, modification or revocation and reissuance is mandatory.)

(iv) Monitoring reports

Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(v) Compliance schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(vi) Twenty-four hour reporting

(I) The permittee shall report any noncompliance which may endanger health or the environment orally within 24 hours from the time the permittee becomes aware of the circumstances, including:

I. Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies.

II. Any information of a release or discharge of hazardous waste, or of a fire or explosion from the hazardous waste management facility, which could threaten the environment or human health outside the facility.

(II) The description of the occurrence and the cause shall include:

I. Name, address, and telephone number of the owner or operator;

II. Name, address, and telephone number of the facility;

III. Date, time, and type of incident;

IV. Name and quantity of material(s) involved;

V. The extent of injuries, if any;

VI. An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

VII. Estimated quantity and disposition of recovered material that resulted from the incident.

(III) A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Commissioner may waive the five day written notice requirement in favor of a written report within fifteen days.

(vii) Manifest discrepancy report

If a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within fifteen days, the permittee must submit a letter report, including a copy of the manifest, to the Commissioner. (See Rule 0400-12-01-.06(5)(c).)

(viii) Unmanifested waste report

Such report must be submitted to the Commissioner within 15 days of receipt of unmanifested waste. (See Rule 0400-12-01-.06(5)(g).)

(ix) Annual report

An annual report must be submitted covering facility activities during the previous calendar year. (See Rule 0400-12-01-.06(5)(b).)

(x) Other noncompliance

The permittee shall report all instances of noncompliance not reported under subparts (iv), (v), and (vi) of this part, at the time monitoring reports are submitted. The reports shall contain the information listed in subpart (vi) of this part.

(xi) Other information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Commissioner, it shall promptly submit such facts or information.

13. Information Repository

The Commissioner may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in item (7)(e)4(v)(III) of this rule. The information repository will be governed by the provisions in items (7)(e)4(v)(III) through (VI) of this rule.

(b) Establishing permit conditions [40 CFR 270.32]

1. In addition to conditions required in all permits (subparagraph (a) of this paragraph), the Commissioner shall establish conditions, as required on a case-by-case basis, in permits under subparagraphs (c) (duration of permits), (d) (schedules of compliance), and (e) (monitoring).

2. (i) Each permit shall include permit conditions necessary to achieve compliance with the Act and regulations, including each of the applicable requirements specified in Rules 0400-12-01-.06, .07, .09 and .10. In satisfying this provision,

the Commissioner may incorporate applicable requirements of Rules 0400-12-01-.06, .07, .09 and .10 directly into the permit or establish other permit conditions that are based on these rules.

(ii) Each permit shall include such terms and conditions as the Commissioner determines necessary to protect human health and the environment.

(iii) If, as the result of an assessment(s) or other information, the Commissioner determines that conditions are necessary in addition to those required under 40 CFR 63 Subpart EEE, Rule 0400-12-01-.06 or Rule 0400-12-01-.09 to ensure protection of human health and the environment, he shall include those terms and conditions in a RCRA permit for a hazardous waste combustion unit.

3. An applicable requirement is a State statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit. Subparagraph (7)(h) of this rule (reopening of the public comment period) provides a means for reopening permit proceedings at the discretion of the Commissioner when applicable new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in paragraph (9) of this rule.

4. New or reissued permits, and to the extent allowed under paragraph (9) of this rule, modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in this subparagraph and in subparagraph (e) of this paragraph.

5. Incorporation

All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

(c) Duration of Permits [40 CFR 270.50]

1. Permits shall be effective for a fixed term not to exceed ten (10) years or the expected operating life of new facilities or the expected remaining life of existing facilities, whichever is less.

2. The Commissioner may issue any permit for a duration that is less than the full allowable term under part 1 of this subparagraph.

3. Except as provided in subparagraph (9)(a) of this rule, the term of a permit shall not be extended by modification beyond the maximum duration specified in part 1 of this subparagraph.

4. Each permit for a land disposal facility shall be reviewed by the Commissioner five years after the date of permit issuance or reissuance and shall be modified as necessary, as provided in item (9)(c)3(xiii) of this rule.

(d) Schedules of Compliance [40 CFR 270.33]

1. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the Act and regulations.

(i) Time for compliance

Any schedules of compliance under this subparagraph shall require compliance as soon as possible.

(ii) Interim dates

Except as provided in item 2(i)(II) of this subparagraph, 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 shall not exceed 1 year.

(II) If the time necessary for completion of any 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.

(iii) Reporting

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

2. Alternative schedules of compliance

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

(i) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

(I) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

(II) The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

(ii) 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.

(iii) If the permittee is undecided whether to cease conducting regulated activities, the Commissioner 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) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under item (I) of this subpart 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.

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

(e) Requirements for Recording and Reporting of Monitoring Results [40 CFR 270.31]

All permits shall specify:

1. Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

2. Required monitoring including type, intervals, and frequency 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 Rules 0400-12-01-.06 and .09. Reporting shall be no less frequent than specified in the above regulations.

(f) (Reserved)

(g) Effect of a Permit [40 CFR 270.4]

1. (i) Compliance with a permit during its term constitutes compliance, for purposes of enforcement, with the Act, except for those requirements not included in the permit which:

(I) Become effective by statute;

(II) Are promulgated under Rule 0400-12-01-.10 restricting the placement of hazardous wastes in or on the land;

(III) Are promulgated under Rule 0400-12-01-.06 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of part (9)(c)5 of this rule Class 1 permit modifications; or

(IV) Are promulgated under Rules 0400-12-01-.05(27), (28), or (29) limiting air emissions.

(ii) A permit may be modified, revoked and revised, or terminated during its term for cause as set forth in parts (9)(c)3, 4 and 6 and part (9)(d)3 of this rule, or the permit may be modified upon the request of the permittee as set forth in part (9)(c)5 of this rule.

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

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

(9) Continuation, Transfer, Modification, Revocation and Reissuance, and Termination of Permits

(a) Continuation of Expiring Permits [40 CFR 270.51]

When a permittee has made timely and sufficient application for a new permit, the existing permit does not expire until the Commissioner has made a final determination on issuance or denial and, in case the application is denied, or the terms of the new permit limited, until the last day for seeking review of the Commissioner's order or a later date fixed by order of the reviewing court.

(b) Transfer of Permits [40 CFR 270.40]

1. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under part 3 of this subparagraph or subparagraph (c) of this paragraph) to identify the new permittee and incorporate such other requirements (e.g., financial requirements) as may be necessary under the Act or this rule.

2. (i) For the purpose of this Chapter, the "owner or operator" of a treatment, storage or disposal facility has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A "change of ownership" occurs whenever this ultimate authority to control the activities and the policies of the facility is transferred to another individual, group, or legal entity.

(ii) A "change of ownership" also occurs whenever there is a change in the legal form under which the controlling entity is organized.

(iii) Transactions constituting a change of ownership include, but are not limited to, the following:

(I) Sale or donation of the facility's legal title;

(II) Lease of the entire facility's real and personal property;

(III) A sole proprietor becomes a member of a partnership or corporation, succeeding him as the new operator;

(IV) A partnership dissolves;

(V) One partnership is replaced by another through the removal, addition or substitution of a partner;

(VI) A general partnership becomes a limited partnership, or a limited partnership becomes general;

(VII) Two (2) or more corporations merge and the originally-permitted corporation does not survive;

(VIII) Corporations consolidate;

(IX) A non-profit corporation becomes a general corporation, or a for-profit corporation becomes non-profit;

(X) Transfers between levels of government; and

(XI) Corporate stock transfers or sales, when the controlling interest is transferred.

(iv) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

(I) Changes in the membership of a corporate board of directors or board of trustees;

(II) Two (2) or more corporations merge and the originally-permitted corporation survives;

(III) Changes in the membership of a non-profit corporation; and

(IV) Transfers between departments of the same level of government.

3. Changes in the ownership or operational control of a facility may be made, with prior written approval of the Commissioner, in accordance with the following procedures:

(i) The new owner or operator must submit a revised permit application no later than 90 days prior to the scheduled change by certified mail or other means that establish proof of delivery. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the Commissioner.

(ii) The permittee must send a notice of the modification request including actual dates of the public comment period, to all persons on the facility mailing list maintained by the Commissioner and to the appropriate units of State and local government as specified in items (7)(e)3(i)(II) through (V) of this rule and must publish this notice in a local newspaper of general circulation. This notice must be mailed and published within 7 calendar days before or after the date of submission of the modification request, and the permittee must provide to the Commissioner evidence of the mailing and publication. The notice must include:

(I) Announcement of a 30-day comment period, in accordance with subpart (iv) of this part, and the name and address of a Department contact to whom comments must be sent;

(II) Name and telephone number of the permittee's contact person;

(III) Name and telephone number of a Department contact person;

(IV) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(V) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Department contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The public shall be provided 30 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the Department contact identified in the public notice.

(v) When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of Rule 0400-12-01-.06(8) (Financial Requirements) until the new owner or operator has demonstrated that he or she is complying with the requirements of that rule. The new owner or operator must demonstrate compliance with Rule 0400-12-01-.06(8) requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the Commissioner by the new owner or operator of compliance with Rule 0400-12-01-.06(8), the Commissioner shall notify the old owner or operator that he or she no longer needs to comply with Rule 0400-12-01-.06(8) as of the date of demonstration.

(vi) Within the 30 day comment period, any person may request the Commissioner to review, and the Commissioner may for cause reject, any request for change in the ownership or operational control of a facility. The Commissioner must inform the permittee by certified mail that the request has been rejected, explaining the reasons for the rejection. If the request has been rejected, the permittee must comply with the original permit conditions.

(vii) The permittee may elect to follow the procedures in subpart (c)5(ii) of this paragraph for Class 2 modifications instead of the procedures specified in this part. The permittee must inform the Commissioner of this decision in the modification request required in item (c)5(ii)(I) of this paragraph.

(c) Modification or Revocation and Reissuance of Permits [40 CFR 270.41 & 270.42]

1. General [40 CFR 270.41]

Permits may be modified or revoked and reissued only for the reasons shown in parts 3, 4, or 5 of this subparagraph and only according to the procedures set forth in part 2 of this subparagraph. This process may be initiated either by the Commissioner or at the request of the permittee. All such requests from the permittee shall be in writing and shall contain the reasons for the request.

2. Procedures [40 CFR 270.41]

(i) Except as provided in subpart (ii) of this part, when the Commissioner receives any information (for example, complaints, inspection findings, monitoring data, required reports, other information submitted by the permittee as required in the permit (see subparagraph (8)(a) of this rule)), or receives a request for modification or revocation and reissuance under this paragraph or conducts a review of the permit file, he or she may determine whether one or more of the causes listed in parts 3 and 4 of this subparagraph for modification or revocation and reissuance or both exist. If cause exists, the Commissioner may modify or revoke and reissue the permit accordingly, subject to the limitations of part 6 of this subparagraph, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. If a permit is revoked and reissued, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is issued. If cause does not exist under this subparagraph, the Commissioner shall not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the Commissioner shall approve or deny the request according to the procedures of part 5 of this subparagraph. Otherwise, a draft permit must be prepared under subparagraph (7)(c) of this rule incorporating the proposed changes. This draft permit shall be processed as set forth in paragraph (7) of

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

(ii) Owners and operators of permitted facilities in existence on the effective date of this rule that have previously filed a permit modification request with the U.S. EPA that fully complied with 40 CFR 270.42, shall be deemed to have satisfied the requirements of part 5 of this subparagraph. The Commissioner shall issue a modified State Permit to those facilities that have received a modified EPA Permit by the effective date of this rule. Further, the processing of permit modification requests submitted to EPA prior to the effective date of this rule shall be continued to be processed by the Commissioner as if they had been received and processed initially by the Commissioner.

3. Causes for Modification [40 CFR 270.41(a)]

The following are causes for modification, but not revocation and reissuance, of permits. However, the following may be causes for revocation and reissuance, as well as modification, when the permittee requests or agrees.

(i) There are changes to the permitted facility which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

(ii) The Commissioner has received information which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

(iii) The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued.

(iv) The Commissioner determines that good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

(v) Modification of a closure plan or post-closure plan is required under Rule 0400-12-01-.06(7)(c)2 or (h)2.

(vi) After the Commissioner receives the notification of expected closure under Rule 0400-12-01-.06(7)(d), when the Commissioner determines that existing permit conditions granting extension of the 90 or 180 day periods under that rule, modification of the 30-year post-closure period under Rule 0400-12-01-.06(7)(h)1, continuation of security requirements under Rule 0400-12-01-.06(7)(h)2, or permission to disturb the integrity of the containment system under Rule 0400-12-01-.06(7)(h)3 are unwarranted.

(vii) When the corrective action program specified in the permit under Rule 0400-12-01-.06(6)(k) has not brought the regulated unit into compliance with the ground-water protection standard within a reasonable period of time.

(viii) To include a detection monitoring program meeting the requirements of Rule 0400-12-01-.06(6)(i), when the owner or operator has been conducting a compliance monitoring program under Rule 0400-12-01-.06(6)(j) or a corrective action program under Rule 0400-12-01-.06(6)(k) and the compliance period ends before the end of the post-closure care period for the unit.

(ix) When a permit requires a compliance monitoring program under Rule 0400-12-01-.06(6)(j), but monitoring data collected prior to permit issuance indicate that the facility is exceeding the ground-water protection standard.

(x) To include conditions applicable to units at a facility that were not previously included in the facility's permit.

(xi) When a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

(xii) The permittee has filed a request under Rule 0400-12-01-.06(8)(p)4 for a variance to the level of financial responsibility or the Commissioner demonstrates under Rule 0400-12-01-.06(8)(p)5 that an upward adjustment of the level of financial responsibility is required.

(xiii) Notwithstanding any other provision in this subparagraph, when a permit for a land disposal facility is reviewed by the Commissioner under part (8)(c)4 of this rule and modification of the permit is necessary to assure that the facility continues to comply with the currently applicable requirements in this rule Chapter.

4. Causes for Modification or Revocation and Reissuance [40 CFR 270.41(b)]

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

(i) Cause exists for termination under subparagraph (d) of this paragraph, and the Commissioner determines that modification or revocation and reissuance is appropriate.

(ii) The Commissioner has received notification (as required in the permit, see subpart (8)(a)12(iii) of this rule) of a proposed transfer of the permit.

5. Permit Modification at the Request of the Permittee [40 CFR 270.42]

(i) Class 1 Modifications

(I) Except as provided in item II of this subpart, the permittee may put into effect Class 1 modifications listed in Appendix I to Rule 0400-12-01-.07 in paragraph (10) of this rule under the following conditions:

I. The permittee must notify the Commissioner concerning the modification by certified mail or other means that establish proof of delivery within 7 calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by paragraph (4), paragraph (5) and subparagraphs (1)(e) and (f) of this rule.

II. The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the Commissioner in accordance with item (7)(e)3(i)(V) of this rule, and the appropriate units of State and local government, as specified in items (7)(e)3(i)(II) through (V) of this rule. This notification must be made within 90 calendar days after the change is put into effect. For the Class I modifications that require prior Commissioner approval, the notification must be

made within 90 calendar days after the Commissioner approves the request.

III. Any person may request the Commissioner to review, and the Commissioner may for cause reject, any Class 1 modification. The Commissioner must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.

(II) Class 1 permit modifications identified in Appendix I to Rule 0400-12-01-.07 in paragraph (10) of this rule by a [1]1 may be made only with the prior written approval of the Commissioner.

(III) For a Class 1 permit modification, the permittee may elect to follow the procedures in subpart (ii) of this part for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the Commissioner of this decision in the modification request required in item (ii)(I) of this part.

(ii) Class 2 Modifications

(I) For Class 2 modifications, listed in Appendix I to Rule 0400-12-01-.07 in paragraph (10) of this rule, the permittee must submit a modification request to the Commissioner that:

I. Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

II. Identifies that the modification is a Class 2 modification;

III. Explains why the modification is needed; and

IV. Provides the applicable information required by paragraph (4), paragraph (5) and subparagraphs (1)(e) and (f) of this rule.

(II) The permittee must send a notice of the modification request including actual dates of the public comment period, to all persons on the facility mailing list maintained by the Commissioner and to the appropriate units of State and local government as specified in items (7)(e)3(i)(II) through (V) of this rule and must publish this notice in a local newspaper of general circulation. This notice must be mailed and published within 7 days before or after the date of submission of the modification request, and the permittee must provide to the Commissioner evidence of the mailing and publication. The notice must include:

I. Announcement of a 60-day comment period, in accordance with item (V) of this subpart, and the name and address of a Department contact to whom comments must be sent;

II. Announcement of the date, time, and place for a public meeting held in accordance with item (IV) of this subpart;

III. Name and telephone number of the permittee's contact person;

IV. Name and telephone number of a Department contact person;

V. Location where copies of the modification request and any supporting documents can be viewed and copied; and

VI. The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Department contact person."

(III) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(IV) The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in item (II) of this subpart and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(V) The public shall be provided 60 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the Department contact identified in the public notice.

(VI) I. No later than 90 days after receipt of the notification request, the Commissioner must:

A. Approve the modification request, with or without changes, and modify the permit accordingly;

B. Deny the request;

C. Determine that the modification request must follow the procedures in subpart (iii) of this part for Class 3 modifications for the following reasons:

(A) There is significant public concern about the proposed modification; or

(B) The complex nature of the change requires the more extensive procedures of Class 3;

D. Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days; or

E. Notify the permittee that he or she will decide on the request within the next 30 days.

II. If the Commissioner notifies the permittee of a 30-day extension for a decision, the Commissioner must, no later than 120 days after receipt of the modification request:

A. Approve the modification request, with or without changes, and modify the permit accordingly;

B. Deny the request;

C. Determine that the modification request must follow the procedures in subpart (iii) of this part for Class 3 modifications for the following reasons:

(A) There is significant public concern about the proposed modification; or

(B) The complex nature of the change requires the more extensive procedures of Class 3; or

D. Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days.

III. If the Commissioner fails to make one of the decisions specified in subitem II of this item by the 120th day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to 180 days, without formal Department action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of Rule 0400-12-01-.05. If the Commissioner approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in subitem (ii)(VI) I, II or III of this item, such action cancels the temporary or automatic authorization.

IV. A. In the case of an automatic authorization under subitem III of this item, or a temporary authorization under section I D or II D of this item, if the Commissioner has not made a final approval or denial of the modification request by the date 50 days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

(A) The permittee has been authorized temporarily to conduct the activities described in the permit modification request, and

(B) Unless the Commissioner acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.

B. If the owner/operator fails to notify the public by the date specified in section A of this subitem, the effective date of the permanent authorization will be deferred until 50 days after the owner/operator notifies the public.

V. Except as provided in subitem VII of this item, if the Commissioner does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under subparagraph (c) of this paragraph. The activities authorized under this subitem must be conducted as described in the permit modification request and must be in

compliance with all appropriate standards of Rule 0400-12-01-.05.

VI. In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the Commissioner must consider all written comments submitted to the Department during the public comment period and must respond in writing to all significant comments in his or her decision.

VII. With the written consent of the permittee, the Commissioner may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

(VII) The Commissioner may deny or change the terms of a Class 2 permit modification request under subitems (VI)I through III of this subpart for the following reasons:

I. The modification request is incomplete;

II. The requested modification does not comply with the appropriate requirements of Rule 0400-12-01-.06 or other applicable requirements; or

III. The conditions of the modification fail to protect human health and the environment.

(VIII) The permittee may perform any construction associated with a Class 2 permit modification request beginning 60 days after the submission of the request unless the Commissioner establishes a later date for commencing construction and informs the permittee in writing before day 60.

(IX) Public Notice shall be provided as follows:

I. In the event no adverse public comment is received concerning the proposed permit modification, the permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the Commissioner, and the appropriate units of State and local government as specified in items (7)(e)3(i)(II) through (V) of this rule. This notification must be made within 7 days of notification of approval of the modification.

II. In the event there is public comment concerning the proposed modification, the Commissioner shall direct the permittee to publish a notice as specified in part (7)(e)3 and subpart (7)(e)4(i) of this rule.

(iii) Class 3 Modifications

(I) For Class 3 modifications listed in Appendix I to Rule 0400-12-01-.07 in paragraph (10) of this rule, the permittee must submit a modification request to the Commissioner that:

I. Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

II. Identifies that the modification is a Class 3 modification;

III. Explains why the modification is needed; and

IV. Provides the applicable information required by paragraph (4), paragraph (5) and subparagraphs (1)(e), (f) and (j) of this rule.

(II) The permittee must send a notice of the modification request, including the actual dates of the public comment period, to all persons on the facility mailing list maintained by the Commissioner and to the appropriate units of State and local government as specified in items (7)(e)3(i)(II) through (V) of this rule and must publish this notice in a local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the Commissioner evidence of the mailing and publication. The notice must include:

I. Announcement of a 60-day comment period, and a name and address of a Department contact to whom comments must be sent;

II. Announcement of the date, time, and place for a public meeting on the modification request, in accordance with item (IV) of this subpart;

III. Name and telephone number of the permittee's contact person;

IV. Name and telephone number of a Department contact person;

V. Location where copies of the modification request and any supporting documents can be viewed and copied; and

VI. The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Department contact person."

(III) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(IV) The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in item (II) of this subpart and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(V) The public shall be provided at least 60 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the Department contact identified in the notice.

(VI) After the conclusion of the 60-day comment period, the Commissioner must grant or deny the permit modification request according to the permit modification procedures of paragraph (7) of this rule, with the exception of subparagraph (a). In addition, the Commissioner must consider and respond to all significant written comments received during the 60-day comment period.

(VII) Public Notice shall be provided by the permittee in accordance with subparagraph (7)(e) of this rule for the draft permit modification and the final permit modification.

(iv) Other Modifications

(I) In the case of modifications not explicitly listed in Appendix I to Rule 0400-12-01-.07 in paragraph (10) of this rule, the permittee may submit a Class 3 modification request to the Department, or he or she may request a determination by the Commissioner that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she must provide the Department with the necessary information to support the requested classification.

(II) The Commissioner shall make the determination described in item (I) of this subpart as promptly as practicable. In determining the appropriate class for a specific modification, the Commissioner shall consider the similarity of the modification to other modifications codified in Appendix I to Rule 0400-12-01-.07 in paragraph (10) of this rule and the following criteria:

I. Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the Commissioner may require prior approval.

II. Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to:

A. Common variations in the types and quantities of the wastes managed under the facility permit,

B. Technological advancements, and

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

III. Class 3 modifications substantially alter the facility or its operation.

(v) Temporary Authorizations

(I) Upon request of the permittee, the Commissioner may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations must have a term of not more than 180 days.

(II) I. The permittee may request a temporary authorization for:

A. Any Class 2 modification meeting the criteria in subitem (III)II of this subpart, and

B. Any Class 3 modification that meets the criteria in section (III)II A or B of this subpart; or that meets the

criteria in sections (III)II C through E of this subpart and provides improved management or treatment of a hazardous waste already listed in the facility permit.

II. The temporary authorization request must include:

A. A description of the activities to be conducted under the temporary authorization;

B. An explanation of why the temporary authorization is necessary; and

C. Sufficient information to ensure compliance with Rule 0400-12-01-.06 standards.

III. The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the Commissioner and to appropriate units of State and local governments as specified in items (7)(e)3(i)(II) through (V) of this rule. This notification must be made within seven days of submission of the authorization request.

(III) The Commissioner shall approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the Commissioner must find:

I. The authorized activities are in compliance with the standards of Rule 0400-12-01-.06.

II. The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

A. To facilitate timely implementation of closure or corrective action activities;

B. To allow treatment or storage in tanks or containers, or in containment buildings in accordance with Rule 0400-12-01-.10;

C. To prevent disruption of ongoing waste management activities;

D. To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

E. To facilitate other changes to protect human health and the environment.

(IV) A temporary authorization may be reissued for one additional term of up to 180 days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:

I. The reissued temporary authorization constitutes the Commissioner's decision on a Class 2 permit modification in accordance with section (ii)(VI)I D or II D of this part, or

II. The Commissioner determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of subpart (iii) of this part are conducted.

(vi) Public notice and appeals of permit modification decisions

(I) The Commissioner shall notify persons on the facility mailing list and appropriate units of State and local government within 10 days of the Commissioner's decision to grant or deny a Class 2 or 3 permit modification request. The Commissioner shall also notify such persons within 10 days after an automatic authorization for a Class 2 modification goes into effect under subitem (ii)(VI)III or V of this part.

(II) The Commissioner's decision to grant or deny a Class 2 or 3 permit modification request under this subparagraph may be appealed under the permit appeal procedures of subparagraph (7)(k) of this rule.

(III) An automatic authorization that goes into effect under subitem (ii)(VI)III or V of this part may be appealed under the permit appeal procedures of subparagraph (7)(k) of this rule; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the appeal has been granted pursuant to subparagraph (7)(k) of this rule, notwithstanding the provisions of subparagraph (7)(i) of this rule.

(vii) Newly Regulated Wastes and Units

(I) The permittee is authorized to continue to manage wastes listed or identified as hazardous under Rule 0400-12-01-.02, or to continue to manage hazardous waste in units newly regulated as hazardous waste management units, if:

I. The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;

II. The permittee submits a Class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements;

III. The permittee is in compliance with the applicable standards of Rules 0400-12-01-.05 and .04;

IV. The permittee also submits a complete Class 2 or 3 modification request within 180 days of the effective date of the rule listing or identifying the waste, or subjecting the unit to Chapter 0400-12-01 management standards;

V. In the case of land disposal units, the permittee certifies that each such unit is in compliance with all applicable requirements of Rule 0400-12-01-.05 for groundwater monitoring and financial responsibility on the date 12 months after the effective date of the rule identifying or listing the waste as hazardous, or regulating the unit as a hazardous waste management unit. If the owner or operator fails to certify compliance with all these requirements, he or she will lose authority to operate under this part.

(II) New wastes or units added to a facility's permit under this subpart do not constitute expansions for the purpose of the 25 percent capacity expansion limit for Class 2 modifications.

(viii) Military Hazardous Waste Munitions Treatment and Disposal

The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site waste, if:

(I) The facility was in existence as a hazardous waste facility, and the facility was already permitted to handle the waste military munitions, on the date when the waste military munitions became subject to hazardous waste regulatory requirements;

(II) On or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and

(III) The permittee submits a complete Class 2 modification request within 180 days of the date when the waste military munitions became subject to hazardous waste regulatory requirements.

(ix) Permit Modification List

The Commissioner must maintain a list of all approved permit modifications and must publish a notice once a year in a State-wide newspaper that an updated list is available for review.

(x) Combustion facility changes to meet 40 CFR part 63 MACT standards. The following procedures apply to hazardous waste combustion facility permit modifications requested under Appendix I to Rule 0400-12-01-.07 of paragraph (10) of this rule.

(I) Facility owners or operators must have complied with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210 that were in effect prior to October 11, 2000, (See 40 CFR Part 63 §§63.1200-63.1499 revised as of July 1, 2000) in order to request a permit modification under this part for the purpose of technology changes needed to meet the standards under 40 CFR 63.1203, 63.1204, and 63.1205.

(II) Facility owners or operators must comply with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210(b) and 63.1212(a) before a permit modification can be requested under this part for the purpose of technology changes needed to meet the 40 CFR 63.1215, 63.1216, 63.1217, 63.1218, 63.1219, 63.1220, and 63.1221 standards promulgated on October 12, 2005.

(III) If the Commissioner does not approve or deny the request within 90 days of receiving it, the request shall be deemed approved. The Commissioner may, at his or her discretion, extend this 90 day deadline one time for up to 30 days by notifying the facility owner or operator.

(xi) Waiver of RCRA permit conditions in support of transition to the 40 CFR 63 MACT standards.

(I) You may request to have specific RCRA operating and emissions limits waived by submitting a Class 1 permit modification request under part (10)(l)10 (Appendix I to Rule 0400-12-01-.07). You must:

I. Identify the specific RCRA permit operating and emissions limits which you are requesting to waive;

II. Provide an explanation of why the changes are necessary in order to minimize or eliminate conflicts between the RCRA permit and MACT compliance; and

III. Discuss how the revised provisions will be sufficiently protective.

IV. The Commissioner shall approve or deny the request within 30 days of receipt of the request. The Commissioner may, at his or her discretion, extend this 30 day deadline one time for up to 30 days by notifying the facility owner or operator.

(II) To request this modification in conjunction with MACT performance testing where permit limits may only be waived during actual test events and pretesting, as defined under 40 CFR 63.1207(h)(2)(i) and (ii), for an aggregate time not to exceed 720 hours of operation (renewable at the discretion of the Commissioner) you must:

I. Submit your modification request to the Commissioner at the same time you submit your test plans to the Commissioner; and

II. The Commissioner may elect to approve or deny the request continent upon approval of the test plans.

(xii) Reserved

6. Facility Siting [40 CFR 270.41(c)]

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

(d) Termination of Permits

1. General

Permits may be terminated only for the reasons shown in part 3 of this subparagraph and only according to the procedures set forth in part 2 of this subparagraph. This process may be initiated either by the Commissioner or at the request of the permittee. All such requests from the permittee shall be in writing and shall contain the reasons for the request.

2. Procedures

(i) When the Commissioner receives a request from the permittee or other information (e.g., complaints, inspection findings, monitoring data, reports) indicating that termination of the permit may be in order, he or she may determine whether or not one or more of the causes listed in part 3 of this subparagraph exist.

(ii) If the Commissioner determines cause exists, he or she may proceed to terminate the permit.

(iii) If the Commissioner tentatively decides to terminate a permit, he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared and processed under paragraph (7) of this rule.

(iv) No notice of intent to terminate shall be issued under subpart (iii) of this part until the permittee has been given such notice as is required by T.C.A. § 4-5-320.

3. Causes for Termination [40 CFR 270.43]

The following are causes for terminating a permit during its term or for denying a permit renewal application:

(i) Noncompliance by the permittee with any condition of the permit;

(ii) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(iii) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

(iv) The request of the permittee, providing he has complied with all closure and post-closure requirements in the permit conditions.

(10) APPENDIX I to Rule 0400-12-01-.07 [40 CFR 270.42 APPENDIX I]

Appendix I to Rule 0400-12-01-.07 [2]
Classification of Permit Modification
[40 CFR 270.42 Appendix I]

		Modifications	Class
(a)	General Permit Provisions		
	1.	Administrative and informational changes	1
	2.	Correction of typographical errors	1
	3.	Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
	4.	Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
		(i) To provide for more frequent monitoring, reporting, sampling, or maintenance.	1
		(ii) Other changes	2
	5.	Schedule of compliance:	
		(i) Changes in interim compliance dates, with prior approval of the Commissioner.	[1]1
		(ii) Extension of final compliance date.	3
	6.	Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Commissioner.	[1]1
	7.	Changes in ownership or operational control of a facility, unless the procedures of part (9)(b)3 of this rule are approved by the Commissioner and followed.	2

	8.	Changes to remove permit conditions that are no longer applicable (i.e., because the standards upon which they are based are no longer applicable to the facility).	[1]1
(b)	General Facility Standards		
	1.	Changes to waste sampling or analysis methods:	
		(i) To conform with agency guidance or regulations.	1
		(ii) To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods.	[1]1
		(iii) To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes.	[1]1
		(iv) Other changes.	2
	2.	Changes to analytical quality assurance/control plan:	
		(i) To conform with agency guidance or regulations.	1
		(ii) Other changes.	2
	3.	Changes in procedures for maintaining the operating record.	1
	4.	Changes in frequency or content of inspection schedules.	2
	5.	Changes in the training plan:	
		(i) That affect the type or decrease the amount of training given to employees.	2
		(ii) Other changes.	1
	6.	Contingency plan:	
		(i) Changes in emergency procedures (i.e., spill or release response procedures).	2
		(ii) Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed.	1
		(iii) Removal of equipment from emergency equipment list.	2
		(iv) Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan.	1
	7.	Construction quality assurance plan:	
		(i) Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications.	1
		(ii) Other changes	2
		(Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification.)	
(c)	Ground-Water Protection		
	1.	Changes to wells:	
		(i) Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground-water monitoring system.	2
		(ii) Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.	1

2.	Changes in ground-water sampling or analysis procedures or monitoring schedule, with prior approval of the Commissioner.		11
3.	Changes in statistical procedure for determining whether a statistically significant change in ground-water quality between upgradient and downgradient wells has occurred, with prior approval of the Commissioner.		11
4.	Changes in point of compliance.		2
5.	Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):		
	(i)	As specified in the groundwater protection standard.	3
	(ii)	As specified in the detection monitoring program.	2
6.	Changes to a detection monitoring program as required by Rule 0400-12-01-.06(6)(i)8 unless otherwise specified in this appendix.		2
7.	Compliance monitoring program:		
	(i)	Addition of compliance monitoring program as required by subpart (6)(i)7(iv) and subparagraph (6)(j) of Rule 0400-12-01-.06.	3
	(ii)	Changes to a compliance monitoring program as required by part (6)(j)10 of Rule 0400-12-01-.06, unless otherwise specified in this appendix.	2
8.	Corrective action program:		
	(i)	Addition of a corrective action program as required by subpart (6)(j)8(ii) and subparagraph (6)(k) of Rule 0400-12-01-.06.	3
	(ii)	Changes to a corrective action program as required by Rule 0400-12-01-.06(6)(k)8, unless otherwise specified in this appendix.	2
(d) Closure			
1.	Changes to the closure plan:		
	(i)	Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Commissioner.	11
	(ii)	Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the Commissioner.	11
	(iii)	Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Commissioner.	11
	(iv)	Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Commissioner.	11
	(v)	Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix.	2
	(vi)	Extension of the closure period to allow a landfill, surface impoundment or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under Rules 0400-12-01-.06(7)(d)4 and 5.	2
2.	Creation of a new landfill unit as part of closure.		3
3.	Addition of the following new units to be used temporarily for closure activities:		
	(i)	Surface impoundments.	3
	(ii)	Incinerators.	3

	(iii)	Waste piles that do not comply with Rule 0400-12-01-.06(12)(a)3.	3
	(iv)	Waste piles that comply with Rule 0400-12-01-.06(12)(a)3.	2
	(v)	Tanks or containers (other than specified below).	2
	(vi)	Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Commissioner.	11
	(vii)	Staging piles	2
(e)	Post-Closure		
1.		Changes in name, address, or phone number of contact in post-closure plan.	1
2.		Extension of post-closure care period.	2
3.		Reduction in the post-closure care period.	3
4.		Changes to the expected year of final closure, where other permit conditions are not changed.	1
5.		Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure.	2
(f)	Containers		
1.		Modification or addition of container units:	
	(i)	Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in (f)1(iii) and (f)4(i) below.	3
	(ii)	Resulting in up to 25% increase in the facility's container storage capacity, except as provided in (f)1(iii) and (f)4(i) below.	2
	(iii)	Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards with prior approval of the Commissioner. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	11
2.	(i)	Modification of a container unit without increasing the capacity of the unit.	2
	(ii)	Addition of a roof to a container unit without alteration of the containment system.	1
3.		Storage of different wastes in containers, except as provided in (f)4 below:	
	(i)	That require additional or different management practices from those authorized in the permit.	3
	(ii)	That do not require additional or different management practices from those authorized in the permit.	2
(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management of newly listed or identified wastes.)			
4.		Storage or treatment of different wastes in containers:	
	(i)	That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards. This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	11

		(ii)	That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1
(g)	Tanks			
	1.	(i)	Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in (g)1(iii), (g)1(iv), and (g)1(v) below.	3
		(ii)	Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in (g)1(iv) and (g)1(v) below.	2
		(iii)	Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation.	2
		(iv)	After prior approval of the Commissioner, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation.	11
		(v)	Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards with prior approval of the Commissioner. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	11
	2.		Modification of a tank unit or secondary containment system without increasing the capacity of the unit.	2
	3.		Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided: -- The capacity difference is no more than 1500 gallons, -- The facility's permitted tank capacity is not increased, and -- The replacement tank meets the same conditions in the permit.	1
	4.		Modification of a tank management practice.	2
	5.		Management of different wastes in tanks:	
		(i)	That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in (g)5(iii) below.	3
		(ii)	That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in (g)5(iv).	2
		(iii)	That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards. The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	11
		(iv)	That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1

	(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management of newly listed or identified wastes.)	
(h)	Surface Impoundments	
1.	Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity.	3
2.	Replacement of a surface impoundment unit.	3
3.	Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system.	2
4.	Modification of a surface impoundment management practice.	2
5.	Treatment, storage, or disposal of different wastes in surface impoundments:	
(i)	That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.	3
(ii)	That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit	2
(iii)	That are wastes restricted from land disposal that meet the applicable treatment standards, provided that the unit meets the minimum technological requirements stated in Rule 0400-12-01-.10(1)(e). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1
(iv)	That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in Rule 0400-12-01-.10(1)(e), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
6.	Modifications of unconstructed units to comply with Rules 0400-12-01-.06(11)(b)3, (11)(c), (11)(d) and (11)(g)4.	11
7.	Changes in response action plan:	
(i)	Increase in action leakage rate	3
(ii)	Change in a specific response reducing its frequency or effectiveness.	3
(iii)	Other changes	2
	(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management of newly listed or identified wastes.)	
(i)	Enclosed Waste Piles	
	For all waste piles except those complying with Rule 0400-12-01-.06(12)(a)3, modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with Rule 0400-12-01-.06(12)(a)3.	
1.	Modification or addition of waste pile units:	
(i)	Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity.	3
(ii)	Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity.	2
2.	Modification of waste pile unit without increasing the capacity of the unit.	2

3.	Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit.	1
4.	Modification of a waste pile management practice.	2
5.	Storage or treatment of different wastes in waste piles:	
	(i) That require additional or different management practices or different design of the unit.	3
	(ii) That do not require additional or different management practices or different design of the unit.	2
6.	Conversion of an enclosed waste pile to a containment building unit.	2

(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management of newly listed or identified wastes.)

(j) Landfills and Unenclosed Waste Piles

1.	Modification or addition of landfill units that result in increasing the facility's disposal capacity.	3
2.	Replacement of a landfill.	3
3.	Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system.	3
4.	Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system.	2
5.	Modification of a landfill management practice.	2
6.	Landfill different wastes:	
	(i) That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.	3
	(ii) That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.	2
	(iii) That are wastes restricted from land disposal that meet the applicable treatment standards, provided that the landfill unit meets the minimum technological requirements stated in Rule 0400-12-01-.10(1)(e). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1
	(iv) That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in Rule 0400-12-01-.10(1)(e), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1
7.	Modifications of unconstructed units to comply with Rules 0400-12-01-.06(12)(b)3, (12)(c),(12)(d), (12)(e)3, (14)(b)3, (14)(c), (14)(d)3, and (14)(e).	1[1]
8.	Changes in response action plan	
	(i) Increase in action leakage rate	3
	(ii) Change in a specific response reducing its frequency or effectiveness	3
	(iii) Other changes	2

(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management of newly listed or identified wastes.)

(k)	Land Treatment		
	1.	Lateral expansion of or other modification of a land treatment unit to increase areal extent.	3
	2.	Modification of run-on control system.	2
	3.	Modify run-off control system.	3
	4.	Other modifications of land treatment unit component specifications or standards required in permit.	2
	5.	Management of different wastes in land treatment units:	
		(i) That require a change in permit operating conditions or unit design specifications.	3
		(ii) That do not require a change in permit operating conditions or unit design specifications.	2
	(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management of newly listed or identified wastes.)		
	6.	Modification of a land treatment unit management practice to:	
		(i) Increase rate or change method of waste application.	3
		(ii) Decrease rate of waste application.	1
	7.	Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions.	2
	8.	Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops.	3
	9.	Modification of operating practice due to detection of releases from the land treatment unit pursuant to Rule 0400-12-01-.06(13)(i)7(ii).	3
	10.	Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements.	3
	11.	Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements.	2
	12.	Changes in background values for hazardous constituents in soil and soil-pore liquid.	2
	13.	Changes in sampling, analysis, or statistical procedure.	2
	14.	Changes in land treatment demonstration program prior to or during the demonstration.	2
	15.	Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Commissioner's prior approval has been received.	1
	16.	Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Commissioner.	1
	17.	Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration.	3

	18.	Changes in vegetative cover requirements for closure.	2
(l)		Incinerators, Boilers, and Industrial Furnaces	
	1.	Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feed stream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Commissioner will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
	2.	Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Commissioner will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	2
	3.	Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/Cl_2, metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The Commissioner will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
	4.	Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The Commissioner may require a new trial burn to demonstrate compliance with the regulatory performance standards.	2
	5.	Operating requirements.	
		(i) Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The Commissioner will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
		(ii) Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls.	3
		(iii) Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit.	2
	6.	Burning different wastes:	
		(i) If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The Commissioner will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
		(ii) If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit.	2
		(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management	

	of newly listed or identified wastes.)		
	7.	Shakedown and trial burn:	
		(i) Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn.	2
		(ii) Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Commissioner.	11
		(iii) Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Commissioner.	11
		(iv) Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Commissioner.	11
	8.	Substitution of an alternative type of nonhazardous waste fuel that is not specified in the permit.	1
	9.	Technology changes needed to meet standards under 40 CFR part 63 (Subpart EEE-National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of Rule 0400-12-01-.07(9)(c)5(x) are followed.	11
	10.	Changes to RCRA permit provisions needed to support transition to 40 CFR 63 (Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of Rule 0400-12-01-.07(9)(c)5(xi) are followed.	
(m)	Containment Buildings		
	1.	Modification or addition of containment building units:	
		(i) Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity.	3
		(ii) Resulting in up to 25% increase in the facility's containment building storage or treatment capacity.	2
	2.	Modification of a containment building unit or secondary containment system without increasing the capacity of the unit.	2
	3.	Replacement of a containment building with a containment building that meets the same design standards provided:	
		(i) The unit capacity is not increased.	1
		(ii) The replacement containment building meets the same conditions in the permit.	1
	4.	Modification of a containment building management practice.	2
	5.	Storage or treatment of different wastes in containment buildings:	
		(i) That require additional or different management practices.	3
		(ii) That do not require additional or different management practices.	2
(n)	Corrective Action		
	1.	Approval of a corrective action management unit pursuant to Rule 0400-12-01-.06(22)(c).	3
	2.	Approval of a temporary unit or time extension for a temporary unit pursuant to Rule 0400-12-01-.06(22)(d).	2
	3.	Approval of a staging pile or staging pile operating term extension pursuant to Rule 0400-12-01-.06(22)(e).	2

(o)	Burden Reduction		
	1.	(Reserved)	
	2.	Development of one contingency plan based on Integrated Contingency Plan Guidance pursuant to Rule 0400-12-01-.06(4)(c)2.	[1]1
	3.	Changes to recordkeeping and reporting requirements pursuant to Rules 0400-12-01-.06(4)(g)9, (15)(d)1(ii), (31)(l)2(i), (31)(l)4, (31)(m)1(ii), (10)(g)6, (6)(k)7, and (7)(d)5(v).	1
	4.	Changes to inspection frequency for tank systems pursuant to Rule 0400-12-01-.06(10)(f)2.	[1]1
	5.	Changes to detection and compliance monitoring program pursuant to Rules 0400-12-01-.06(6)(i)4, (i)7(ii) and 7(iii), (j)6 and (j)7.	1

FOOTNOTE: [1]Class 1 Modifications requiring Agency prior approval.

FOOTNOTE: [2]Appendix 1 is not limited to Permit Modification only but includes also modification of all documentation submitted to the Department.

(11) Remedial Action Plans (RAPs) [40 CFR 270 Subpart H]

(Note: Why is this subpart written in a special format? [40 CFR 270.79]

This paragraph is written in a special format to make it easier to understand the regulatory requirements. Like other regulations, this establishes enforceable legal requirements. For this Paragraph, "I" and "you" refer to the owner/operator.)

(a) General Information

1. What is a RAP? [40 CFR 270.80]

(i) A RAP is a special form of Hazardous Waste permit that you, as an owner or operator, may obtain, instead of a permit issued under paragraphs (1), (2) and (4) through (9) of this rule, to authorize you to treat, store, or dispose of hazardous remediation waste (as defined in Rule 0400-12-01-.01(2)(a)) at a remediation waste management site. A RAP may only be issued for the area of contamination where the remediation wastes to be managed under the RAP originated, or areas in close proximity to the contaminated area, except as allowed in limited circumstances under part (f)1 of this paragraph.

(ii) The requirements in paragraphs (1), (2) and (4) through (9) of this rule do not apply to RAPs unless those requirements for traditional Hazardous Waste permits are specifically required under parts (a)1 through (f)1 of this paragraph. The definitions in Rule 0400-12-01-.01(2)(a) apply to RAPs.

(iii) Notwithstanding any other provision of this rule, any document that meets the requirements in this part constitutes a Hazardous waste permit under TCA §68-212-108.

(iv) A RAP may be:

(I) A stand-alone document that includes only the information and conditions required by this paragraph; or

(II) Part (or parts) of another document that includes information and/or conditions for other activities at the remediation waste management site, in addition to the information and conditions required by this paragraph.

(v) If you are treating, storing, or disposing of hazardous remediation wastes as part of a cleanup compelled by Federal or State cleanup authorities, your RAP does not affect your obligations under those authorities in any way.

(vi) If you receive a RAP at a facility operating under interim status, the RAP does not terminate your interim status.

2.— 5. (RESERVED) [40 CFR 270.81—270.84]

6. When do I need a RAP? [40 CFR 270.85]

(i) Whenever you treat, store, or dispose of hazardous remediation wastes in a manner that requires a Hazardous Waste permit under subparagraph (1)(b) of this rule, you must either obtain:

(I) A Hazardous Waste permit according to paragraphs (1), (2) and (4) through (9) of this rule; or

(II) A RAP according to this paragraph.

(ii) Treatment units that use combustion of hazardous remediation wastes at a remediation waste management site are not eligible for RAPs under this paragraph.

(iii) You may obtain a RAP for managing hazardous remediation waste at an already permitted facility. You must have these RAPs approved as a modification to your existing permit according to the requirements of subparagraph (9)(c) of this rule instead of the requirements in this paragraph. When you submit an application for such a modification, however, the information requirements in subitems (9)(c)5(i)(I)I, (9)(c)5(ii)(I)(IV), and (9)(c)5(iii)(I)IV of this rule do not apply; instead, you must submit the information required under part (b)16 of this paragraph. When your permit is modified the RAP becomes part of the permit. Therefore when your permit (including the RAP portion) is modified, revoked and reissued, terminated or when it expires, it will be modified according to the applicable requirements in subparagraph (9)(b) and (c) of this rule, revoked and reissued according to the applicable requirements in parts (9)(c)1 through 4, 6 and subparagraph (9)(d) of this rule, terminated according to the applicable requirements in subparagraph (9)(d) of this rule, and expire according to the applicable requirements in subparagraphs (8)(c) and (9)(a) of this rule.

7. — 10. (RESERVED)

11. Does my RAP grant me any rights or relieve me of any obligations? [40 CFR 270.90]

The provisions of subparagraph (8)(g) of this rule apply to RAPs.

(Note: The provisions of subparagraph (8)(g)1 of this rule provide you assurance that, as long as you comply with your RAP, the Commissioner will consider you in compliance with Hazardous Waste Regulations, and will not take enforcement actions against you. However, you should be aware of four exceptions to this provision that are listed in subparagraph (8)(g) of this rule.)

(b) Applying for a RAP

1. How do I apply for a RAP? [40 CFR 270.95]

To apply for a RAP, you must complete an application, sign it, and submit it to the Director according to the requirements in this paragraph.

2. — 5. (RESERVED)

6. Who must obtain a RAP? [40 CFR 270.100]

When a facility or remediation waste management site is owned by one person, but the treatment, storage or disposal activities are operated by another person, it is the operator's duty to obtain a RAP, except that the owner must also sign the RAP application.

7. — 10. (RESERVED)

11. Who must sign the application and any required reports for a RAP? [40 CFR 270.105]

Both the owner and the operator must sign the RAP application and any required reports according to parts (2)(a)7, 8, and 9 of this rule. In the application, both the owner and the operator must also make the certification required under subpart (2)(a)10(i) of this rule. However, the owner may choose the alternative certification under subpart (2)(a)10(ii) of this rule if the operator certifies under subpart (2)(a)10(i) of this rule.

12. — 15. (RESERVED)

16. What must I include in my application for a RAP? [40 CFR 270.110]

You must include the following information in your application for a RAP:

(i) The name, address, and Installation Identification Number of the remediation waste management site;

(ii) The name, address, and telephone number of the owner and operator;

(iii) The latitude and longitude of the site;

(iv) The United States Geological Survey (USGS) or county map showing the location of the remediation waste management site;

(v) A scaled drawing of the remediation waste management site showing:

(I) The remediation waste management site boundaries;

(II) Any significant physical structures; and

(III) The boundary of all areas on-site where remediation waste is to be treated, stored or disposed;

(vi) A specification of the hazardous remediation waste to be treated, stored or disposed of at the facility or remediation waste management site. This must include information on:

(I) Constituent concentrations and other properties of the hazardous remediation wastes that may affect how such materials should be treated and/or otherwise managed;

(II) An estimate of the quantity of these wastes; and

(III) A description of the processes you will use to treat, store, or dispose of this waste including technologies, handling systems, design and operating parameters you will use to treat hazardous remediation wastes before disposing of them according to the LDR standards of Rule 0400-12-01-.10, as applicable;

(vii) Enough information to demonstrate that operations that follow the provisions in your RAP application will ensure compliance with applicable requirements of Rules 0400-12-01-.06, .09, and .10;

(viii) Such information as may be necessary to enable the Commissioner to carry out his duties under other State laws as is required for traditional Hazardous Waste permits under subpart (5)(a)1(xx) of this rule;

(ix) Any other information the Commissioner decides is necessary for demonstrating compliance with this paragraph or for determining any additional RAP conditions that are necessary to protect human health and the environment.

17. — 20. (RESERVED)

21. What if I want to keep this information confidential? [40 CFR 270.115]

Rule 0400-12-01-.01(7) (Proprietary Information) allows you to claim as confidential any or all of the information you submit to the Director under this paragraph. You must assert any such claim at the time that you submit your RAP application or other submissions by stamping the words "confidential business information" on each page containing such information. If you do assert a claim at the time you submit the information, the Commissioner will treat the information according to the procedures in Rule 0400-12-01-.01(7) (Proprietary Information). If you do not assert a claim at the time you submit the information, the Commissioner may make the information available to the public without further notice to you. The Commissioner will deny any requests for confidentiality of your name and/or address.

22. — 25. (RESERVED)

26. To whom must I submit my RAP application? [40 CFR 270.120]

You must submit your application for a RAP to the Director for approval.

27. — 30. (RESERVED)

31. If I submit my RAP application as part of another document, what must I do? [40 CFR 270.125]

If you submit your application for a RAP as a part of another document, you must clearly identify the components of that document that constitute your RAP application.

(c) Getting a RAP Approved

1. What is the process for approving or denying my application for a RAP? [40 CFR 270.130]

(i) If the Commissioner tentatively finds that your RAP application includes all of the information required by part (b)16 of this paragraph and that your proposed remediation waste management activities meet the regulatory standards, the Commissioner will make a tentative decision to approve your RAP application. The Commissioner will then prepare a draft RAP and provide an opportunity for public comment before making a final decision on your RAP application, according to this paragraph.

(ii) If the Commissioner tentatively finds that your RAP application does not include all of the information required by part (b)16 of this paragraph or that your proposed remediation waste management activities do not meet the regulatory standards, the Commissioner may request additional information from you or ask

you to correct deficiencies in your application. If you fail or refuse to provide any additional information the Commissioner requests, or to correct any deficiencies in your RAP application, the Commissioner may make a tentative decision to deny your RAP application. After making this tentative decision, the Commissioner will prepare a notice of intent to deny your RAP application ("notice of intent to deny") and provide an opportunity for public comment before making a final decision on your RAP application, according to the requirements in this paragraph. The Commissioner may deny the RAP application either in its entirety or in part.

2. — 5. (RESERVED)

6. What must the Commissioner include in a draft RAP? [40 CFR 270.135]

If the Commissioner prepares a draft RAP, it must include the:

(i) Information required under subparts (b)16(i) through (vi) of this paragraph;

(ii) The following terms and conditions:

(I) Terms and conditions necessary to ensure that the operating requirements specified in your RAP comply with applicable requirements of Rules 0400-12-01-.06, .09, and .10 (including any recordkeeping and reporting requirements). In satisfying this provision, the Commissioner may incorporate, expressly or by reference, applicable requirements of Rules 0400-12-01-.06, .09, and .10 into the RAP or establish site-specific conditions as required or allowed by Rules 0400-12-01-.06, .09, and .10;

(II) Terms and conditions in subparagraph (8)(a) of this rule;

(III) Terms and conditions for modifying, revoking and reissuing, and terminating your RAP, as provided in part (d)1 of this paragraph; and

(IV) Any additional terms or conditions that the Commissioner determines are necessary to protect human health and the environment, including any terms and conditions necessary to respond to spills and leaks during use of any units permitted under the RAP; and

(iii) If the draft RAP is part of another document, as described in item (a)1(iv)(II) of this paragraph, the Commissioner must clearly identify the components of that document that constitute the draft RAP.

7. — 10. (RESERVED)

11. What else must the Commissioner prepare in addition to the draft RAP or notice of intent to deny? [40 CFR 270.140]

Once the Commissioner has prepared the draft RAP or notice of intent to deny, he must then:

(i) Prepare a statement of basis that briefly describes the derivation of the conditions of the draft RAP and the reasons for them, or the rationale for the notice of intent to deny;

(ii) Compile an administrative record, including:

(I) The RAP application, and any supporting data furnished by the applicant;

(II) The draft RAP or notice of intent to deny;

(III) The statement of basis and all documents cited therein (material readily available at the Department or published material that is generally available need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis); and

(IV) Any other documents that support the decision to approve or deny the RAP; and

(iii) Make information contained in the administrative record available for review by the public upon request.

12. — 15. (RESERVED)

16. What are the procedures for public comment on the draft RAP or notice of intent to deny? [40 CFR 270.145]

(i) The Commissioner must:

(I) Send notice to you of his intention to approve or deny your RAP application, and send you a copy of the statement of basis;

(II) Require you to publish a notice, as provided for in subparagraph (7)(e) of this rule and as prepared by him, except for denials, of his tentative decision regarding your RAP application in a local newspaper of general circulation;

(III) Require you to broadcast his tentative decision regarding your RAP application over a local radio station;

(IV) Require you to provide proof of the completion of all notice requirements to him within ten (10) days following conclusion of the public notice procedures; and

(V) Send a notice of his intention to approve or deny your RAP application to each unit of local government having jurisdiction over the area in which your site is located, and to each State agency having any authority under State law with respect to any construction or operations at the site.

(ii) The notice required by subpart (i) of this part must provide an opportunity for the public to submit written comments on the draft RAP or notice of intent to deny within at least 45 days.

(iii) The notice required by subpart (i) of this part must include:

(I) The name and address of the office processing the RAP application;

(II) The name and address of the RAP applicant, and if different, the remediation waste management site or activity the RAP will regulate;

(III) A brief description of the activity the RAP will regulate;

(IV) The name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft RAP or notice of intent to deny, statement of basis, and the RAP application;

(V) A brief description of the comment procedures in this part, and any other procedures by which the public may participate in the RAP decision;

(VI) If a hearing is scheduled, the date, time, location and purpose of the hearing;

(VII) If a hearing is not scheduled, a statement of procedures to request a hearing;

(VIII) The location of the administrative record, and times when it will be open for public inspection; and

(IX) Any additional information the Commissioner considers necessary or proper.

(iv) If, within the comment period, the Commissioner receives written notice of opposition to his intention to approve or deny your RAP application and a request for a hearing, the Commissioner must hold an informal public hearing to discuss issues relating to the approval or denial of your RAP application. The Commissioner may also determine on his own initiative that an informal hearing is appropriate. The hearing must include an opportunity for any person to present written or oral comments. Whenever possible, the Commissioner must schedule this hearing at a location convenient to the nearest population center to the remediation waste management site and give notice according to the requirements in subpart (i) of this part. This notice must, at a minimum, include the information required by subpart (iii) of this part and:

(I) Reference to the date of any previous public notices relating to the RAP application;

(II) The date, time and place of the hearing; and

(III) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

17. — 20. (RESERVED)

21. How will the Commissioner make a final decision on my RAP application? [40 CFR 270.150]

(i) The Commissioner must consider and respond to any significant comments raised during the public comment period, or during any hearing on the draft RAP or notice of intent to deny, and revise your draft RAP based on those comments, as appropriate.

(ii) If the Commissioner determines that your RAP includes the information and terms and conditions required in part 6 of this subparagraph, then he will issue a final decision approving your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been approved.

(iii) If the Commissioner determines that your RAP does not include the information required in part 6 of this subparagraph, then he will issue a final decision denying your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been denied.

(iv) If the Commissioner's final decision is that the tentative decision to deny the RAP application was incorrect, he will withdraw the notice of intent to deny and proceed to prepare a draft RAP, according to the requirements in this paragraph.

(v) When the Commissioner issues his final RAP decision, he must refer to the procedures for appealing the decision under part 26 of this subparagraph.

(vi) Before issuing the final RAP decision, the Commissioner must compile an administrative record. Material readily available at the issuing Department office or published materials which are generally available and which are included in the Department record need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the response to comments. The Department record for the final RAP must include information in the Department record for the draft RAP (see subpart 11(ii) of this subparagraph) and:

(I) All comments received during the public comment period;

(II) Tapes or transcripts of any hearings;

(III) Any written materials submitted at these hearings;

(IV) The responses to comments;

(V) Any new material placed in the record since the draft RAP was issued;

(VI) Any other documents supporting the RAP; and

(VII) A copy of the final RAP.

(vii) The Commissioner must make information contained in the Department record available for review by the public upon request.

22 — 25. (RESERVED)

26. May the decision to approve or deny my RAP application be administratively appealed? [40 CFR 270.155]

(i) Any commenter on the draft RAP or notice of intent to deny, or any participant in any public hearing(s) on the draft RAP, may appeal the Commissioner's decision to approve or deny your RAP application to the Board under subparagraph (7)(k) of this rule. Any person who did not file comments, or did not participate in any public hearing(s) on the draft RAP, may petition for administrative review only to the extent of the changes from the draft to the final RAP decision. Appeals of RAPs may be made to the same extent as for final permit decisions under subparagraph (7)(i) of this rule (or a decision under paragraph (6) of this rule to deny a permit for the active life of a hazardous waste management facility or unit). Instead of the notice required under subparagraphs (7)(e) and (k) of this rule, the Commissioner will give public notice of any grant of review of RAPs by the Board through the same means used to provide notice under part 16 of this subparagraph. The notice will include:

(I) The briefing schedule for the appeal as provided by the Board;

(II) A statement that any interested person may file an amicus brief with the Board; and

(III) The information specified in subpart 16(iii) of this subparagraph, as appropriate.

(ii) This appeal is a prerequisite to seeking judicial review of these Department actions.

27. — 30. (RESERVED)

31. When does my RAP become effective? [40 CFR 270.160]

Your RAP becomes effective 30 days after the Commissioner notifies you and all commenters that your RAP is approved unless:

(i) The Commissioner specifies a later effective date in his decision;

(ii) You or another person has appealed your RAP under part 25 of this subparagraph (if your RAP is appealed, and the request for review is granted under part (c)25 of this paragraph, conditions of your RAP are stayed according to subparagraph (7)(c) of this rule); or

(iii) No commenters requested a change in the draft RAP, in which case the RAP becomes effective immediately when it is issued.

32. — 35. (RESERVED

36. When may I begin physical construction of new units permitted under the RAP? [40 CFR 270.165]

You must not begin physical construction of new units permitted under the RAP for treating, storing or disposing of, hazardous remediation waste before receiving a finally effective RAP.

37. — 40. (RESERVED)

(d) How May my RAP be Modified, Revoked and Reissued, or Terminated?

1. After my RAP is issued, how may it be modified, revoked and reissued, or terminated? [40 CFR 270.170]

In your RAP, the Commissioner must specify, either directly or by reference, procedures for future modifications, revocations and reissuance, or terminations of your RAP. These procedures must provide adequate opportunities for public review and comment on any modification, revocation and reissuance, or termination that would significantly change your management of your remediation waste, or that otherwise merits public review and comment. If your RAP has been incorporated into a traditional Hazardous Waste permit, as allowed under subpart (a)6(iii) of this paragraph, then the RAP will be modified according to the applicable requirements in subparagraph (9)(b) of this rule, revoked and reissued according to the applicable requirements in subparagraphs (9)(c) and (d) of this rule, or terminated according to the applicable requirements of subparagraph (9)(d) of this rule.

2. — 5. (RESERVED)

6. For what reasons may the Commissioner choose to modify my final RAP? [40 CFR 270.175]

(i) The Commissioner may modify your final RAP on his own initiative only if one or more of the following reasons listed in this part exist(s). If one or more of these reasons do not exist, then the Commissioner will not modify your final RAP, except at your request. Reasons for modification are:

(I) You made material and substantial alterations or additions to the activity that justify applying different conditions;

(II) The Commissioner finds new information that was not available at the time of RAP issuance and would have justified applying different RAP conditions at the time of issuance;

(III) The standards or regulations on which the RAP was based have changed because of new or amended statutes, standards or regulations, or by judicial decision after the RAP was issued;

(IV) If your RAP includes any schedules of compliance, the Commissioner may find reasons to modify your compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which you as the owner/operator have little or no control and for which there is no reasonably available remedy;

(V) You are not in compliance with conditions of your RAP;

(VI) You failed in the application or during the RAP issuance process to disclose fully all relevant facts, or you misrepresented any relevant facts at the time;

(VII) The Commissioner has determined that the activity authorized by your RAP endangers human health or the environment and can only be remedied by modifying; or

(VIII) You have notified the Commissioner (as required in the RAP under subpart (8)(a)12(iii) of this rule) of a proposed transfer of a RAP.

(ii) Notwithstanding any other provision in this part, when the Commissioner reviews a RAP for a land disposal facility under part 26 of this subparagraph, he may modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in Rules 0400-12-01-.01 through .07 and .09.

(iii) The Commissioner will not reevaluate the suitability of the facility location at the time of RAP modification unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

7. — 10. (RESERVED)

11. For what reasons may the Commissioner choose to revoke and reissue my final RAP? [40 CFR 270.180]

(i) The Commissioner may revoke and reissue your final RAP on his own initiative only if one or more reasons for revocation and reissuance exist(s). If one or more reasons do not exist, then the Commissioner will not modify or revoke and reissue your final RAP, except at your request. Reasons for modification or revocation and reissuance are the same as the reasons listed for RAP modifications in item 6(i)(V) through (VIII) of this subparagraph if the Commissioner determines that revocation and reissuance of your RAP is appropriate.

(ii) The Commissioner will not reevaluate the suitability of the facility location at the time of RAP revocation and reissuance, unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

12. — 15. (RESERVED)

16. For what reasons may the Commissioner choose to terminate my final RAP, or deny my renewal application? [40 CFR 270.185]

The Commissioner may terminate your final RAP on his own initiative, or deny your renewal application for the same reasons as those listed for RAP modifications in item 6(i)(V) through (VII) of this subparagraph if the Commissioner determines that termination of your RAP or denial of your RAP renewal application is appropriate.

17. — 20. (RESERVED)

21. May the decision to approve or deny a modification, revocation and reissuance, or termination of my RAP be administratively appealed? [40 CFR 270.190]

(i) Any commenter on the modification, revocation and reissuance or termination, or any person who participated in any hearing(s) on these actions, may appeal the Commissioner's decision to approve a modification, revocation and reissuance, or termination of your RAP, according to part (c)26 of this paragraph. Any person who did not file comments or did not participate in any public hearing(s) on the modification, revocation and reissuance or termination, may petition for administrative review only of the changes from the draft to the final RAP decision.

(ii) Any commenter on the modification, revocation and reissuance or termination, or any person who participated in any hearing(s) on these actions, may informally appeal the Commissioner's decision to deny a request for modification, revocation and reissuance, or termination to the Board. Any person who did not file comments, or did not participate in any public hearing(s) on the modification, revocation and reissuance or termination may petition for administrative review only of the changes from the draft to the final RAP decision.

(iii) The process for informal appeals of RAPs is as follows:

(I) The person appealing the decision must send a letter to the Board. The letter must briefly set forth the relevant facts.

(II) The Board has 60 days after receiving the letter to act on it.

(III) If the Board does not take action on the letter within 60 days after receiving it, the appeal shall be considered denied.

(iv) This informal appeal is a prerequisite to seeking judicial review of these Department actions.

22. — 25. (RESERVED)

26. When will my RAP expire? [40 CFR 270.195]

RAPs must be issued for a fixed term, not to exceed 10 years, although they may be renewed upon approval by the Commissioner in fixed increments of no more than ten years. In addition, the Commissioner must review any RAP for hazardous waste land disposal five years after the date of issuance or reissuance and you or the Commissioner must follow the requirements for modifying your RAP as necessary to assure that you continue to comply with currently applicable requirements in Hazardous Waste Rules §68-212-107 and §68-212-108.

27. — 30. (RESERVED)

31. How may I renew my RAP if it is expiring? [40 CFR 270.200]

If you wish to renew your expiring RAP, you must follow the process for application for and issuance of RAPs in this paragraph.

32. — 35. (RESERVED)

36. What happens if I have applied correctly for a RAP renewal but have not received approval by the time my old RAP expires? [40 CFR 270.205]

If you have submitted a timely and complete application for a RAP renewal, but the Commissioner, through no fault of yours, has not issued a new RAP with an effective date on or before the expiration date of your previous RAP, your previous RAP conditions continue in force until the effective date of your new RAP or RAP denial.

37. — 40. (RESERVED)

(e) Operating Under Your RAP

1. What records must I maintain concerning my RAP? [40 CFR 270.210]

You are required to keep records of:

(i) All data used to complete RAP applications and any supplemental information that you submit for a period of at least 3 years from the date the application is signed; and

(ii) Any operating and/or other records the Commissioner requires you to maintain as a condition of your RAP.

2. — 5. (RESERVED)

6. How are time periods in the requirements in this paragraph and my RAP computed? [40 CFR 270.215]

(i) Any time period scheduled to begin on the occurrence of an act or event must begin on the day after the act or event. (For example, if your RAP specifies that you must close a staging pile within 180 days after the operating term for that staging pile expires, and the operating term expires on June 1, then June 2 counts as day one of your 180 days, and you would have to complete closure by November 28.)

(ii) Any time period scheduled to begin before the occurrence of an act or event must be computed so that the period ends on the day before the act or event. (For example, if you are transferring ownership or operational control of your site, and wish to transfer your RAP, the new owner or operator must submit a revised RAP application no later than 90 days before the scheduled change. Therefore, if you plan to change ownership on January 1, the new owner/operator must submit the revised RAP application no later than October 3, so that the 90th day would be December 31.)

(iii) If the final day of any time period falls on a weekend or legal holiday, the time period must be extended to the next working day. (For example, if you wish to appeal the Commissioner's decision to modify your RAP, then you must petition the Board within 30 days after the Commissioner has issued the final RAP decision. If the 30th day falls on Sunday, then you may submit your appeal by the Monday after. If the 30th day falls on July 4th, then you may submit your appeal by July 5th.)

(iv) Whenever a party or interested person has the right to or is required to act within a prescribed period after the service of notice or other paper upon him by mail, 3 days must be added to the prescribed term. (For example, if you wish to appeal the Commissioner's decision to modify your RAP, then you must petition the Environmental Appeals Board within 30 days after the Commissioner has issued

the final RAP decision. However, if the Commissioner notifies you of his decision by mail, then you may have 33 days to petition the Board.)

7. — 10. (RESERVED)

11. How may I transfer my RAP to a new owner or operator? [40 CFR 270.220]

(i) If you wish to transfer your RAP to a new owner or operator, you must follow the requirements specified in your RAP for RAP modification to identify the new owner or operator, and incorporate any other necessary requirements. These modifications do not constitute "significant" modifications for purposes of part (d)1 of this paragraph. The new owner/operator must submit a revised RAP application no later than 90 days before the scheduled change along with a written agreement containing a specific date for transfer of RAP responsibility between you and the new permittees.

(ii) When a transfer of ownership or operational control occurs, you as the old owner or operator must comply with the applicable requirements in Rule 0400-12-01-.06(8), (Financial Requirements), until the new owner or operator has demonstrated that he is complying with the requirements in that paragraph. The new owner or operator must demonstrate compliance with Rule 0400-12-01-.06(8) within six months of the date of the change in ownership or operational control of the facility or remediation waste management site. When the new owner/operator demonstrates compliance with Rule 0400-12-01-.06(8) to the Commissioner, the Commissioner will notify you that you no longer need to comply with Rule 0400-12-01-.06(8), as of the date of demonstration.

12. — 15. (RESERVED)

16. (Reserved) [40 CFR 270.225]

17. — 20. (RESERVED)

(f) Obtaining a RAP for an Off-Site Location

1. May I perform remediation waste management activities under a RAP at a location removed from the area where the remediation wastes originated? [40 CFR 270.230]

(i) You may request a RAP for remediation waste management activities at a location removed from the area where the remediation wastes originated if you believe such a location would be more protective than the contaminated area or areas in close proximity.

(ii) If the Commissioner determines that an alternative location, removed from the area where the remediation waste originated, is more protective than managing remediation waste at the area of contamination or areas in close proximity, then the Commissioner may approve a RAP for this alternative location.

(iii) You must request the RAP, and the Commissioner will approve or deny the RAP, according to the procedures and requirements in this paragraph.

(iv) A RAP for an alternative location must also meet the following requirements, which the Commissioner must include in the RAP for such locations:

(I) The RAP for the alternative location must be issued to the person responsible for the cleanup from which the remediation wastes originated;

(II) The RAP is subject to the expanded public participation requirements in subparagraph (8)(b), (d), and (e) of this rule;

(III) The RAP is subject to the public notice requirements in part (7)(e)3 of this rule;

(IV) The site permitted in the RAP may not be located within 61 meters or 200 feet of a fault which has had displacement in the Holocene time (you must demonstrate compliance with this standard through the requirements in subpart (5)(a)1(xi) of this rule) (See definitions of terms in Rule 0400-12-01-.06(2)(i)1);

(Note: Sites located in political jurisdictions other than those listed in Appendix VI of Rule 0400-12-01-.06, are assumed to be in compliance with this requirement.

(v) These alternative locations are remediation waste management sites, and retain the following benefits of remediation waste management sites:

(I) Exclusion from facility-wide corrective action under Rule 0400-12-01-.06(6)(l); and

(II) Application of Rule 0400-12-01-.06(1)(b)9 in lieu of paragraphs (2), (3) and (4) of Rule 0400-12-01-.06.

(12) Integration with Maximum Achievable Control Technology (MACT) Standards [40 CFR 270 Subpart I]

(a) Options for incinerators, cement kilns, lightweight aggregate kilns, solid fuel boilers, liquid fuel boilers and hydrochloric acid production furnaces to minimize emissions from startup, shutdown, and malfunction events [40 CFR 270.235]

1. Facilities with existing permits

(i) Revisions to permit conditions after documenting compliance with MACT

The owner or operator of a RCRA-permitted incinerator, cement kiln, lightweight aggregate kiln, sold fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace may request that the Commissioner address permit conditions that minimize emissions from startup, shutdown, and malfunction events under any of the following options when requesting removal of permit conditions that are no longer applicable according to part (15)(a)2 of Rule 0400-12-01-.06 and part (8)(a)(2) of Rule 0400-12-01-.09:

(I) Retain relevant permit conditions

Under this option, the Commissioner will:

I. Retain permit conditions that address releases during startup, shutdown, and malfunction events, including releases from emergency safety vents, as these events are defined in the facility's startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) and

II. Limit applicability of those permit conditions only to when the facility is operating under its startup, shutdown, and malfunction plan.

(II) Revise relevant permit conditions

I. Under this option, the Commissioner will:

A. Identify a subset of relevant existing permit requirements, or develop alternative permit requirements, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history.

B. Retain or add these permit requirements to the permit to apply only when the facility is operating under its startup, shutdown, and malfunction plan.

II. Changes that may significantly increase emissions

A. You must notify the Commissioner in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the Commissioner of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

B. The Commissioner may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

(A) Upon permit renewal; or

(B) If warranted by modifying the permit under part (9)(c)3 or part (9)(c)5 of this rule.

(III) Remove permit conditions

Under this option:

I. The owner or operator must document that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the Commissioner under 40 CFR 63.1206(c)(2)(ii)(B) and

II. The Commissioner will remove permit conditions that are no longer applicable according to part (15)(a)2 of Rule 0400-12-01-.06 and part (8)(a)2 of Rule 0400-12-01-.09.

(ii) Addressing permit conditions upon permit reissuance

The owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that has conducted a comprehensive performance test and submitted to the

Commissioner a Notification of Compliance documenting compliance with the standards of 40 CFR 63 Subpart EEE may request in the application to reissue the permit for the combustion unit that the Commissioner control emissions from startup, shutdown, and malfunction events under any of the following options:

(I) RCRA Option A

I. Under this option, the Commissioner will:

A. Include, in the permit, conditions that ensure compliance with parts 1 and 3 of subparagraph (15)(f) of Rule 0400-12-01-.06 or subpart (8)(c)5(i) and item (8)(c)5(ii)(III) of Rule 0400-12-01-.09 to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, including releases from emergency safety vents; and

B. Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan; or

(II) RCRA Option B

I. Under this option, the Commissioner will:

A. Include, in the permit conditions, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design and operating history; and

B. Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

II. Changes that may significantly increase emissions

A. You must notify the Commissioner in writing of changes to startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the Commissioner of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

B. The Commissioner may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

(A) Upon permit renewal, or if warranted;

(B) By modifying the permit under part (9)(c)3 or part (9)(c)5 of this rule.

(III) CAA Option

Under this option:

I. The owner or operator must document that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the Commissioner under 40 CFR 63.1206(c)(2)(ii)(B); and

II. The Commissioner will omit from the permit conditions that are not applicable under part (15)(a)2 of Rule 0400-12-01-.06 and part (8)(a)2 of Rule 0400-12-01-.09.

2. Interim status facilities

(i) Interim status operations

In compliance with subparagraph (15)(a) of Rule 0400-12-01-.05 and part (8)(a)2 of Rule 0400-12-01-.09, the owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is operating under the interim status standards of Rule 0400-12-01-.05 or 0400-12-01-.09 may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the Commissioner a Notification of Compliance documenting compliance with the standards of 40 CFR 63 Subpart EEE:

(II) RCRA Option

Under this option, the owner or operator continues to comply with the interim status emission standards and operating requirements of Rule 0400-12-01-.05 or Rule 0400-12-01-.09 relevant to control of emission from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events; or

(III) CAA Option

Under this option, the owner or operator is exempt from the interim status standards of Rule 0400-12-01-.05 or Rule 0400-12-01-.09 relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the Director that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the Commissioner under 40 CFR 63.1206(c)(2)(ii)(B).

(ii) Operations under a subsequent RCRA permit

When an owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is operating under the interim status standards of Rule 0400-12-01-.05 or Rule 0400-12-01-.09 submits a RCRA permit application, the owner or operator may request that the Commissioner control emissions from startup, shutdown, and malfunction events under any of the options provided by item 1(ii)(I), (II), or (III) of this subparagraph.

3. New units

Hazardous waste incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace units that become subject to RCRA permit requirements after October 12, 2005 must control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options:

(i) Comply with the requirements specified in 40 CFR 63.1206(c)(2); or

(ii) Request to include in the RCRA permit, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan and design. The Commissioner will specify that these permit conditions apply only when the facility is operating under its startup, shutdown, and malfunction plan.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters.

(1) General

(a) Purpose

The purpose of this rule is to establish a system and schedule whereby certain fees shall be levied and collected by the Commissioner. Expenditures of such fees collected shall be restricted to operation of the hazardous waste management program established pursuant to the Act. Any unencumbered and any unexpended balance shall be maintained in the Tennessee Environmental Protection Fund (the "Fund").

(b) Applicability

The requirements of this rule apply as specified to the following persons:

1. All transporters having a hazardous waste transporter permit issued under the Act and all new or existing transporters subject to the transporter permit requirements of Rule 0400-12-01-.04(2);

2. Owners and operators of all hazardous waste storage, treatment, and disposal facilities who are subject to the facility permit requirements of Rule 0400-12-01-.07, except for those subject solely to the permit-by-rule requirements of Rule 0400-12-01-.07(1)(c);

3. All generators of hazardous wastes;

4. Persons requesting that the Solid Waste Disposal Control Board review an action of the Commissioner;

5. All transporters, marketers, processors/re-refiners of used oil, or burners of off-specification used oil;

6. Persons carrying out closure activities, post-closure activities and/or corrective action activities, under permits or other enforceable documents;

7. Persons responsible for spills or accidental discharges (of hazardous waste or other material which, when spilled or discharged, becomes a hazardous waste) requiring investigation and/or remediation of soil, groundwater, or surface water and/or sediment;

8. All hazardous waste transfer facilities; and

9. All universal waste destination facilities.

(c) Payment of Fees

Any person required to pay a fee under this rule shall submit the fee by check or money order or other method approved by the Commissioner in the specified amount, made payable to the Treasurer, State of Tennessee for deposit in the Tennessee Environmental Protection Fund. Submission of the fee shall be accompanied with appropriate supporting documentation as directed by the department and may include electronic forms, printable pages available through the internet, or manually prepared paper copies, or a combination of any of the above.

(d) No permit or other authorization shall be issued or renewed by the Division of Solid Waste Management pursuant to Chapter 0400-12-01 or 0400-12-02 until all fees and/or penalties owed by the applicant to the Division are paid in full, unless a time schedule for payments has been approved and all payments are current or contested fees or penalties are under appeal.

(2) Installation Identification Number Application Fee

Any person who applies to the Department for an Installation Identification Number on the Notification Forms provided by the Department shall submit as part of the request a fee of 150 dollars. Generators updating their facility notification file by adding a new hazardous waste stream shall submit a fee of 100 dollars with the new hazardous waste stream form.

(3) Permit Application Fees

(a) Transporters

Any person who applies for a permit or modification to a permit to transport hazardous wastes in Tennessee must submit as part of said application an application fee of 200 dollars.

(b) Treatment, Storage, and Disposal Facilities (TSDF) including facilities conducting corrective action and post-closure under permits, orders, or other enforceable documents.

1. Part A application

Any person who applies for a permit for a hazardous waste storage, treatment, or disposal facility must submit, as part of his Part A application and prior to application review, an application fee for each new or revised application as set forth below:

600 dollars for an existing facility; or

2,800 dollars for a new facility.

2. Part B application

Any person who applies for a permit, or permit renewal, for a hazardous waste storage, treatment, or disposal facility must submit, as part of his Part B application and prior to application review, an application fee for each new or revised application as set forth below:

(i) Part B application for an on-site hazardous waste facility:

15,000 dollars for a storage facility;

15,000 dollars for a treatment facility;

30,000 dollars for a disposal facility; and

30,000 dollars for a landfill site.

(ii) Part B application for a commercial hazardous waste facility:

37,500 dollars for a storage facility;

37,500 dollars for a treatment facility;

75,000 dollars for a disposal facility; and

75,000 dollars for a landfill site.

(iii) Part B application for a post-closure unit pursuant to a permit, order or other enforceable document:

30,000 dollars for a unit not previously permitted under a hazardous waste operating permit; and

15,000 dollars for a unit which previously operated under a hazardous waste operating permit.

(iv) Part B application for corrective action:

15,000 dollars for a facility, as defined under Rule 0400-12-01-.01(2)(a), implementing corrective action under Rule 0400-12-01-.06(6)(l) not already included in subparts (i), (ii) or (iii) of this part.

(c) Special Case: Modification of Existing Facility Permit

Any person who applies for modification or reissuance (following revocation) of his existing facility permit, order, or other enforceable document [refer to Rule 0400-12-01-.07(9)] must submit, as part of his Part B application and prior to modification review, an application fee as set forth below:

1. For owners or operators applying for a Class 1 permit modification, the fee shall be 600 dollars;

2. For owners or operators applying for a Class [1]1 permit modification with changes other than, or in addition to, changes in part 1 above, the fee shall be 4,200 dollars; the Class [1]1 permit modification fee for Maximum Achievable Control Technology (MACT) modifications shall be 8,000 dollars.

3. For owners or operators applying for a change in ownership or operational control of a facility pursuant to Rule 0400-12-01-.07(9)(b)3, the fee shall be 3,800 dollars.

4. For owners or operators applying for a Class 2 permit modification, the fee shall be:

9,700 dollars for modification of a container or tank storage and/or treatment unit, thermal treatment unit, or drip pad, storage and/or treatment unit;

12,500 dollars for modification of a disposal unit, waste pile storage unit, containment building storage and/or treatment unit, surface impoundment storage and/or treatment unit, or other miscellaneous unit; and

15,000 dollars for modification of a post-closure unit.

5. For owners or operators applying for a Class 3 permit modification, the fee shall be:

15,000 dollars for modification of a container or tank storage and/or treatment unit, thermal treatment unit, or drip pad, storage, and/or treatment unit;

15,000 dollars for modification of any permit to include the final remedy for Solid Waste Management Units under corrective action requiring remediation and/or maintenance activities;

30,000 dollars for modification of a disposal unit, waste pile storage unit, containment building storage and/or treatment unit, surface impoundment storage and/or treatment unit, or other miscellaneous unit; and

20,000 dollars for modification of a post-closure unit.

(d) Closure and Post-Closure Plans

Any person required to submit a closure plan or post-closure plan [refer to Rule 0400-12-01-.05(7) and -.06(7)] for a hazardous waste facility must submit, as part of the closure or post-closure plan, and prior to plan review, an application fee, unless the above plan was reviewed as part of a permit application package, as set forth below:

2,800	dollars for a closure plan; and
2,800	dollars for a post-closure plan.

(e) Modification of Approved Closure and Post-Closure Plan

Any person who submits a modification to an approved closure plan or post-closure plan must submit, as part of the modification and prior to modification review, a modification fee, unless the above plan was reviewed as part of a permit application package, as set forth below:

300	dollars for Class 1 Modification;
850	dollars for Class [1]1 Modification;
1,100	dollars for Class 2 Modification; and
1,700	dollars for Class 3 Modification.

(f) Emergency Permit

Any person who applies for an emergency permit (refer to Rule 0400-12-01-.07(1)(d)) must submit, as part of the emergency permit application, an application fee of 2,400 dollars.

(g) Research, Demonstration, and Development Permit

Any person who applies for a research, demonstration, and development permit (refer to Rule 0400-12-01-.07(1)(g)) must submit, as part of the research, demonstration, and development permit application, an application fee of 2,800 dollars. An additional fee of 2,800 dollars is assessed for each renewal pursuant to Rule 0400-12-01-.07(1)(g)4.

(h) Temporary Authorization

Any person who applies for a temporary authorization pursuant to Rule 0400-12-01-.07(9)(c)5(v) must submit as part of the temporary authorization request, an application fee of 3,000 dollars. An additional fee of 300 dollars is assessed for the renewal pursuant to Rule 0400-12-01-.07(9)(c)5(v)(IV).

(i) Schedule for Timely Action on Permit Applications/Permit Modifications

1. The following documents, when submitted separately, must be reviewed and the applicant notified within the following time frames:

(i)	Hydrogeologic Report (Assessment Plan, Sampling and Analysis Plans, Groundwater Annual Reports, and Groundwater Monitoring Plan)	180 days
(ii)	Closure Plan	180 days
(iii)	Post-Closure Plan	180 days
(iv)	Review of Part A Application for Completeness	45 days

(v)	Initial Review of Part B Application and Class 3 Permit Modifications	180 days
(vi)	Initial Review of Class 1 and ^{1}1 Modification	60 days

2. Applications, closure plans, post-closure plans, and modifications shall be acted upon (issued or denied) by the Department within the time frames required by Rule 0400-12-01-.07 beginning with the end of the public comment period(s) specified in each public notice.

3. The above timely action periods shall be stayed if:

   (i) The applicant requests that review be suspended;

   (ii) The department issues a written notice of deficiency and until the applicant adequately addresses said deficiency;

   (iii) Priorities set by the Environmental Protection Agency (EPA) require a delay;

   (iv) The review process has been halted due to pending judicial and/or administrative actions;

   (v) Applicable regulations change;

   (vi) The Department requests a delay in the review process to which the applicant agrees; or

   (vii) Multiple (5 or more) Class 1 or ^{1}1 modifications from a single applicant are received.

4. Should the Department not comply with the timely review periods specified in part 1 of this subparagraph, the application fee shall be refunded. The Board shall be provided a quarterly update on the timeliness of permit processing.

(4) Annual Maintenance Fees

(a) Transporters

1. Each person having a hazardous waste transporter permit issued under the Act must submit to the Commissioner, by December 31 of each year, an annual permit maintenance and renewal fee of 350 dollars.

2. Each person operating a hazardous waste transfer facility shall submit to the Commissioner by December 31 of each year an annual facility maintenance fee of 850 dollars.

3. Each person transporting used oil and that is required to submit an annual report under Rule 0400-12-01-.11 shall submit to the Commissioner an annual maintenance fee of 200 dollars within 30 days of the effective date of this rule and by March 1 of each year thereafter.

4. Each person operating a used oil transfer facility under Rule 0400-12-01-.11 shall submit to the Commissioner an annual facility maintenance fee of 1,000 dollars within 30 days of the effective date of this rule and by March 1 of each year thereafter.

(b) Treatment, Storage, and Disposal Facilities (TSDF) including facilities conducting corrective action and post-closure.

The owner or operator of each hazardous waste treatment, storage, or disposal facility in Tennessee having either a permit issued under the Act or interim status as provided under Rule 0400-12-01-.07(3) must submit to the Commissioner, by March 1 of each year, an annual permit maintenance fee as provided in this subparagraph; provided however, that for the year 2010, persons who paid the annual permit maintenance fee in effect on March 1, 2010 shall be credited for the amount so paid, making only the balance due within 30 days of the effective date of this rule.

1. General

(i) An annual fee shall be assessed consisting of a base amount plus an additional charge calculated on the facility's total constructed design capacity during the previous calendar year.

(ii) The owner or operator of each treatment, storage, or disposal facility shall be assessed an annual fee each year until all closure, post-closure, and corrective action activities are complete and the facility is closed in accordance with the appropriate standards of Rules 0400-12-01-.05 or 0400-12-01-.06, as applicable.

(iii) For purposes of this subparagraph, a facility that receives hazardous wastes from off-site, other than from contiguous properties, is determined to be an off-site facility for the calendar year in which the off-site hazardous waste is received.

2. Storage Operations

(i) The owner or operator of each facility shall be assessed a base amount plus an additional charge calculated on the total constructed design capacity in gallons (gal.) of the facility's hazardous waste storage operations as set forth below, except as provided for in subpart (iii) of this part:

(I) For facilities which receive only hazardous waste which are generated on-site, a base amount of 4,700 dollars plus an additional:

Constructed Design Capacity	Amount
1 - 5,000 gal.	$1,450
5,001 - 10,000 gal	2,150
10,001 - 50,000 gal.	4,250
50,001 - 100,000 gal.	5,000
100,001 - 500,000 gal.	5,700
500,001 - 1,000,000 gal.	6,400
over 1,000,000 gal.	7,100

(II) For facilities which receive hazardous wastes from off-site generators, a base amount of 9,350 dollars plus an additional:

Constructed Design Capacity	Amount
1 - 5,000 gal.	$ 2,850
5,001 - 10,000 gal.	4,250
10,001 - 50,000 gal.	8,550
50,001 - 100,000 gal.	9,950
100,001 - 500,000 gal.	11,400
500,001 - 1,000,000 gal.	12,800
over 1,000,000 gal.	14,250

(ii) Only the incremental constructed design capacity fee and not the base fee in Item (i)(I) of this part shall apply to facilities with only one on-site storage unit with a capacity less than 10,000 gallons which receives waste only from on-site.

3. Treatment Operations

(i) The owner or operator of each facility shall be assessed a base amount plus an additional charge calculated on the total constructed design capacity in gallons per day (gpd) of the facility's hazardous waste treatment operations as set forth below:

(I) For facilities which receive only hazardous wastes which are generated on-site, a base amount of 7,000 dollars plus an additional:

Constructed Design Capacity	Amount
1 - 5,000 gpd	$2,850
5,001 - 10,000 gpd	3,550
10,001 - 50,000 gpd	4,250
50,001 - 100,000 gpd	5,000
100,001 - 500,000 gpd	5,700
500,001 - 1,000,000 gpd	6,400
over 1,000,000 gpd	7,100

(II) For facilities which receive hazardous waste from off-site generators, a base amount of 11,700 dollars plus an additional:

Constructed Design Capacity	Amount
1 - 5,000 gpd	$ 5,700
5,001 - 10,000 gpd	7,100
10,001 - 50,000 gpd	8,550
50,001 - 100,000 gpd	9,950
100,001 - 500,000 gpd	11,400
500,001 - 1,000,000 gpd	12,800
over 1,000,000 gpd	14,250

(ii) Facilities paying a base amount for Treatment Operations shall not be assessed a separate base amount for Storage Operations located on contiguous properly.

(iii) The combined Annual Maintenance Fees for Treatment and Storage for on-site facilities shall not exceed 16,000 dollars per facility, and for off-site facilities this fee shall not exceed 32,000 dollars.

4. Disposal Operations

These fees are applicable only to facilities which require a permit under Rule 0400-12-01-.07 of the rules governing hazardous waste management for the State of Tennessee. The owner or operator of each facility shall be assessed an annual fee as set forth below:

(i) For non-commercial facilities, a base fee of 8,000 dollars plus an additional:

700 dollars per each acre-foot of remaining design capacity of landfill operations (to include waste piles and surface impoundments used for disposal and subject to closure as landfills);

700 dollars per each acre of remaining design capacity of land application operations; and

1.50 dollars per gallon per day (gpd) for the permitted injection capacity of injection well operations;

(Note: This fee shall not exceed $22,500 in accordance with T.C.A. §68-203-103(h)(19).)

(ii) For commercial facilities, a base fee of 30,000 dollars plus an additional:

1,400 dollars per each acre-foot of remaining design capacity of landfill operations (to include waste piles and surface impoundments used for disposal and subject to closure as landfills);

1,400 dollars per each acre of remaining design capacity of land application operations; and

1.50 dollars per gallon per day (gpd) for the permitted injection capacity of injection well operations.

(Note: This fee shall not exceed $75,000 in accordance with T.C.A. §68-203-103(h)(15).)

5. Post-Closure Activity

These fees are applicable to facilities that require a permit, order, or other enforceable document under Rule 0400-12-01-.07 of the rules governing hazardous waste management for the State of Tennessee. The owner or operator shall be assessed an annual fee set forth below:

(i) For facilities conducting post-closure activities a base fee of 3,600 dollars for each permit, order, or other enforceable document plus an additional:

1,200 dollars for each remediation system conducting active remediation for contaminated media.

6. Corrective Action Activity

These fees are applicable to facilities that require corrective action for Solid Waste Management Units (SWMUs) under Rule 0400-12-01-.07(5)(e) and Rule 0400-12-01-.06(6)(l). The owner or operator shall be assessed an annual fee set forth below:

(i) For facilities conducting corrective action activities under the authority listed above, a base fee of 6,000 dollars plus an additional fee for review of the following types of corrective action at the facility during the past year.

2,400 dollars for Confirmatory Sampling
4,800 dollars for RCRA Facility Investigation
3,600 dollars for Corrective Measures Study
2,400 dollars for Interim Measures

(Note: This fee does not apply to facilities that are reimbursing the State, pursuant to the Department of Defense/State Memorandum of Agreement, costs incurred by the State for corrective action activities at those facilities.)

(c) Universal Waste

The owner or operator of a universal waste destination facility, as defined in Rule 0400-12-01-.12, shall submit to the Commissioner an annual maintenance fee of 2,000 dollars within 30 days of the effective date of this rule and by March 1 of each year thereafter.

(d) Used Oil Processors and Re-refiners

The owner or operator of a facility that processes and/or re-refines used oil, as defined in Rule 0400-12-01-.11, shall submit to the Commissioner an annual maintenance fee of 2,000 dollars within 30 days of the effective date of this rule and by March 1 of each year thereafter. This fee does not apply to used oil generators who solely process their own used oil generated at the same facility where processing is performed.

(5) Generator Fees

(a) Annual Generator Fees

(Note: Rules 0400-12-01-.02(1)(d)3(ii) and 0400-12-01-.02(1)(e)3 and 4 are applicable in determining generator status for fee purposes.)

1. Except as provided in subparagraph (b) of this paragraph, the Annual Generator Fee for Small Quantity Generators shall consist of a base amount of 1,200 dollars plus an off-site shipping fee determined in accordance with subparagraphs (c) and (d) of this paragraph.

(i) For the purpose of this subparagraph Small Quantity Generator shall mean:

(I) Any generator who generates greater than 100 kilograms, but less than 1000 kilograms of hazardous waste in any calendar month of the previous calendar year; or

(II) Any Conditionally Exempt Small Quantity Generator who accumulates at any time more than 1000 kilograms of non-acute hazardous waste in the previous calendar year.

2. Except as provided in subparagraph (b) of this paragraph, the Annual Generator Fee for Large Quantity Generators shall consist of a base amount of 2,000 dollars plus an off-site shipping fee determined in accordance with subparagraphs (c) and (d) of this paragraph.

(i) For the purpose of this subparagraph Large Quantity Generator shall mean:

(I) Any generator who generates 1000 kilograms or more of hazardous waste in any calendar month of the previous calendar year; or

(II) Any generator who generates 1 kilogram or more of acute hazardous waste, or 100 kilograms or more of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of an acute hazardous waste, in any calendar month of the previous calendar year; or

(b) Exclusions from Base Fee Assessment

1. Hazardous wastes generated from remediation or corrective actions required by the Tennessee Hazardous Waste Management Act of 1977 and 1983; the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) shall not be subject to the fee calculations in parts (a)1 or (a)2 of this paragraph.

2. A Conditionally Exempt Small Quantity Generator does not owe this fee if neither part (a)1 nor (a)2 of this paragraph is applicable.

(Note: The fee exclusions in this subparagraph also apply to department approved remediation or corrective actions under the administration of the Tennessee Petroleum Underground Storage Tank Act and Tennessee Drycleaner's Environmental Response Act.)

(c) Off-site Shipping Fee

1. Hazardous waste with a thermal heating value greater than 5000 BTU per pound that are subject to energy recovery as defined by handling codes for treatment methods T50 and T80 through T93 are assessed an off-site shipping fee of $0.0012 per pound.

2. Hazardous wastewaters, defined as containing less than 1 percent total organic carbon and less than 1 percent total suspended solids, shall be assessed an off-site shipping fee of $0.0047 per pound.

3. Except for those hazardous wastes excluded from off-site shipment fees as provided in subparagraphs (d) of this paragraph, all remaining waste not claimed in part 1 or 2 above shall be assessed an off-site shipping fee of $0.0088 per pound.

4. The off-site shipping fee for any single generator shall not exceed $29,200 in any calendar year.

(d) Exclusions from Off-site Shipping Fees

1. Hazardous wastes that are recycled/recovered as defined by handling codes for treatment methods T30, T54, and T63, lead smelting, precious metals recovery, and/or high temperature metals recovery are exempt from off-site shipping fees.

2. Hazardous wastes generated from remediation or corrective actions required by the Tennessee Hazardous Waste Management Act of 1977 and 1983; the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) shall not be subject to off-site shipping fees.

   (Note: The fee exclusion in part 2 of this subparagraph also applies to department approved remediation or corrective actions under the administration of the Tennessee Petroleum Underground Storage Tank Act and Tennessee Drycleaner's Environmental Response Act.)

3. A Conditionally Exempt Small Quantity Generator does not owe this fee, if neither part (a)1 nor (a)2 of this paragraph is applicable.

4. Universal Wastes identified in Rule 0400-12-01-.12, and spent lead-acid batteries managed under Rule 0400-12-01-.09(7), are exempt from off-site shipping fees.

(e) Director's Option, case-by-case

The Director may include other handling codes for waste treatment methods in part (c)1 or part (d)1 of this paragraph on a case-by-case basis, based upon application by a generator.

(f) Date for Payment of Fees

These generator fees shall be paid no later than March 1 of each year for hazardous waste activities conducted the previous calendar year; provided however, that for the year 2010, persons who paid the generator fee in effect on March 1, 2010 shall be credited for the amount so paid, making only the balance due within 30 days of the effective date of this rule.

(6) Construction Inspection Fee

Prior to the beginning of any construction, at any unit, a permittee shall pay a Construction Inspection Fee for each item to be constructed based upon the class of modification of the item using Appendix I, Classification of Permit Modification, in Rule 0400-12-01-.07(10), as follows:

	Class 3*	Class 2	Class 1	Class 1
Storage Unit	$2,700	$2,000	$1,300	$300
Treatment Unit	$5,350	$4,000	$2,700	$550
Disposal Unit	$5,350	$4,000	$2,700	$550
Post Closure Unit	$5,350	$4,000	$2,700	$550

*Also applies to newly permitted units not as yet constructed.

(7) Mixed Wastes Treatment Plan Review Fee

Any person who requests approval by the Department of a mixed waste treatment plan is assessed a mixed waste treatment plan review fee that is equal to all cost associated with the Department's review of the initial mixed waste treatment plan, any update to the mixed waste treatment plan, and/or any revision(s) to the mixed waste treatment plan. Costs shall include, but not be limited to mileage, lab expense, the current hourly rate and benefits for the Department's employees actively involved in review activities, including preparation for and attendance at meetings, the current Department overhead rate, and costs billed by Department contractor(s). Costs shall not include Part A and Part B permit review expenses that are recovered through other applicable fees. The Department shall provide a person subject to this rule with quarterly statements reflecting review cost posted during the previous quarter. All review costs reflected on a person's quarterly statement shall be paid to the Department within thirty (30) days of their receipt of the invoice.

(8) Hazardous Waste Tipping Fee

(a) Fee Amount per Pounds Received

In addition to all other fees imposed by this Chapter, Tennessee facilities with a hazardous waste treatment, storage, or disposal permit are assessed a hazardous waste tipping fee based on the amount of hazardous waste received from off-site as set forth below:

Pounds Received	Fee Amount
1 – 100,000 pounds	$ 1,200
100,001 – 500,000 pounds	$ 4,700
500,001 – 1,000,000 pounds	$ 8,200
1,000,001 – 5,000,000 pounds	$ 11,700
5,000,001 – 10,000,000 pounds	$ 17,550
10,000,001 – 20,000,000 pounds	$ 23,350
over 20,000,000 pounds	$ 29,200

(b) Recycle/Recovery Exemption

Hazardous wastes that are received for recycle/recovery as defined by handling codes for treatment methods T30, T54, and T63, lead smelting, precious metals recovery, and/or high temperature metals recovery are exempt from the hazardous waste tipping fees.

(c) Universal Waste Exemptions

Universal Wastes identified in Rule 0400-12-01-.12, and spent lead-acid batteries managed under Rule 0400-12-01-.09(7), are exempt from the hazardous waste tipping fees.

(d) Date for Payment of Fees

These hazardous waste tipping fees shall be paid no later than March 1 of each year for hazardous waste activities conducted the previous calendar year beginning with the effective date of these rules; provided however, that for the year 2010, persons who paid the hazardous waste tipping fee in effect on March 1, 2010 shall be credited for the amount so paid, making only the balance due within 30 days of the effective date of this rule.

(9) Special Review Fees

Any person who submits any of the documents listed below is assessed a review fee as follows:

11,700	dollars for a Trial Burn Plan for each type of unit;
11,700	dollars for a Risk Burn Plan for each type of unit;
5,000	dollars for a Certificate of Compliance Plan for each type of unit;
11,700	dollars for a Facility Risk Assessment and/or Risk Evaluation Plan associated with a land based unit;
11,700	dollars for a Facility Risk Assessment and/or Risk Evaluation Plan associated with a combustion unit;
11,700	dollars for the initial Dispersion Model and Direct Human Health Risk Assessment;
5,850	dollars for Periodic Modeling and Direct Human Health Risk Assessment;
3,000	dollars for each variance or waiver request regardless of whether the variance or waiver request is approved or denied;
650	dollars for each variance or waiver renewal request regardless of whether the variance or waiver request is approved or denied;
500	dollars for a contained-in determination;
50	dollars per hour for the staff time required to research and prepare a written response from the Division to a request of an official regulatory interpretation, including, but not limited to, waste determinations, recycling, exclusions, exemptions, etc.

(10) Initial Spill and/or Accidental Discharge Investigation Fee

250	dollars for each accidental spill or accidental discharge (of hazardous waste or other material, which when spilled or discharged becomes a hazardous waste) where Division staff responds by a site visit or inspection to confirm an adequate response but not requiring Division oversight of the investigation and/or remediation of soil, groundwater, or surface water and/or sediment;
500	dollars for each accidental spill or accidental discharge (of hazardous waste or other material, which when spilled or discharged becomes a hazardous waste) requiring investigation and/or remediation of soil, groundwater, or surface water and/or sediment, provided such investigation/remediation is overseen by the Division of Solid Waste Management (this oversight requires ten [10] hours or less of staff time);
1,000	dollars for each accidental spill or accidental discharge (of hazardous waste or other material, which, when spilled or discharged, becomes a hazardous waste) requiring investigation and/or remediation of soil, groundwater, or surface water and/or sediment, provided such investigation/remediation is overseen by the Division of Solid Waste Management (this oversight requires over ten [10] hours but under twenty-four [24] hours of staff time); and
2,000	dollars for each spill or accidental discharge (of hazardous waste, or other material which, when spilled or discharged, becomes a hazardous waste)

requiring investigation and/or remediation of soil, groundwater, or surface water and/or sediment, provided such investigation/remediation is overseen by the Division of Solid Waste Management (the oversight requires twenty-four [24] hours or more of staff time).

(11) Chromium Exclusion Review Fee

2,500 dollars for each chromium waste stream applicable to the exclusion in Rule 0400-12-01-.02(1)(d)2(v).

Authority: T.C.A. §§ 68-212-101 et seq., 68-203-101 et seq., and 4-5-201 et seq.

0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

(1) (RESERVED) [40 CFR 266 Subpart A]

(2) (RESERVED) [40 CFR 266 Subpart B]

(3) Recyclable Materials Used in a Manner Constituting Disposal [40 CFR 266 Subpart C]

(a) Applicability [40 CFR 266.20]

1. The regulations of this paragraph apply to recyclable materials that are applied to or placed on the land:

(i) Without mixing with any other substance(s); or

(ii) After mixing or combination with any other substance(s). These materials will be referred to throughout this subpart as "materials used in a manner that constitutes disposal."

2. Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products meet the applicable treatment standards in Rule 0400-12-01-.10(3) (or applicable prohibition levels in Rule 0400-12-01-.10(2)(c), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain.

3. Anti-skid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in part 2 of this subparagraph and remain subject to regulation.

4. Fertilizers that contain recyclable materials are not subject to regulation provided that:

(i) They are zinc fertilizers excluded from the definition of solid waste according to subpart (1)(d)1(xxiii) of Rule 0400-12-01-.02; or

(ii) They meet the applicable treatment standards in paragraph (3) of Rule 0400-12-01-.10 for each hazardous waste that they contain.

(b) Standards Applicable to Generators and Transporters of Materials Used in a Manner That Constitute Disposal [40 CFR 266.21]

Generators and transporters of materials that are used in a manner that constitutes disposal are subject to the applicable requirements of Rule 0400-12-01-.03 (including the notification requirement under paragraph (2) of that rule) and Rule 0400-12-01-.04.

(c) Standards Applicable to Storers of Materials That Are to be Used in a Manner That Constitutes Disposal Who Are Not the Ultimate Users [40 CFR 266.22]

Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated under all applicable provisions of Rule 0400-12-01-.05(1) through (12), Rule 0400-12-01-.06(1) through (12), Rule 0400-12-01-.07, and the notification requirement under Rule 0400-12-01-.03(2).

(d) Standards Applicable to Users of Materials That Are Used in a Manner That Constitutes Disposal

[40 CFR 266.23]

1. Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of Rules 0400-12-01-.05(1) through (14), Rule 0400-12-01-.06(1) through (14), Rules 0400-12-01-.07 and .10, and the notification requirement under Rule 0400-12-01-.03(2). (These requirements do not apply to products which contain these recyclable materials under the provisions of part (a)2 of this paragraph.)

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

(4) (RESERVED) [40 CFR 266 Subpart D]

(5) (RESERVED) [40 CFR 266 Subpart E]

(6) Recyclable Materials Utilized for Precious Metal Recovery [40 CFR 266 Subpart F]

(a) Applicability and Requirements [40 CFR 266.70]

1. The regulations of this paragraph apply to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

2. Persons who generate, transport, or store recyclable materials that are regulated under this paragraph are subject to the following requirements:

(i) Notification requirements under Rule 0400-12-01-.03(2);

(ii) Paragraph (3) of Rule 0400-12-01-.03 (for generators), Rules 0400-12-01-.04(3)(a) and (b) (for transporters), and Rules 0400-12-01-.05(5)(b) and (c) (for persons who store); and

(iii) (Reserved) [40 CFR 266.70(b)(3)]

3. Persons who store recycled materials that are regulated under this paragraph must keep the following records to document that they are not accumulating these materials speculatively (as defined in Rule 0400-12-01-.02(1)(a)3):

(i) Records showing the volume of these materials stored at the beginning of the calendar year;

(ii) The amount of these materials generated or received during the calendar year; and

(iii) The amount of materials remaining at the end of the calendar year.

4. Recyclable materials that are regulated under this paragraph that are accumulated speculatively (as defined in Rule 0400-12-01-.02(1)(a)3) are subject to all applicable provisions of Rules 0400-12-01-.03 through .07.

(7) Spent Lead-Acid Batteries Being Reclaimed [40 CFR 266 Subpart G]

(a) Applicability and Requirements [40 CFR 266.80]

1. Are spent lead-acid batteries exempt from hazardous waste management requirements? If you generate, collect, transport, store, or regenerate lead-acid batteries for reclamation purposes, you may be exempt from certain hazardous waste management requirements.

Use the following table to determine which requirements apply to you. Alternatively, you may choose to manage your spent lead-acid batteries under the "Universal Waste" rule in Rule 0400-12-01-.12.

If your batteries * * *	And if you * * *	Then you * * *	And you * * *
(i) Will be reclaimed through regeneration (such as by electrolyte replacement).		are exempt from Rules 0400-12-01-.03 (except for .03(1)(b)) through .07, .09, and .10 including the notification requirement of Rule 0400-12-01-.03(2).	are subject to Rules 0400-12-01-.02 and .03(1)(b).
(ii) Will be reclaimed other than through regeneration.	generate, collect, and/or transport these batteries.	are exempt from Rules 0400-12-01-.03 (except for .03(1)(b)) through .07 and .09, including the notification requirement of Rule 0400-12-01-.03(2).	are subject to Rules 0400-12-01-.02 and .03(1)(b),and applicable provisions under Rule 0400-12-01-.10.
(iii) Will be reclaimed other than through regeneration.	store these batteries but you aren't the reclaimer.	are exempt from Rules 0400-12-01-.03 (except for .03(1)(b)) through .07 and .09, including the notification requirement of Rule 0400-12-01-.03(2).	are subject to Rules 0400-12-01-.02, .03(1)(b),and applicable provisions under Rule 0400-12-01-.10.
(iv) Will be reclaimed other than through regeneration.	store these batteries before you reclaim them.	must comply with part 2 of this subparagraph and as appropriate other regulator provisions described in part 2 of this subparagraph.	are subject to Rules 0400-12-01-.02, .03(1)(b),and applicable provisions under Rule 0400-12-01-.10.
(v) Will be reclaimed other than through regeneration.	don't store these batteries before you reclaim them.	are exempt from Rules 0400-12-01-.03 (except for .03(1)(b)) through .07 and .09, including the notification requirement of Rule 0400-12-01-.03(2).	are subject to Rules 0400-12-01-.02, .03(1)(b),and applicable provisions under Rule 0400-12-01-.10.
(vi) Will be reclaimed through regeneration or any other means.	Export these batteries for reclamation in a foreign country.	are exempt from Rules 0400-12-01-.04 through .07, .09 and .10, including the notification requirement of Rule 0400-12-01-.03(2). You are also exempt from 0400-12-01-.03 (except for .03(1)(b)), and except for the applicable requirements in either (I) 40 CFR Part 262,	are subject to Rules 0400-12-01-.02 and .03(1)(b), and either must comply with 40 CFR Part 262, Subpart H (if shipping to one of the OECD countries specified in subpart (7)(i)1(i) of Rule 0400-12-01-.03, or must: (I) Comply with the requirements applicable to a

		Subpart H; or (II) subparagraph (7)(d) of Rule 0400-12-01-.03 "Notification of Intent to Export", subparts (7)(g)1(i) through (iv) and (vi) and part (7)(g)2 of Rule 0400-12-01-.03 "Annual Reports", and subparagraph (7)(h) of Rule 0400-12-01-.03 "Recordkeeping".	primary exporter in subparagraph (7)(d), subparts (7)(g)1(i) through (iv) and (vi), part (7)(g)2, and subparagraph (7)(h) of Rule 0400-12-01-.03; and (II) Export these batteries only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in paragraph (7) of Rule 0400-12-01-.03; and (III) Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.
(vii) Will be reclaimed through regeneration or any other means.	Transport these batteries in the U.S. to export them for reclamation in a foreign country.	are exempt from Rules 0400-12-01-.03 through .07 and .09, including the notification requirements of Rule 0400-12-01-.03(2).	must comply with applicable requirements in 40 CFR Part 262, Subpart H (if shipping to one of the OECD countries specified in subpart (7)(i)1(i) of Rule 0400-12-01-.03, or must comply with the following: (I) you may not accept a shipment if you know the shipment does not conform to the EPA Acknowledgement of Consent; (II) you must ensure that a copy of the EPA acknowledgement of Consent accompanies the shipment; and (III) you must ensure that the shipment is delivered to the facility designated by the person initiating the shipment.

2. If I store spent lead-acid batteries before I reclaim them but not through regeneration, which requirements apply? The requirements of this part apply to you if you store spent lead-acid batteries before you reclaim them, but you don't reclaim them through

regeneration. The requirements are slightly different depending on your Hazardous Waste permit status.

(i) For Interim Status Facilities, you must comply with:

(I) Notification requirements under Rule 0400-12-01-.03(2).

(II) All applicable provisions in paragraph (1) of Rule 0400-12-01-.05.

(III) All applicable provisions in paragraph (2) of Rule 0400-12-01-.05, except Rule 0400-12-01-.05(2)(d) (waste analysis).

(IV) All applicable provisions in paragraphs (3) and (4) of Rule 0400-12-01-.05.

(V) All applicable provisions in paragraph (5) of Rule 0400-12-01-.05, except .05(5)(b) and (c) (dealing with the use of the manifest and manifest discrepancies).

(VI) All applicable provisions in paragraphs (6) through (12) of Rule 0400-12-01-.05.

(VII) All applicable provisions in Rule 0400-12-01-.07.

(ii) For Permitted Facilities.

(I) Notification requirements under Rule 0400-12-01-.03(2).

(II) All applicable provisions in paragraph (1) of Rule 0400-12-01-.06.

(III) All applicable provisions in paragraph (2) of Rule 0400-12-01-.06 but not Rule 0400-12-01-.06(2)(d) (waste analysis).

(IV) All applicable provisions in paragraph (3) and (4) of Rule 0400-12-01-.06.

(V) All applicable provisions in paragraph (5) of Rule 0400-12-01-.06 but not Rules 0400-12-01-.06(5)(b) or (c) (dealing with the use of the manifest and manifest discrepancies).

(VI) All applicable provisions in paragraphs (6) through (12) of Rule 0400-12-01-.06.

(VII) All applicable provisions in Rule 0400-12-01-.07.

(8) Hazardous Waste Burned in Boilers and Industrial Furnaces [40 CFR 266 Subpart H]

(a) Applicability [40 CFR 266.100]

Owners and operators of existing facilities referenced in this paragraph who have submitted information to the EPA as required by the Federal regulations prior to February 14, 1992, the effective date of this Regulation, shall not be required to resubmit that information to the Department unless specifically required to do so by the Department.

1. The regulations of this paragraph apply to hazardous waste burned or processed in a boiler or industrial furnace (as defined in Rule 0400-12-01-.01(2)(a)) irrespective of the purpose of burning or processing, except as provided by parts 2, 3, 4, 7, and 8 of this subparagraph. In this paragraph, the term "burn" means burning for energy recovery or destruction, or processing for materials recovery or as an ingredient. The emissions standards of subparagraphs (e), (f), (g), and (h) of this paragraph apply to facilities

operating under interim status or under a permit as specified in subparagraphs (c) and (d) of this paragraph.

2. Integration of the MACT standards

(i) Except as provided by subparts (ii), (iii), and (iv) of this part, the standards of this rule do not apply to a new hazardous waste boiler or industrial furnace unit that becomes subject to RCRA permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing hazardous waste boiler or industrial furnace unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR 63 Subpart EEE by conducting a comprehensive performance test and submitting to the Commissioner a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with the requirements of 40 CFR 63 Subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this rule will continue to be in effect until they are removed from the permit or the permit is terminated or revoked unless the permit expressly provides otherwise.

(ii) The following standards continue to apply:

(I) If you elect to comply with item (12)(a)1(i)(I) of Rule 0400-12-01-.07 to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, subpart (c)5(i) of this paragraph requiring operations in accordance with the operating requirements specified in the permit at all times that hazardous waste is in the unit, and item (c)5(ii)(III) of this subparagraph requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;

(II) The closure requirements of subpart (c)5(xi) and part (d)12 of this paragraph;

(III) The standards for direct transfer of subparagraph (I) of this paragraph;

(IV) The standards for regulation of residues of subparagraph (m) of this paragraph; and

(V) The applicable requirements of paragraphs (1) through (8), (28), and (29) of Rule 0400-12-01-.05 and paragraphs (1) through (8), (31), and (32) of Rule 0400-12-01-.06.

(iii) If you own or operate a boiler or hydrochloric acid production furnace that is an area source under 40 CFR 63.2 and you elect not to comply with the emission standards under 40 CFR 63.1216, 63.1217, and 63.1218 for particulate matter, semivolatile and low volatile metals, and total chlorine, you also remain subject to:

(I) Subparagraph (f) of this paragraph--Standards to control particulate matter;

(II) Subparagraph (g) of this paragraph--Standards to control metals emissions, except for mercury; and

(III) Subparagraph (h) of this paragraph--Standards to control hydrogen chloride and chlorine gas.

(iv) The particulate matter standard of subparagraph (f) of this paragraph remains in effect for boilers that elect to comply with the alternative to the particulate matter standard under 40 CFR 63.1216(e) and 63.1217(e).

3. The following hazardous wastes and facilities are not subject to regulation under this paragraph:

(i) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Rule 0400-12-01-.02(3). Such used oil is subject to regulation under Rule 0400-12-01-.11;

(ii) Gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery;

(iii) Hazardous wastes that are exempt from regulation under Rule 0400-12-01-.02(1)(d) and Rule 0400-12-01-.02(1)(f)1(iii)(III) and (IV), and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under Rules 0400-12-01-.02(1)(e); and

(iv) Coke ovens, if the only hazardous waste burned is Hazardous Waste Code K087, decanter tank tar sludge from coking operations.

4. Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces, but not including cement kilns, aggregate kilns, or halogen acid furnaces burning hazardous waste) that process hazardous waste solely for metal recovery are conditionally exempt from regulation under this paragraph, except for subparagraphs (b) and (m) of this paragraph.

(i) To be exempt from subparagraphs (c) through (l) of this paragraph, an owner or operator of a metal recovery furnace or mercury recovery furnace must comply with the following requirements, except that an owner or operator of a lead or a nickel-chromium recovery furnace, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing, must comply with the requirements of subpart (iii) of this part, and owners or operators of lead recovery furnaces that are subject to regulation under the Secondary Lead Smelting NESHAP must comply with the requirements of part 8 of this subparagraph:

(I) Provide a one-time written notice to the Commissioner indicating the following:

I. The owner or operator claims exemption under this subpart;

II. The hazardous waste is burned solely for metal recovery consistent with the provisions of subpart 4(ii) of this subparagraph;

III. The hazardous waste contains recoverable levels of metals; and

IV. The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this subpart;

(II) Sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of this subpart by using appropriate methods; and

(III) Maintain at the facility for at least three years records to document

compliance with the provisions of this subpart including limits on levels of toxic organic constituents and Btu value of the waste, and levels of recoverable metals in the hazardous waste compared to normal nonhazardous waste feedstocks.

(ii) A hazardous waste meeting either of the following criteria is not processed solely for metal recovery:

(I) The hazardous waste has a total concentration of organic compounds listed in Appendix VIII of Rule 0400-12-01-.02 exceeding 500 ppm by weight, as-fired, and so is considered to be burned for destruction. The concentration of organic compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 500 ppm limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by item (i)(III) of this part; or

(II) The hazardous waste has a heating value of 5,000 Btu/lb or more, as-fired, and so is considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by item (i)(III) of this part.

(iii) To be exempt from subparagraphs (c) through (l) of this paragraph, an owner or operator of a lead or nickel-chromium or mercury recovery furnace (except for owners or operators of lead recovery furnaces subject to regulation under the Secondary Lead Smelting NESHAP) or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing, must provide a one-time written notice to the Commissioner identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste under this subpart or subpart (i) of this part. The owner or operator must comply with the requirements of subpart (i) of this part for those wastes claimed to be exempt under that subpart and must comply with the requirements below for those wastes claimed to be exempt under this subpart.

(I) The hazardous wastes listed in Appendices XI, XII, and XIII of this rule, and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of subpart (i) of this part, provided that:

I. A waste listed in Appendix XI of this rule must contain recoverable levels of lead, a waste listed in Appendix XII of this rule must contain recoverable levels of nickel or chromium, a waste listed in Appendix XIII of this rule must contain recoverable levels of mercury and contain less than 500 ppm of Rule 0400-12-01-.02, Appendix VIII organic constituents, and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recoverable levels of metal; and

II. The waste does not exhibit the Toxicity Characteristic of Rule 0400-12-01-.02(3)(e) for an organic constituent; and

III. The waste is not a hazardous waste listed in Rule 0400-12-01-.02(4) because it is listed for an organic constituent as identified in Appendix VII of Rule 0400-12-01-.02; and

IV. The owner or operator certifies in the one-time notice that hazardous waste is burned under the provisions of this subpart and that sampling and analysis will be conducted or other information will be obtained as necessary to ensure continued compliance with these requirements. Sampling and analysis shall be conducted according to item (i)(II) of this part and records to document compliance with this subpart shall be kept for at least three years.

(II) The Commissioner may decide on a case-by-case basis that the toxic organic constituents in a material listed in Appendix XI, XII, or XIII of this rule that contains a total concentration of more than 500 ppm toxic organic compounds listed in Appendix VIII of Rule 0400-12-01-.02, may pose a hazard to human health and the environment when burned in a metal recovery furnace exempt from the requirements of this paragraph. In that situation, after adequate notice and opportunity for comment, the metal recovery furnace will become subject to the requirements of this paragraph when burning that material. In making the hazard determination, the Commissioner will consider the following factors:

I. The concentration and toxicity of organic constituents in the material;

II. The level of destruction of toxic organic constituents provided by the furnace; and

III. Whether the acceptable ambient levels established in Appendices IV or V of this rule may be exceeded for any toxic organic compound that may be emitted based on dispersion modeling to predict the maximum annual average off-site ground level concentration.

5. The standards for direct transfer operations under subparagraph (l) of this paragraph apply only to facilities subject to the permit standards of subparagraph (c) of this paragraph or the interim status standards of subparagraph (d) of this paragraph.

6. The management standards for residues under subparagraph (m) of this paragraph apply to any boiler or industrial furnace burning hazardous waste.

7. Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces) that process hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, palladium, iridium, osmium, rhodium, or ruthenium, or any combination of these are conditionally exempt from regulation under this paragraph, except for subparagraph (m) of this paragraph. To be exempt from subparagraph (b) through (l) of this paragraph, an owner or operator must:

(i) Provide a one-time written notice to the Commissioner indicating the following:

(I) The owner or operator claims exemption under this part;

(II) The hazardous waste is burned for legitimate recovery of precious metal; and

(III) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this part; and

(ii) Sample and analyze the hazardous waste as necessary to document that the waste contains economically significant amounts of metals and that the treatment

recovers economically significant amounts of precious metal; and

(iii) Maintain at the facility for at least three years records to document that all hazardous wastes burned are burned for recovery of economically significant amounts of precious metal.

8. Starting June 23, 1997, owners or operators of lead recovery furnaces that process hazardous waste for recovery of lead and that are subject to regulation under the Secondary Lead Smelting NESHAP, are conditionally exempt from regulation under this part, except for subparagraph (b) of this paragraph. To be exempt, an owner or operator must provide a one-time notice to the Commissioner identifying each hazardous waste burned and specifying that the owner or operator claims an exemption under this part. The notice also must state that the waste burned has a total concentration of nonmetal compounds listed in Appendix VIII of Rule 0400-12-01-.02 of less than 500 ppm by weight, as fired and as provided in item 4(ii)(I) of this subparagraph, or is listed in Appendix XI to this rule.

(b) Management Prior to Burning [40 CFR 266.101]

1. Generators

Generators of hazardous waste that is burned in a boiler or industrial furnace are subject to Rule 0400-12-01-.03.

2. Transporters

Transporters of hazardous waste that is burned in a boiler or industrial furnace are subject to Rule 0400-12-01-.04.

3. Storage and Treatment Facilities

(i) Owners and operators of facilities that store or treat hazardous waste that is burned in a boiler or industrial furnace are subject to the applicable provisions of Rules 0400-12-01-.05, .06, and .07, except as provided by subpart (ii) of this part. These standards apply to storage and treatment by the burner as well as to storage and treatment facilities operated by intermediaries (processors, blenders, distributors, etc.) between the generator and the burner.

(ii) Owners and operators of facilities that burn, in an onsite boiler or industrial furnace exempt from regulation under the small quantity burner provisions of subparagraph (i) of this paragraph, hazardous waste that they generate are exempt from the regulations of Rules 0400-12-01-.05, .06, and .07 applicable to storage units for those storage units that store mixtures of hazardous waste and the primary fuel to the boiler or industrial furnace in tanks that feed the fuel mixture directly to the burner. Storage of hazardous waste prior to mixing with the primary fuel is subject to regulation as prescribed in subpart (i) of this part.

(c) Permit Standards for Burners [40 CFR 266.102]

1. Applicability

(i) General

Owners and operators of boilers and industrial furnaces burning hazardous waste and not operating under interim status must comply with the requirements of this subparagraph, Rule 0400-12-01-.07(5)(b)8 and Rule 0400-12-01-.07(1)(j), unless exempt under the small quantity burner exemption of subparagraph (i) of this paragraph.

(ii) Applicability of Rule 0400-12-01-.07 Standards

Owners and operators of boilers and industrial furnaces that burn hazardous waste are subject to the following provisions of Rule 0400-12-01-.06, except as provided otherwise by this paragraph:

(I) In paragraph (1) (General), Rule 0400-12-01-.06;

(II) In paragraph (2) (General facility standards), Rules 0400-12-01-.06(2)(b) through (i);

(III) In paragraph (3) (Preparedness and prevention), Rules 0400-12-01-.06(3)(b) through (h);

(IV) In paragraph (4) (Contingency plan and emergency procedures), Rules 0400-12-01-.06(4)(b) through (g);

(V) In paragraph (5) (Manifest system, recordkeeping, and reporting), the applicable provisions of Rules 0400-12-01-.06(5)(b) through (h);

(VI) In paragraph (6) (Releases from Solid Waste Management Units), Rules 0400-12-01-.06(6)(a) through (l);

(VII) In paragraph (7) (Closure and post-closure), Rules 0400-12-01-.06(7)(b) through (f);

(VIII) In paragraph (8) (Financial requirements), Rules 0400-12-01-.06(8)(b), (c), (d), and (n) through (r), except that States and the Federal government are exempt from the requirements of paragraph (8); and

(IX) In paragraph (31) (Air emission standards for equipment leaks), except Rule 0400-12-01-.06(31)(a)1.

2. Hazardous Waste Analysis

(i) The owner or operator must provide an analysis of the hazardous waste that quantifies the concentration of any constituent identified in Appendix VIII of Rule 0400-12-01-.02 that may reasonably be expected to be in the waste. Such constituents must be identified and quantified if present, at levels detectable by using appropriate analytical procedures. The Appendix VIII, Rule 0400-12-01-.02 constituents excluded from this analysis must be identified and the basis for their exclusion explained. This analysis will be used to provide all information required by this paragraph and Rule 0400-12-01-.07(5)(b)8 and Rule 0400-12-01-.07(1)(j) and to enable the permit writer to prescribe such permit conditions as necessary to protect human health and the environment. Such analysis must be included as a portion of the Part B permit application, or, for facilities operating under the interim status standards of this paragraph, as a portion of the trial burn plan that may be submitted before the Part B application under provisions of Rule 0400-12-01-.07(1)(j)6 as well as any other analysis required by the permit authority in preparing the permit. Owners and operators of boilers and industrial furnaces not operating under the interim status standards must provide the information required by Rules 0400-12-01-.07(5)(b)8 or Rule 0400-12-01-.07(1)(j)3 in the Part B application to the greatest extent possible.

(ii) Throughout normal operation, the owner or operator must conduct sampling and analysis as necessary to ensure that the hazardous waste, other fuels, and industrial furnace feedstocks fired into the boiler or industrial furnace are within the physical and chemical composition limits specified in the permit.

3. Emissions Standards

Owners and operators must comply with emissions standards provided by subparagraphs (e) through (h) of this paragraph.

4. Permits

(i) The owner or operator may burn only hazardous wastes specified in the facility permit and only under the operating conditions specified under part 5 of this subparagraph, except in approved trial burns under the conditions specified in Rule 0400-12-01-.07(1)(j).

(ii) Hazardous wastes not specified in the permit may not be burned until operating conditions have been specified under a new permit or permit modification, as applicable. Operating requirements for new wastes may be based on either trial burn results or alternative data included with Part B of a permit application under Rule 0400-12-01-.07(5)(b)8.

(iii) Boilers and industrial furnaces operating under the interim status standards of subparagraph (d) of this paragraph are permitted under procedures provided by Rule 0400-12-01-.07(1)(j)7.

(iv) A permit for a new boiler or industrial furnace (those boilers and industrial furnaces not operating under the interim status standards) must establish appropriate conditions for each of the applicable requirements of this subparagraph, including but not limited to allowable hazardous waste firing rates and operating conditions necessary to meet the requirements of part 5 of this subparagraph, in order to comply with the following standards:

(I) For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the device to a point of operational readiness to conduct a trial burn, not to exceed a duration of 720 hours operating time when burning hazardous waste, the operating requirements must be those most likely to ensure compliance with the emission standards of subparagraphs (e) through (h) of this paragraph, based on the Commissioner's engineering judgment. If the applicant is seeking a waiver from a trial burn to demonstrate conformance with a particular emission standard, the operating requirements during this initial period of operation shall include those specified by the applicable provisions of subparagraph (e), (f), (g), or (h) of this paragraph. The Commissioner may extend the duration of this period 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 must be sufficient to demonstrate compliance with the emissions standards of subparagraphs (e) through (h) of this paragraph and must 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, submission of the trial burn results by the applicant, review of the trial burn results and modification of the facility permit by the Commissioner to reflect the trial burn results, the operating requirements must be those most likely to ensure compliance with the emission standards subparagraphs (e) through (h) of this paragraph based on the Commissioner's engineering judgment.

(IV) For the remaining duration of the permit, the operating requirements

must be those demonstrated in a trial burn or by alternative data specified in Rule 0400-12-01-.07(5)(b)8, as sufficient to ensure compliance with the emissions standards of subparagraphs (e) through (h) of this paragraph.

5. Operating Requirements

(i) General

A boiler or industrial furnace burning hazardous waste must be operated in accordance with the operating requirements specified in the permit at all times where there is hazardous waste in the unit.

(ii) Requirements to ensure compliance with the organic emissions standards

(I) DRE Standard

Operating conditions will be specified either on a case-by-case basis for each hazardous waste burned as those demonstrated (in a trial burn or by alternative data as specified in Rule 0400-12-01-.07(5)(b)8) to be sufficient to comply with the destruction and removal efficiency (DRE) performance standard of part (e)1 of this paragraph or as those special operating requirements provided by subpart (e)1(iv) of this paragraph for the waiver of the DRE trial burn. When the DRE trial burn is not waived under subpart (e)1(iv) of this paragraph, each set of operating requirements will specify the composition of the hazardous waste (including acceptable variations in the physical and chemical properties of the hazardous waste which will not affect compliance with the DRE performance standard) to which the operating requirements apply. For each such hazardous waste, the permit will specify acceptable operating limits including, but not limited to, the following conditions as appropriate:

I. Feed rate of hazardous waste and other fuels measured and specified as prescribed in subpart (vi) of this part;

II. Minimum and maximum device production rate when producing normal product expressed in appropriate units, measured and specified as prescribed in subpart (vi) of this part;

III. Appropriate controls of the hazardous waste firing system;

IV. Allowable variation in boiler and industrial furnace system design or operating procedures;

V. Minimum combustion gas temperature measured at a location indicative of combustion chamber temperature, measured and specified as prescribed in subpart (vi) of this part;

VI. An appropriate indicator of combustion gas velocity, measured and specified as prescribed in subpart (vi) of this part, unless documentation is provided under Rule 0400-12-01-.07(1)(j) demonstrating adequate combustion gas residence time; and

VII. Such other operating requirements as are necessary to ensure that the DRE performance standard of subparagraph (e) of this paragraph is met.

(II) Carbon monoxide and hydrocarbon standards. The permit must incorporate a carbon monoxide (CO) limit and, as appropriate, a

hydrocarbon (HC) limit as provided by parts (e)2, 3, 4, 5, and 6 of this paragraph. The permit limits will be specified as follows:

I. When complying with the CO standard of subpart (e)2(i) of this paragraph, the permit limit is 100 ppmv;

II. When complying with the alternative CO standard under part (e)3 of this paragraph, the permit limit for CO is based on the trial burn and is established as the average over all valid runs of the highest hourly rolling average CO level of each run, and the permit limit for HC is 20 ppmv (as defined in subpart (e)3(i) of this paragraph), except as provided in part (e)6 of this paragraph.

III. When complying with the alternative HC limit for industrial furnaces under part (e)6 of this paragraph, the permit limit for HC and CO is the baseline level when hazardous waste is not burned as specified by that part.

(III) Start-up and shut-down. During start-up and shut-down of the boiler or industrial furnace, hazardous waste (except waste fed solely as an ingredient under the Tier I (or adjusted Tier I) feed rate screening limits for metals and chloride/chlorine, and except low risk waste exempt from the trial burn requirements under subpart (e)1(v) and subparagraphs (f), (g), and (h) of this paragraph) must not be fed into the device unless the device is operating within the conditions of operation specified in the permit.

(iii) Requirements to Ensure Conformance with the Particulate Standard

(I) Except as provided in items (II) and (III) of this subpart, the permit shall specify the following operating requirements to ensure conformance with the particulate standard specified in subparagraph (f) of this paragraph:

I. Total ash feed rate to the device from hazardous waste, other fuels, and industrial furnace feedstocks, measured and specified as prescribed in subpart (vi) of this part;

II. Maximum device production rate when producing normal product expressed in appropriate units, and measured and specified as prescribed in subpart (vi) of this part;

III. Appropriate controls on operation and maintenance of the hazardous waste firing system and any air pollution control system;

IV. Allowable variation in boiler and industrial furnace system design including any air pollution control system or operating procedures; and

V. Such other operating requirements as are necessary to ensure that the particulate standard in part (f)1 of this paragraph is met.

(II) Permit conditions to ensure conformance with the particulate matter standard shall not be provided for facilities exempt from the particulate matter standard under part (f)2 of this paragraph;

(III) For cement kilns and light-weight aggregate kilns, permit conditions to ensure compliance with the particulate standard shall not limit the ash

content of hazardous waste or other feed materials.

(iv) Requirements to Ensure Conformance with the Metals Emissions Standard

(I) For conformance with the Tier I (or adjusted Tier I) metals feed rate screening limits of parts (g)2 or 5 of this paragraph, the permit shall specify the following operating requirements:

I. Total feed rate of each metal in hazardous waste, other fuels, and industrial furnace feedstocks measured and specified under provisions of subpart (vi) of this part;

II. Total feed rate of hazardous waste measured and specified as prescribed in subpart (vi) of this part;

III. A sampling and metals analysis program for the hazardous waste, other fuels, and industrial furnace feedstocks;

(II) For conformance with the Tier II metals emission rate screening limits under part (g)3 of this paragraph and the Tier III metals controls under part (g)4 of this paragraph the permit shall specify the following operating requirements:

I. Maximum emission rate for each metal specified as the average emission rate during the trial burn;

II. Feed rate of total hazardous waste and pumpable hazardous waste, each measured and specified as prescribed in item (vi)(I) of this part;

III. Feed rate of each metal in the following feedstreams, measured and specified as prescribed in subpart (vi) of this part:

A. Total feed streams;

B. Total hazardous waste feed; and

C. Total pumpable hazardous waste feed;

IV. Total feed rate of chlorine and chloride in total feed streams measured and specified as prescribed in subpart (vi) of this part;

V. Maximum combustion gas temperature measured at a location indicative of combustion chamber temperature, and measured and specified as prescribed in subpart (vi) of this part;

VI. Maximum flue gas temperature at the inlet to the particulate matter air pollution control system measured and specified as prescribed in subpart (vi) of this part;

VII. Maximum device production rate when producing normal product expressed in appropriate units and measured and specified as prescribed in subpart (vi) of this part;

VIII. Appropriate controls on operation and maintenance of the hazardous waste firing system and any air pollution control system;

IX. Allowable variation in boiler and industrial furnace system design

including any air pollution control system or operating procedures; and

X. Such other operating requirements as are necessary to ensure that the metals standards under parts (g)3 or (g)4 of this paragraph are met.

(III) For conformance with an alternative implementation approach approved by the Commissioner under part (g)6 of this paragraph, the permit will specify the following operating requirements:

I. Maximum emission rate for each metal specified as the average emission rate during the trial burn;

II. Feed rate of total hazardous waste and pumpable hazardous waste, each measured and specified as prescribed in item (vi)(I) of this part;

III. Feed rate of each metal in the following feedstreams, measured and specified as prescribed in subpart (vi) of this part:

A. Total hazardous waste feed; and

B. Total pumpable hazardous waste feed;

IV. Total feed rate of chlorine and chloride in total feed streams measured and specified prescribed in subpart (vi) of this part;

V. Maximum combustion gas temperature measured at a location indicative of combustion chamber temperature, and measured and specified as prescribed in subpart (vi) of this part;

VI. Maximum flue gas temperature at the inlet to the particulate matter air pollution control system measured and specified as prescribed in subpart (vi) of this part;

VII. Maximum device production rate when producing normal product expressed in appropriate units and measured and specified as prescribed in subpart (vi) of this part;

VIII. Appropriate controls on operation and maintenance of the hazardous waste firing system and any air pollution control system;

IX. Allowable variation in boiler and industrial furnace system design including any air pollution control system or operating procedures; and

X. Such other operating requirements as are necessary to ensure that the metals standards under parts (g)3 or (g)4 of this subparagraph are met.

(v) Requirements to Ensure Conformance with the Hydrogen Chloride and Chlorine Gas Standards

(I) For conformance with the Tier I total chloride and chlorine feed rate screening limits of subpart (h)2(i) of this paragraph, the permit will specify the following operating requirements:

I. Feed rate of total chloride and chlorine in hazardous waste, other fuels, and industrial furnace feedstocks measured and specified as prescribed in subpart (vi) of this part;

II. Feed rate of total hazardous waste measured and specified as prescribed in subpart (vi) of this part;

III. A sampling and analysis program for total chloride and chlorine for the hazardous waste, other fuels, and industrial furnace feedstocks;

(II) For conformance with the Tier II HCl and Cl_2 emission rate screening limits under subpart (h)2(ii) of this paragraph and the Tier III HCl and Cl_2 controls under part (h)3 of this paragraph, the permit will specify the following operating requirements:

I. Maximum emission rate for HCl and for Cl_2 specified as the average emission rate during the trial burn;

II. Feed rate of total hazardous waste measured and specified as prescribed in subpart (vi) of this part;

III. Total feed rate of chlorine and chloride in total feed streams, measured and specified as prescribed in subpart (vi) of this part;

IV. Maximum device production rate when producing normal product expressed in appropriate units, measured and specified as prescribed in subpart (vi) of this part;

V. Appropriate controls on operation and maintenance of the hazardous waste firing system and any air pollution control system;

VI. Allowable variation in boiler and industrial furnace system design including any air pollution control system or operating procedures; and

VII. Such other operating requirements as are necessary to ensure that the HCl and Cl_2 standards under subpart (h)2(ii) or part (h)3 of this paragraph are met.

(vi) Measuring Parameters and Establishing Limits Based on Trial Burn Data

(I) General Requirements

As specified in subpart (ii) through (v) of this part, each operating parameter shall be measured, and permit limits on the parameter shall be established, according to either of the following procedures:

I. Instantaneous Limits

A parameter may be measured and recorded on an instantaneous basis (i.e., the value that occurs at any time) and the permit limit specified as the time-weighted average during all valid runs of the trial burn; or

II. Hourly Rolling Average

A. The limit for a parameter may be established and

continuously monitored on an hourly rolling average basis defined as follows:

(A) A continuous monitor is one which continuously samples the regulated parameter without interruption, and evaluates the detector response at least once each 15 seconds, and computes and records the average value at least every 60 seconds.

(B) An hourly rolling average is the arithmetic mean of the 60 most recent 1-minute average values recorded by the continuous monitoring system.

B. The permit limit for the parameter shall be established based on trial burn data as the average over all valid test runs of the highest hourly rolling average value for each run.

(II) Rolling Average Limits for Carcinogenic Metals and Lead

Feed rate limits for the carcinogenic metals (i.e., arsenic, beryllium, cadmium and chromium) and lead may be established either on an hourly rolling average basis as prescribed by item (I) of this subpart or on (up to) a 24 hour rolling average basis. If the owner or operator elects to use an average period from 2 to 24 hours:

I. The feed rate of each metal shall be limited at any time to ten times the feed rate that would be allowed on an hourly rolling average basis;

II. The continuous monitor shall meet the following specifications:

A. A continuous monitor is one which continuously samples the regulated parameter without interruption, and evaluates the detector response at least once each 15 seconds, and computes and records the average value at least every 60 seconds.

B. The rolling average for the selected averaging period is defined as the arithmetic mean of one hour block averages for the averaging period. A one hour block average is the arithmetic mean of the one minute averages recorded during the 60-minute period beginning at one minute after the beginning of the preceding clock hour; and

III. The permit limit for the feed rate of each metal shall be established based on trial burn data as the average over all valid test runs of the highest hourly rolling average feed rate for each run.

(III) Feed Rate Limits for Metals, Total Chloride and Chlorine, and Ash

Feed rate limits for metals, total chlorine and chloride, and ash are established and monitored by knowing the concentration of the substance (i.e., metals, chloride/chlorine, and ash) in each feedstream and the flow rate of the feedstream. To monitor the feed rate of these substances, the flow rate of each feedstream must be monitored under

the continuous monitoring requirements of items (I) and (II) of this subpart.

(IV) Conduct of Trial Burn Testing

I. If compliance with all applicable emissions standards of subparagraphs (e) through (h) of this paragraph is not demonstrated simultaneously during a set of test runs, the operating conditions of additional test runs required to demonstrate compliance with remaining emissions standards must be as close as possible to the original operating conditions.

II. Prior to obtaining test data for purposes of demonstrating compliance with the emissions standards of subparagraphs (e) through (h) of this paragraph or establishing limits on operating parameters under this subparagraph, the facility must operate under trial burn conditions for a sufficient period to reach steady-state operations. The Commissioner may determine, however, that industrial furnaces that recycle collected particulate matter back into the furnace and that comply with an alternative implementation approach for metals under part (g)6 of this paragraph need not reach steady state conditions with respect to the flow of metals in the system prior to beginning compliance testing for metals emissions.

III. Trial burn data on the level of an operating parameter for which a limit must be established in the permit must be obtained during emissions sampling for the pollutant(s) (i.e., metals, PM, HCl/Cl_2, organic compounds) for which the parameter must be established as specified by this part.

(vii) General Requirements

(I) Fugitive Emissions

Fugitive emissions must be controlled by:

I. Keeping the combustion zone totally sealed against fugitive emissions; or

II. Maintaining the combustion zone pressure lower than atmospheric pressure; or

III. An alternate means of control demonstrated (with Part B of the permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.

(II) Automatic Waste Feed Cutoff

A boiler or industrial furnace must be operated with a functioning system that automatically cuts off the hazardous waste feed when operating conditions deviate from those established under this subparagraph. The Commissioner may limit the number of cutoffs per an operating period on a case-by-case basis. In addition:

I. The permit limit for (the indicator of) minimum combustion chamber temperature must be maintained while hazardous waste or hazardous waste residues remain in the combustion

chamber;

II. Exhaust gases must be ducted to the air pollution control system operated in accordance with the permit requirements while hazardous waste or hazardous waste residues remain in the combustion chamber; and

III. Operating parameters for which permit limits are established must continue to be monitored during the cutoff, and the hazardous waste feed shall not be restarted until the levels of those parameters comply with the permit limits. For parameters that may be monitored on an instantaneous basis, the Commissioner will establish a minimum period of time after a waste feed cutoff during which the parameter must not exceed the permit limit before the hazardous waste feed may be restarted.

(III) Changes

A boiler or industrial furnace must cease burning hazardous waste when changes in combustion properties, or feed rates of the hazardous waste, other fuels, or industrial furnace feedstocks, or changes in the boiler or industrial furnace design or operating conditions deviate from the limits as specified in the permit.

(viii) Monitoring and Inspections

(I) The owner or operator must monitor and record the following, at a minimum, while burning hazardous waste:

I. If specified by the permit, feed rates and composition of hazardous waste, other fuels, and industrial furnace feedstocks, and feed rates of ash, metals, and total chloride and chlorine;

II. If specified by the permit, carbon monoxide (CO), hydrocarbons (HC), and oxygen on a continuous basis at a common point in the boiler or industrial furnace downstream of the combustion zone and prior to release of stack gases to the atmosphere in accordance with operating requirements specified in item (ii)(II) of this part. CO, HC, and oxygen monitors must be installed, operated, and maintained in accordance with methods specified in Appendix IX of this rule; and

III. Upon the request of the Commissioner, sampling and analysis of the hazardous waste (and other fuels and industrial furnace feedstocks as appropriate), residues, and exhaust emissions must be conducted to verify that the operating requirements established in the permit achieve the applicable standards of subparagraphs (e), (f), (g), and (h) of this paragraph.

(II) All monitors shall record data in units corresponding to the permit limit unless otherwise specified in the permit.

(III) The boiler or industrial furnace and associated equipment (pumps, valves, pipes, fuel storage tanks, etc.) must be subjected to thorough visual inspection when it contains hazardous waste, at least daily for leaks, spills, fugitive emissions, and signs of tampering.

(IV) The automatic hazardous waste feed cutoff system and associated

alarms must be tested at least once every 7 days when hazardous waste is burned to verify operability, unless the applicant demonstrates to the Commissioner that weekly inspections will unduly restrict or upset operations and that less frequent inspections will be adequate. At a minimum, operational testing must be conducted at least once every 30 days.

(V) These monitoring and inspection data must be recorded and the records must be placed in the operating record required by Rules 0400-12-01-.06(5)(d).

(ix) Direct Transfer to the Burner

If hazardous waste is directly transferred from a transport vehicle to a boiler or industrial furnace without the use of a storage unit, the owner and operator must comply with subparagraph (I) of this paragraph.

(x) Recordkeeping

The owner or operator must maintain in the operating record of the facility all information and data required by this subparagraph for five (5) years, or as required by a permit issued after the effective date of this rulemaking, but no less than five (5) years.

(xi) Closure

At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the boiler or industrial furnace.

(d) Interim Status Standards for Burners [40 CFR 266.103]

1. Purpose, Scope, Applicability

(i) General

(I) The purpose of this subparagraph is to establish minimum national standards for owners and operators of "existing" boilers and industrial furnaces that burn hazardous waste where such standards define the acceptable management of hazardous waste during the period of interim status. The standards of this subparagraph apply to owners and operators of existing facilities until either a permit is issued under part (c)4 of this paragraph or until closure responsibilities identified in this subparagraph are fulfilled.

(II) "Existing or in existence" means a boiler or industrial furnace that on or before August 21, 1991 is either in operation burning or processing hazardous waste or for which construction (including the ancillary facilities to burn or to process the hazardous waste) has commenced. A facility has commenced construction if the owner or operator has obtained the Federal, State, and local approvals or permits necessary to begin physical construction; and either:

I. A continuous on-site, physical construction program has begun; or

II. The owner or operator has entered into contractual obligations which cannot be canceled or modified without substantial loss for physical construction of the facility to be completed within a

reasonable time.

(III) If a boiler or industrial furnace is located at a facility that already has a permit or interim status, then the facility must comply with the applicable regulations dealing with permit modifications in Rule 0400-12-01-.07(9)(c)5 or changes in interim status in Rule 0400-12-01-.07(3)(c).

(ii) Exemptions

The requirements of this subparagraph do not apply to hazardous waste and facilities exempt under part (a)2 or subparagraph (i) of this paragraph.

(iii) Prohibition on Burning Dioxin-listed Wastes

The following hazardous waste listed for dioxin and hazardous waste derived from any of these wastes may not be burned in a boiler or industrial furnace operating under interim status: F020, F021, F022, F023, F026, and F027.

(iv) Applicability of Rule 0400-12-01-.05 Standards

Owners and operators of boilers and industrial furnaces that burn hazardous waste and are operating under interim status are subject to the following provisions of Rule 0400-12-01-.05, except as provided otherwise by this subparagraph:

(I) In paragraph (1) (General), Rule 0400-12-01-.05;

(II) In paragraph (2) (General facility standards), Rules 0400-12-01-.05(2)(b) through (h);

(III) In paragraph (3) (Preparedness and prevention), Rules 0400-12-01-.05(3)(b) through (h);

(IV) In paragraph (4) (Contingency plan and emergency procedures), Rules 0400-12-01-.05(4)(b) through (g);

(V) In paragraph (5) (Manifest system, recordkeeping, and reporting), Rules 0400-12-01-.05(5)(b) through (h), except that Rules 0400-12-01-.05(5)(b), (c), and (g) do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources;

(VI) In paragraph (7) (Closure and post-closure), Rules 0400-12-01-.05(7)(b) through (f);

(VII) In paragraph (8) (Financial requirements), Rules 0400-12-01-.05(8)(b), (c), (d), (n), and (o), except that States and the Federal government are exempt from the requirements of paragraph (8); and

(VIII) In paragraph (28) (Air emission standards for equipment leaks), except Rule 0400-12-01-.05(28)(a)1.

(v) Special Requirements for Furnaces

The following controls apply during interim status to industrial furnaces (e.g., kilns, cupolas) that feed hazardous waste for a purpose other than solely as an ingredient (see item 2(v)(II) of this subparagraph) at any location other than the hot end where products are normally discharged or where fuels are normally fired:

(I) Controls

I. The hazardous waste shall be fed at a location where combustion gas temperatures are at least 1800 °F;

II. The owner or operator must determine that adequate oxygen is present in combustion gases to combust organic constituents in the waste and retain documentation of such determination in the facility record;

III. For cement kiln systems, the hazardous waste shall be fed into the kiln; and

IV. The hydrocarbon controls of part (e)3 or subpart 3(v) of this subparagraph apply upon certification of compliance under part 3 of this subparagraph irrespective of the CO level achieved during the compliance test.

(II) Burning Hazardous Waste Solely as an Ingredient

A hazardous waste is burned for a purpose other than solely as an ingredient if it meets either of these criteria:

I. The hazardous waste has a total concentration of nonmetal compounds listed in Appendix VIII of Rule 0400-12-01-.02(5) exceeding 500 ppm by weight, as-fired, and so is considered to be burned for destruction. The concentration of nonmetal compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys nonmetal constituents. Blending for dilution to meet the 500 ppm limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the facility record; or

II. The hazardous waste has a heating value of 5,000 Btu/lb or more, as-fired, and so is considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. Blending to augment the heating value to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly blended must be retained in the facility record.

(vi) Restrictions on Burning Hazardous Waste That Is not a Fuel

Prior to certification of compliance under part 3 of this subparagraph, owners and operators shall not feed hazardous waste that has a heating value less than 5,000 Btu/lb, as-generated, (except that the heating value of a waste as-generated may be increased to above the 5,000 Btu/lb limit by bona fide treatment; however, blending to augment the heating value to meet the 5,000 Btu/lb limit is prohibited and records must be kept to document that impermissible blending has not occurred) in a boiler or industrial furnace, except that:

(I) Hazardous waste may be burned solely as an ingredient; or

(II) Hazardous waste may be burned for purposes of compliance testing (or testing prior to compliance testing) for a total period of time not to exceed 720 hours; or

(III) Such waste may be burned if the Commissioner has documentation to

show that, prior to August 21, 1991:

I. The boiler or industrial furnace is operating under the interim status standards for incinerators provided by paragraph (15) of Rule 0400-12-01-.05, or the interim status standards for thermal treatment units provided by paragraph (16) of Rule 0400-12-01-.05; and

II. The boiler or industrial furnace met the interim status eligibility requirements under Rule 0400-12-01-.07(3)(a) for paragraph (15) or (16) of Rule 0400-12-01-.05; and

III. Hazardous waste with a heating value less than 5,000 Btu/lb was burned prior to that date; or

(IV) Such waste may be burned in a halogen acid furnace if the waste was burned as an excluded ingredient under Rule 0400-12-01-.02(1)(b)5 prior to February 21, 1991 and documentation is kept on file supporting this claim.

(vii) Direct Transfer to the Burner

If hazardous waste is directly transferred from a transport vehicle to a boiler or industrial furnace without the use of a storage unit, the owner and operator must comply with subparagraph (I) of this paragraph.

2. Certification of Precompliance

(i) General

The owner or operator must provide complete and accurate information specified in subpart (ii) of this part to the Commissioner on or before August 21, 1991, and must establish limits for the operating parameters specified in subpart (iii) of this part. Such information is termed a "certification of precompliance" and constitutes a certification that the owner or operator has determined that, when the facility is operated within the limits specified in subpart (iii) of this part, the owner or operator believes that, using best engineering judgment, emissions of particulate matter, metals, and HCl and Cl_2 are not likely to exceed the limits provided by subparagraphs (f), (g), and (h) paragraph. The facility may burn hazardous waste only under the operating conditions that the owner or operator establishes under subpart (iii) of this part until the owner or operator submits a revised certification of precompliance under subpart (viii) of this part or a certification of compliance under part 3 of this subparagraph, or until a permit is issued.

(ii) Information Required

The following information must be submitted with the certification of precompliance to support the determination that the limits established for the operating parameters identified in subpart (iii) of this part are not likely to result in an exceedance of the allowable emission rates for particulate matter, metals, and HCl and Cl_2:

(I) General Facility Information:

I. EPA facility ID number;

II. Facility name, contact person, telephone number, and address;

III. Description of boilers and industrial furnaces burning hazardous

waste, including type and capacity of device;

IV. A scaled plot plan showing the entire facility and location of the boilers and industrial furnaces burning hazardous waste; and

V. A description of the air pollution control system on each device burning hazardous waste, including the temperature of the flue gas at the inlet to the particulate matter control system.

(II) Except for facilities complying with the Tier I or Adjusted Tier I feed rate screening limits for metals or total chlorine and chloride provided by parts (g)2 or (g)5 and subpart (h)2(i) or part (h)5 of this paragraph, respectively, the estimated uncontrolled (at the inlet to the air pollution control system) emissions of particulate matter, each metal controlled by subparagraph (g) of this paragraph, and hydrogen chloride and chlorine, and the following information to support such determinations:

I. The feed rate (lb/hr) of ash, chlorine, antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium in each feedstream (hazardous waste, other fuels, industrial furnace feedstocks);

II. The estimated partitioning factor to the combustion gas for the materials identified in subitem I of this item and the basis for the estimate and an estimate of the partitioning to HCl and Cl_2 of total chloride and chlorine in feed materials. To estimate the partitioning factor, the owner or operator must use either best engineering judgment or the procedures specified in Appendix IX of paragraph (30) of this rule;

III. For industrial furnaces that recycle collected particulate matter (PM) back into the furnace and that will certify compliance with the metals emissions standards under subitem 3(iii)(II)I, the estimated enrichment factor for each metal. To estimate the enrichment factor, the owner or operator must use either best engineering judgment or the procedures specified in "Alternative Methodology for Implementing Metals Controls" in Appendix IX of paragraph (30) of this rule; and

IV. If best engineering judgment is used to estimate partitioning factors or enrichment factors under subitems II or III of this item respectively, the basis for the judgment. When best engineering judgment is used to develop or evaluate data or information and make determinations under this subparagraph, the determinations must be made by a qualified, registered professional engineer and a certification of his/her determinations in accordance with Rule 0400-12-01-.07(2)(a)10 must be provided in the certification of precompliance.

(III) For facilities complying with the Tier I or Adjusted Tier I feed rate screening limits for metals or total chlorine and chloride provided by parts (g)2 or (g)5 and subpart (h)2(i) or part (h)5 of this paragraph, the feed rate (lb/hr) of total chloride and chlorine, antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium in each feed stream (hazardous waste, other fuels, industrial furnace feedstocks).

(IV) For facilities complying with the Tier II or Tier III emission limits for metals or HCl and Cl_2 (under parts (g)3 or (g)4 or subpart (h)2(ii) or part (h)3 of

this paragraph), the estimated controlled (outlet of the air pollution control system) emissions rates of particulate matter, each metal controlled by subparagraph (g), and HCl and Cl_2, and the following information to support such determinations:

I. The estimated air pollution control system (APCS) removal efficiency for particulate matter, HCl, Cl_2, antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium;

II. To estimate APCS removal efficiency, the owner or operator must use either best engineering judgment or the procedures prescribed in Appendix IX of paragraph (30) of this rule; and

III. If best engineering judgment is used to estimate APCS removal efficiency, the basis for the judgment. Use of best engineering judgment must be in conformance with provisions of subitem (II)IV of this subpart.

(V) Determination of allowable emissions rates for HCl, Cl_2, antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium, and the following information to support such determinations:

I. For all facilities:

A. Physical stack height;

B. Good engineering practice stack height as defined by 40 CFR 51.100(ii);

C. Maximum flue gas flow rate;

D. Maximum flue gas temperature;

E. Attach a US Geological Service topographic map (or equivalent) showing the facility location and surrounding land within 5 km of the facility;

F. Identify terrain type: complex or noncomplex; and

G. Identify land use: urban or rural.

II. For owners and operators using Tier III site specific dispersion modeling to determine allowable levels under part (g)4 or (h)3 of this subparagraph, or adjusted Tier I feed rate screening limits under part (g)5 or (h)5 of this subparagraph:

A. Dispersion model and version used;

B. Source of meteorological data;

C. The dilution factor in micrograms per cubic meter per gram per second of emissions for the maximum annual average off-site (unless on-site is required) ground level concentration (MEI location); and

D. Indicate the MEI location on the map required under section I E of this item.

(VI) For facilities complying with the Tier II or III emissions rate controls for metals or HCl and Cl_2, a comparison of the estimated controlled emissions rates determined under item (IV) of this subpart with the allowable emission rates determined under item (V) of this subpart.

(VII) For facilities complying with the Tier I (or adjusted Tier I) feed rate screening limits for metals or total chloride and chlorine, a comparison of actual feed rates of each metal and total chlorine and chloride determined under item (III) of this subpart to the Tier I allowable feed rates.

(VIII) For industrial furnaces that feed hazardous waste for any purpose other than solely as an ingredient (as defined by item 1(v)(II) of this subparagraph) at any location other than the product discharge end of the device, documentation of compliance with the requirements of subitems 1(v)(I)I, II, and III of this subparagraph.

(IX) For industrial furnaces that recycle collected particulate matter (PM) back into the furnace and that will certify compliance with the metals emissions standards under subitem 3(iii)(II)I of this subparagraph:

I. The applicable particulate matter standard in lb/hr; and

II. The precompliance limit on the concentration of each metal in collected PM.

(iii) Limits on Operating Conditions

The owner and operator shall establish limits on the following parameters consistent with the determinations made under subpart (ii) of this part and certify (under provisions of subpart (ix) of this part) to the Commissioner that the facility will operate within the limits during interim status when there is hazardous waste in the unit until revised certification of precompliance under subpart (viii) of this part or certification of compliance under part 3 of this subparagraph:

(I) Feed rate of total hazardous waste and (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this paragraph) pumpable hazardous waste;

(II) Feed rate of each metal in the following feed streams:

I. Total feed streams, except that industrial furnaces that comply with the alternative metals implementation approach under subpart (iv) of this part must specify limits on the concentration of each metal in collected particulate matter in lieu of feed rate limits for total feedstreams;

II. Total hazardous waste feed, unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this subparagraph; and

III. Total pumpable hazardous waste feed, unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this subparagraph;

(III) Total feed rate of chlorine and chloride in total feed streams;

(IV) Total feed rate of ash in total feed streams, except that the ash feed rate

for cement kilns and light-weight aggregate kilns is not limited; and

(V) Maximum production rate of the device in appropriate units when producing normal product, unless complying with the Tier I or Adjusted Tier I feed rate screening limits for chlorine under subpart (h)2(i) or part (h)5 of this paragraph and for all metals under part (g)2 or 5 of this subparagraph, and the uncontrolled particulate emissions do not exceed the standard under subparagraph (f).

(iv) Operating Requirements for Furnaces That Recycle PM

Owners and operators of furnaces that recycle collected particulate matter (PM) back into the furnace and that will certify compliance with the metals emissions controls under subitem 3(iii)(II)I of this subparagraph must comply with the special operating requirements provided in "Alternative Methodology for Implementing Metals Controls" in Appendix IX of paragraph (30) of this rule.

(v) Measurement of feed rates and production rate

(I) General Requirements

Limits on each of the parameters specified in subpart (iii) of this part (except for limits on metals concentrations in collected particulate matter (PM) for industrial furnaces that recycle collected PM) shall be established and continuously monitored under either of the following methods:

I. Instantaneous Limits

A limit for a parameter may be established and continuously monitored and recorded on an instantaneous basis (i.e., the value that occurs at any time) not to be exceeded at any time; or

II. Hourly Rolling Average Limits

A limit for a parameter may be established and continuously monitored on an hourly rolling average basis defined as follows:

A. A continuous monitor is one which continuously samples the regulated parameter without interruption, and evaluates the detector response at least once each 15 seconds, and computes and records the average value at least every 60 seconds.

B. An hourly rolling average is the arithmetic mean of the 60 most recent 1-minute average values recorded by the continuous monitoring system.

(II) Rolling Average Limits for Carcinogenic Metals and Lead

Feed rate limits for the carcinogenic metals (arsenic, beryllium, cadmium, and chromium) and lead may be established either on an hourly rolling average basis as prescribed by subitem (I)II of this subpart or on (up to) a 24 hour rolling average basis. If the owner or operator elects to use an averaging period from 2 to 24 hours:

I. The feed rate of each metal shall be limited at any time to ten times the feed rate that would be allowed on an hourly rolling average basis;

II. The continuous monitor shall meet the following specifications:

A. A continuous monitor is one which continuously samples the regulated parameter without interruption, and evaluates the detector response at least once each 15 seconds, and computes and records the average value at least every 60 seconds.

B. The rolling average for the selected averaging period is defined as the arithmetic mean of one hour block averages for the averaging period. A one hour block average is the arithmetic mean of the one minute averages recorded during the 60-minute period beginning at one minute after the beginning of preceding clock hour.

(III) Feed Rate Limits for Metals, Total Chloride and Chlorine, and Ash

Feed rate limits for metals, total chlorine and chloride, and ash are established and monitored by knowing the concentration of the substance (i.e., metals, chloride/chlorine, and ash) in each feedstream and the flow rate of the feedstream. To monitor the feed rate of these substances, the flow rate of each feedstream must be monitored under the continuous monitoring requirements of items (I) and (II) of this part.

(vi) Public Notice Requirements at Precompliance

On or before August 21, 1991 the owner or operator must submit a notice with the following information for publication in a major local newspaper of general circulation and send a copy of the notice to the appropriate units of State and local government. The owner and operator must provide to the Commissioner with the certification of precompliance evidence of submitting the notice for publication. The notice, which shall be entitled "Notice of Certification of Precompliance with Hazardous Waste Burning Requirements of part (d)2 of this paragraph", must include:

(I) Name and address of the owner and operator of the facility as well as the location of the device burning hazardous waste;

(II) Date that the certification of precompliance is submitted to the Commissioner;

(III) Brief description of the regulatory process required to comply with the interim status requirements of this subparagraph including required emissions testing to demonstrate conformance with emissions standards for organic compounds, particulate matter, metals, and HCl and Cl_2;

(IV) Types and quantities of hazardous waste burned including, but not limited to, source, whether solids or liquids, as well as an appropriate description of the waste;

(V) Type of device(s) in which the hazardous waste is burned including a physical description and maximum production rate of each device;

(VI) Types and quantities of other fuels and industrial furnace feedstocks fed to each unit;

(VII) Brief description of the basis for this certification of precompliance as

specified in subpart (ii) of this part;

(VIII) Locations where the record for the facility can be viewed and copied by interested parties. These records and locations shall at a minimum include:

I. The administrative record kept by the Division office where the supporting documentation was submitted or another location designated by the Commissioner; and

II. The BIF correspondence file kept at the facility site where the device is located. The correspondence file must include all correspondence between the facility and the Commissioner, state and local regulatory officials, including copies of all certifications and notifications, such as the precompliance certification, precompliance public notice, notice of compliance testing, compliance test report, compliance certification, time extension requests and approvals or denials, enforcement notifications of violations, and copies of EPA and State site visit reports submitted to the owner or operator;

(IX) Notification of the establishment of a facility mailing list whereby interested parties shall notify the Agency that they wish to be placed on the mailing list to receive future information and notices about this facility; and

(X) Location (mailing address) of the applicable EPA Regional Office, Hazardous Waste Division, and/or the Tennessee Department of Environment and Conservation (TDEC), Division of Solid Waste Management, as appropriate where further information can be obtained on the regulation of hazardous waste burning.

(vii) Monitoring Other Operating Parameters

When the monitoring systems for the operating parameters listed in items 3(i)(V) through (VIII) of this subparagraph are installed and operating in conformance with vendor specifications or (for CO, HC, and oxygen) specifications provided by Appendix IX of paragraph (30) of this rule, as appropriate, the parameters shall be continuously monitored and records shall be maintained in the operating record.

(viii) Revised Certification of Precompliance

The owner or operator may revise at any time the information and operating conditions documented under subparts (ii) and (iii) of this part in the certification of precompliance by submitting a revised certification of precompliance under procedures provided by those subparts.

(I) The public notice requirements of subpart 2(iv) of this part do not apply to recertifications.

(II) The owner and operator must operate the facility within the limits established for the operating parameters under subpart (iii) of this part until a revised certification is submitted under this subpart or a certification of compliance is submitted under part 3 of this subparagraph.

(ix) Certification of Precompliance Statement

The owner or operator must include the following signed statement with the certification of precompliance submitted to the Commissioner:

"I certify under penalty of law that this information was prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gathered and evaluated the information and supporting documentation. Copies of all emissions tests, dispersion modeling results and other information used to determine conformance with the requirements of Rule 0400-12-01-.09(8)(d)2 are available at the facility and can be obtained from the facility contact person listed above. Based on my inquiry of the person or persons who manages the facility, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I also acknowledge that the operating limits established in this certification pursuant to Rule 0400-12-01-.09(8)(d)2(iii) and (iv) are enforceable limits at which the facility can legally operate during interim status until: (1) A revised certification of precompliance is submitted, (2) a certification of compliance is submitted, or (3) an operating permit is issued."

3. Certification of Compliance

The owner or operator shall conduct emissions testing to document compliance with the emissions standards of parts (e)2 through 5, subparagraphs (f), (g), and (h), and subitem 1(v)(I)IV of this subparagraph, under the procedures prescribed by this part, except under extensions of time provided by subpart (vii) of this part. Based on the compliance test, the owner or operator shall submit to the Commissioner on or before August 21, 1992 a complete and accurate "certification of compliance" (under subpart (iv) of this part) with those emission standards establishing limits on the operating parameters specified in subpart (i) of this part.

(i) Limits on Operating Conditions

The owner or operator shall establish limits on the following parameters based on operations during the compliance test (under procedures prescribed in item (iv)(IV) of this part) or as otherwise specified and include these limits with the certification of compliance. The boiler or industrial furnace must be operated in accordance with these operating limits and the applicable emissions standards of parts (e)2 through 5, subparagraphs (f), (g), and (h) of this paragraph, and subitem 1(v)(I)IV of this subparagraph at all times when there is hazardous waste in the unit:

(I) Feed rate of total hazardous waste and (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this subparagraph), pumpable hazardous waste;

(II) Feed rate of each metal in the following feedstreams:

I. Total feedstreams, except that:

A. Facilities that comply with Tier I or Adjusted Tier I metals feed rate screening limits may set their operating limits at the metals feed rate screening limits determined under part (g)2 or 5 of this paragraph; and

B. Industrial furnaces that must comply with the alternative metals implementation approach under item (iii)II of this

part must specify limits on the concentration of each metal in the collected particulate matter in lieu of feed rate limits for total feedstreams;

II. Total hazardous waste feed (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this paragraph); and

III. Total pumpable hazardous waste feed (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this paragraph);

(III) Total feed rate of chlorine and chloride in total feed streams, except that facilities that comply with Tier I or Adjusted Tier I feed rate screening limits may set their operating limits at the total chlorine and chloride feed rate screening limits determined under subpart (h)2(i) or part (h)5 of this paragraph;

(IV) Total feed rate of ash in total feed streams, except that the ash feed rate for cement kilns and light-weight aggregate kilns is not limited;

(V) Carbon monoxide concentration, and where required, hydrocarbon concentration in stack gas. When complying with the CO controls of part (e)2 of this paragraph, the CO limit is 100 ppmv, and when complying with the HC controls of part (e)3 of this paragraph, the HC limit is 20 ppmv. When complying with the CO controls of part (e)3 of this paragraph, the CO limit is established based on the compliance test;

(VI) Maximum production rate of the device in appropriate units when producing normal product, unless complying with the Tier I or Adjusted Tier I feed rate screening limits for chlorine under subpart (h)2(i) or part (h)5 of this paragraph and for all metals under part (g)2 or 5 of this paragraph, and the uncontrolled particulate emissions do not exceed the standard under subparagraph (f) of this paragraph;

(VII) Maximum combustion chamber temperature where the temperature measurement is as close to the combustion zone as possible and is upstream of any quench water injection (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this paragraph);

(VIII) Maximum flue gas temperature entering a particulate matter control device (unless complying with Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this paragraph and the total chlorine and chloride feed rate screening limits under part (h)2 or 5 of this paragraph);

(IX) For systems using wet scrubbers, including wet ionizing scrubbers (unless complying with Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this paragraph and the total chlorine and chloride feed rate screening limits under subpart (h)2(i) or part (h)5 of this paragraph):

I. Minimum liquid to flue gas ratio;

II. Minimum scrubber blowdown from the system or maximum suspended solids content of scrubber water; and

III. Minimum pH level of the scrubber water;

(X) For systems using venturi scrubbers, the minimum differential gas pressure across the venturi (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this paragraph and the total chlorine and chloride feed rate screening limits under subpart (h)2(i) or part (h)5 of this paragraph);

(XI) For systems using dry scrubbers (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this paragraph and the total chlorine and chloride feed rate screening limits under subpart (h)2(i) or part (h)5 of this paragraph):

I. Minimum caustic feed rate; and

II. Maximum flue gas flow rate;

(XII) For systems using wet ionizing scrubbers or electrostatic precipitators (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this paragraph and the total chlorine and chloride feed rate screening limits under subpart (h)2(i) or part (h)5 of this paragraph):

I. Minimum electrical power in kilovolt amperes (kVA) to the precipitator plates; and

II. Maximum flue gas flow rate;

(XIII) For systems using fabric filters (baghouses), the minimum pressure drop (unless complying with the Tier I or Adjusted Tier I metal feed rate screening limits under part (g)2 or 5 of this paragraph and the total chlorine and chloride feed rate screening limits under subpart (h)2(i) or part (h)5 of this paragraph).

(ii) Prior Notice of Compliance Testing

At least 30 days prior to the compliance testing required by subpart (iii) of this part, the owner or operator shall notify the Commissioner and submit the following information:

(I) General facility information including:

I. EPA facility ID number;

II. Facility name, contact person, telephone number, and address;

III. Person responsible for conducting compliance test, including company name, address, and telephone number, and a statement of qualifications;

IV. Planned date of the compliance test;

(II) Specific information on each device to be tested including:

I. Description of boiler or industrial furnace;

II. A scaled plot plan showing the entire facility and location of the boiler or industrial furnace;

III. A description of the air pollution control system;

IV. Identification of the continuous emission monitors that are installed, including:

A. Carbon monoxide monitor;

B. Oxygen monitor;

C. Hydrocarbon monitor, specifying the minimum temperature of the system and, if the temperature is less than 150 °C, an explanation of why a heated system is not used (see subpart (v) of this part) and a brief description of the sample gas conditioning system;

V. Indication of whether the stack is shared with another device that will be in operation during the compliance test;

VI. Other information useful to an understanding of the system design or operation.

(III) Information on the testing planned, including a complete copy of the test protocol and Quality Assurance/Quality Control (QA/QC) plan, and a summary description for each test providing the following information at a minimum:

I. Purpose of the test (e.g., demonstrate compliance with emissions of particulate matter); and

II. Planned operating conditions, including levels for each pertinent parameter specified in subpart (i) of this part.

(iii) Compliance Testing

(I) General

Compliance testing must be conducted under conditions for which the owner or operator has submitted a certification of precompliance under pat 2 of this of this subparagraph and under conditions established in the notification of compliance testing required by subpart (ii) of this part. The owner or operator may seek approval on a case-by-case basis to use compliance test data from one unit in lieu of testing a similar onsite unit. To support the request, the owner or operator must provide a comparison of the hazardous waste burned and other feedstreams, and the design, operation, and maintenance of both the tested unit and the similar unit. The Commissioner shall provide a written approval to use compliance test data in lieu of testing a similar unit if he finds that the hazardous wastes, the devices, and the operating conditions are sufficiently similar, and the data from the other compliance test is adequate to meet the requirements of this part.

(II) Special Requirements for Industrial Furnaces that Recycle Collected PM

Owners and operators of industrial furnaces that recycle back into the furnace particulate matter (PM) from the air pollution control system must comply with one of the following procedures for testing to determine compliance with the metals standards of part (g)3 or 4 of this subparagraph:

I. The special testing requirements prescribed in "Alternative

Method for Implementing Metals Controls" in Appendix IX of paragraph (30) of this rule; or

II. Stack emissions testing for a minimum of 6 hours each day while hazardous waste is burned during interim status. The testing must be conducted when burning normal hazardous waste for that day at normal feed rates for that day and when the air pollution control system is operated under normal conditions. During interim status, hazardous waste analysis for metals content must be sufficient for the owner or operator to determine if changes in metals content may affect the ability of the facility to meet the metals emissions standards established under part (g)3 or 4 of this subparagraph. Under this option, operating limits (under subpart (i) of this part) must be established during compliance testing under subpart 3(iii) of this subparagraph only on the following parameters:

A. Feed rate of total hazardous waste;

B. Total feed rate of chlorine and chloride in total feed streams;

C. Total feed rate of ash in total feed streams, except that the ash feed rate for cement kilns and light-weight aggregate kilns is not limited;

D. Carbon monoxide concentration, and where required, hydrocarbon concentration in stack gas;

E. Maximum production rate of the device in appropriate units when producing normal product; or

III. Conduct compliance testing to determine compliance with the metals standards to establish limits on the operating parameters of subpart (i) of this part only after the kiln system has been conditioned to enable it to reach equilibrium with respect to metals fed into the system and metals emissions. During conditioning, hazardous waste and raw materials having the same metals content as will be fed during the compliance test must be fed at the feed rates that will be fed during the compliance test.

(III) Conduct of Compliance Testing

I. If compliance with all applicable emissions standards of subparagraphs (e) through (h) of this paragraph is not demonstrated simultaneously during a set of test runs, the operating conditions of additional test runs required to demonstrate compliance with remaining emissions standards must be as close as possible to the original operating conditions.

II. Prior to obtaining test data for purposes of demonstrating compliance with the applicable emissions standards of subparagraphs (e) through (h) of this paragraph or establishing limits on operating parameters under this subparagraph, the facility must operate under compliance test conditions for a sufficient period to reach steady-state operations. Industrial furnaces that recycle collected particulate matter back into the furnace and that comply with subitems I or II of this subpart,

however, need not reach steady state conditions with respect to the flow of metals in the system prior to beginning compliance testing for metals.

III. Compliance test data on the level of an operating parameter for which a limit must be established in the certification of compliance must be obtained during emissions sampling for the pollutant(s) (i.e., metals, PM, HCl/Cl_2, organic compounds) for which the parameter must be established as specified by subpart (i) of this part.

(iv) Certification of Compliance

Within 90 days of completing compliance testing, the owner or operator must certify to the Commissioner compliance with the emissions standards of part (e)2, 3, and 5, subparagraphs (f), (g), and (h) of this paragraph, and subitem 1(v)(I)IV of this subparagraph. The certification of compliance must include the following information:

(I) General facility and testing information including:

I. EPA facility ID number;

II. Facility name, contact person, telephone number, and address;

III. Person responsible for conducting compliance testing, including company name, address, and telephone number, and a statement of qualifications;

IV. Date(s) of each compliance test;

V. Description of boiler or industrial furnace tested;

VI. Person responsible for quality assurance/quality control (QA/QC), title, and telephone number, and statement that procedures prescribed in the QA/QC plan submitted under item (ii)(III) of this part have been followed, or a description of any changes and an explanation of why changes were necessary;

VII. Description of any changes in the unit configuration prior to or during testing that would alter any of the information submitted in the prior notice of compliance testing under subpart (ii) of this part, and an explanation of why the changes were necessary;

VIII. Description of any changes in the planned test conditions prior to or during the testing that alter any of the information submitted in the prior notice of compliance testing under subpart (ii) of this part, and an explanation of why the changes were necessary; and

IX. The complete report on results of emissions testing.

(II) Specific information on each test including:

I. Purpose(s) of test (e.g., demonstrate conformance with the emissions limits for particulate matter, metals, HCl, Cl_2, and CO);

II. Summary of test results for each run and for each test including the following information:

A. Date of run;

B. Duration of run;

C. Time-weighted average and highest hourly rolling average CO level for each run and for the test;

D. Highest hourly rolling average HC level, if HC monitoring is required for each run and for the test;

E. If dioxin and furan testing is required under part (e)5 of this paragraph, time-weighted average emissions for each run and for the test of chlorinated dioxin and furan emissions, and the predicted maximum annual average ground level concentration of the toxicity equivalency factor;

F. Time-weighted average particulate matter emissions for each run and for the test;

G. Time-weighted average HCl and Cl_2 emissions for each run and for the test;

H. Time-weighted average emissions for the metals subject to regulation under subparagraph (g) of this paragraph for each run and for the test; and

I. QA/QC results.

(III) Comparison of the actual emissions during each test with the emissions limits prescribed by parts (e)2, 3, and 5 and subparagraphs (f), (g), and (h) of this paragraph and established for the facility in the certification of precompliance under part 2 of this subparagraph.

(IV) Determination of operating limits based on all valid runs of the compliance test for each applicable parameter listed in subpart (i) of this part using either of the following procedures:

I. Instantaneous Limits

A parameter may be measured and recorded on an instantaneous basis (i.e., the value that occurs at any time) and the operating limit specified as the time-weighted average during all runs of the compliance test; or

II. Hourly rolling average basis

A. The limit for a parameter may be established and continuously monitored on an hourly rolling average basis defined as follows:

(A) A continuous monitor is one which continuously samples the regulated parameter without interruption, and evaluates the detector response at least once each 15 seconds, and computes and records the average value at least every 60 seconds.

(B) An hourly rolling average is the arithmetic mean of the 60 most recent 1-minute average values recorded by the continuous monitoring system;

B. The operating limit for the parameter shall be established based on compliance test data as the average over all test runs of the highest hourly rolling average value for each run; or

III. Rolling average limits for carcinogenic metals and lead

Feed rate limits for the carcinogenic metals (i.e., arsenic, beryllium, cadmium and chromium) and lead may be established either on an hourly rolling average basis as prescribed by subitem 3(iv)(IV)II of this subparagraph or on (up to) a 24 hour rolling average basis. If the owner or operator elects to use an averaging period from 2 to 24 hours:

A. The feed rate of each metal shall be limited at any time to ten times the feed rate that would be allowed on an hourly rolling average basis;

B. The continuous monitor shall meet the following specifications:

(A) A continuous monitor is one which continuously samples the regulated parameter without interruption, and evaluates the detector response at least once each 15 seconds, and computes and records the average value at least every 60 seconds;

(B) The rolling average for the selected averaging period is defined as arithmetic mean of one hour block averages for the averaging period. A one hour block average is the arithmetic mean of the one minute averages recorded during the 60-minute period beginning at one minute after the beginning of preceding clock hour; and

C. The operating limit for the feed rate of each metal shall be established based on compliance test data as the average over all test runs of the highest hourly rolling average feed rate for each run; or

IV. Feed rate limits for metals, total chloride and chlorine, and ash

Feed rate limits for metals, total chlorine and chloride, and ash are established and monitored by knowing the concentration of the substance (i.e., metals, chloride/chlorine, and ash) in each feedstream and the flow rate of the feedstream. To monitor the feed rate of these substances, the flow rate of each feedstream must be monitored under the continuous monitoring requirements of subitems I through III of this item.

(V) Certification of Compliance Statement

The following statement shall accompany the certification of compliance:

"I certify under penalty of law that this information was prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gathered and evaluated the information and supporting documentation. Copies of all emissions tests, dispersion modeling results and other information used to determine conformance with the requirements of Rule 0400-12-01-.09(8)(d)3 are available at the facility and can be obtained from the facility contact person listed above. Based on my inquiry of the person or persons who manages the facility, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I also acknowledge that the operating conditions established in this certification pursuant to Rule 0400-12-01-.09(8)(d)3(iv)(IV) are enforceable limits at which the facility can legally operate during interim status until a revised certification of compliance is submitted."

(v) Special Requirements for HC Monitoring Systems

When an owner or operator is required to comply with the hydrocarbon (HC) controls provided by part (e)3 of this paragraph or subitem 1(v)(I)IV of this subparagraph, a conditioned gas monitoring system may be used in conformance with specifications provided in Appendix IX of paragraph (30) of this rule provided that the owner or operator submits a certification of compliance without using extensions of time provided by subpart (vii) of this part.

(vi) Special Operating Requirements for Industrial Furnaces that Recycle Collected PM

Owners and operators of industrial furnaces that recycle back into the furnace particulate matter (PM) from the air pollution control system must:

(I) When complying with the requirements of subitem (iii)(II)I of this part, comply with the operating requirements prescribed in "Alternative Method to Implement the Metals Controls" in Appendix IX of paragraph (30) of this rule; and

(II) When complying with the requirements of subitem (iii)(II)II of this part, comply with the operating requirements prescribed by that subitem.

(vii) Extensions of Time

(I) If the owner or operator does not submit a complete certification of compliance for all of the applicable emissions standards of subparagraph (e), (f), (g), and (h) of this paragraph by August 21, 1992, he/she must either:

I. Stop burning hazardous waste and begin closure activities under part 12 of this subparagraph for the hazardous waste portion of the facility; or

II. Limit hazardous waste burning only for purposes of compliance testing (and pretesting to prepare for compliance testing) a total period of 720 hours for the period of time beginning August 21, 1992, submit a notification to the Commissioner by August 21, 1992 stating that the facility is operating under restricted interim status and intends to resume burning hazardous waste, and

submit a complete certification of compliance by August 23, 1993; or

III. Obtain a case-by-case extension of time under item (II) of this subpart.

(II) The owner or operator may request a case-by-case extension of time to extend any time limit provided by part 3 of this subparagraph if compliance with the time limit is not practicable for reasons beyond the control of the owner or operator.

I. In granting an extension, the Commissioner may apply conditions as the facts warrant to ensure timely compliance with the requirements of this subparagraph and that the facility operates in a manner that does not pose a hazard to human health and the environment;

II. When an owner or operator requests an extension of time to enable the facility to comply with the alternative hydrocarbon provisions of part (e)6 of this paragraph and obtain a operating permit because the facility cannot meet the HC limit of part (e)3 of this paragraph:

A. The Commissioner shall, in considering whether to grant the extension:

(A) Determine whether the owner and operator have submitted in a timely manner a complete Part B permit application that includes information required under Rule 0400-12-01-.07(2); and

(B) Consider whether the owner and operator have made a good faith effort to certify compliance with all other emission controls, including the controls on dioxins and furans of part (e)5 of this paragraph and the controls on PM, metals, and HCl/Cl_2.

B. If an extension is granted, the Director shall, as a condition of the extension, require the facility to operate under flue gas concentration limits on CO and HC that, based on available information, including information in the Part B permit application, are baseline CO and HC levels as defined by subpart (e)6(i) of this paragraph.

(viii) Revised Certification of Compliance

The owner or operator may submit at any time a revised certification of compliance (recertification of compliance) under the following procedures:

(I) Prior to submittal of a revised certification of compliance, hazardous waste may not be burned for more than a total of 720 hours under operating conditions that exceed those established under a current certification of compliance, and such burning may be conducted only for purposes of determining whether the facility can operate under revised conditions and continue to meet the applicable emissions standards of subparagraphs (e), (f), (g), and (h) of this paragraph;

(II) At least 30 days prior to first burning hazardous waste under operating

conditions that exceed those established under a current certification of compliance, the owner or operator shall notify the Commissioner and submit the following information:

I. EPA facility ID number, and facility name, contact person, telephone number, and address;

II. Operating conditions that the owner or operator is seeking to revise and description of the changes in facility design or operation that prompted the need to seek to revise the operating conditions;

III. A determination that when operating under the revised operating conditions, the applicable emissions standards of subparagraphs (e), (f), (g), and (h) of this paragraph are not likely to be exceeded. To document this determination, the owner or operator shall submit the applicable information required under subpart 2(ii) of this subparagraph; and

IV. Complete emissions testing protocol for any pretesting and for a new compliance test to determine compliance with the applicable emissions standards of subparagraphs (e), (f), (g), and (h) of this paragraph when operating under revised operating conditions. The protocol shall include a schedule of pre-testing and compliance testing. If the owner and operator revises the scheduled date for the compliance test, he/she shall notify the Commissioner in writing at least 30 days prior to the revised date of the compliance test;

(III) Conduct a compliance test under the revised operating conditions and the protocol submitted to the Commissioner to determine compliance with the applicable emissions standards of subparagraphs (e), (f), (g), and (h) of this paragraph; and

(IV) Submit a revised certification of compliance under subpart (iv) of this part.

4. Periodic Recertifications

The owner or operator must conduct compliance testing and submit to the Commissioner a recertification of compliance under provisions of part 3 of this subparagraph within five (5) years from submitting the previous certification or recertification. If the owner or operator seeks to recertify compliance under new operating conditions, he/she must comply with the requirements of subpart 3(viii) of this subparagraph.

5. Noncompliance with Certification Schedule

If the owner or operator does not comply with the interim status compliance schedule provided by parts 2, 3, and 4 of this subparagraph, hazardous waste burning must terminate on the date that the deadline is missed, closure activities must begin under part 12 of this subparagraph, and hazardous waste burning may not resume except under an operating permit issued under Rule 0400-12-01-.07(1)(j). For purposes of compliance with the closure provisions of part 12 of this subparagraph and Rules 0400-12-01-.05(7)(c)4(ii) and .05(7)(d) the boiler or industrial furnace has received "the known final volume of hazardous waste" on the date that the deadline is missed.

6. Start-up and Shut-down

Hazardous waste (except waste fed solely as an ingredient under the Tier I (or adjusted

Tier I) feed rate screening limits for metals and chloride/chlorine) must not be fed into the device during start-up and shut-down of the boiler or industrial furnace, unless the device is operating within the conditions of operation specified in the certification of compliance.

7. Automatic Waste Feed Cutoff

During the compliance test required by subpart 3(iii) of this subparagraph, and upon certification of compliance under part 3 of this subparagraph, a boiler or industrial furnace must be operated with a functioning system that automatically cuts off the hazardous waste feed when the applicable operating conditions specified in items 3(i)(I) and (V) through (XIII) of this subparagraph deviate from those established in the certification of compliance. In addition:

(i) To minimize emissions of organic compounds, the minimum combustion chamber temperature (or the indicator of combustion chamber temperature) that occurred during the compliance test must be maintained while hazardous waste or hazardous waste residues remain in the combustion chamber, with the minimum temperature during the compliance test defined as either:

(I) If compliance with the combustion chamber temperature limit is based on an hourly rolling average, the minimum temperature during the compliance test is considered to be the average over all runs of the lowest hourly rolling average for each run; or

(II) If compliance with the combustion chamber temperature limit is based on an instantaneous temperature measurement, the minimum temperature during the compliance test is considered to be the time-weighted average temperature during all runs of the test; and

(ii) Operating parameters limited by the certification of compliance must continue to be monitored during the cutoff, and the hazardous waste feed shall not be restarted until the levels of those parameters comply with the limits established in the certification of compliance.

8. Fugitive Emissions

Fugitive emissions must be controlled by:

(i) Keeping the combustion zone totally sealed against fugitive emissions; or

(ii) Maintaining the combustion zone pressure lower than atmospheric pressure; or

(iii) An alternate means of control that the owner or operator can demonstrate provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure. Support for such demonstration shall be included in the operating record.

9. Changes

A boiler or industrial furnace must cease burning hazardous waste when changes in combustion properties, or feed rates of the hazardous waste, other fuels, or industrial furnace feedstocks, or changes in the boiler or industrial furnace design or operating conditions deviate from the limits specified in the certification of compliance.

10. Monitoring and Inspections

(i) The owner or operator must monitor and record the following, at a minimum, while burning hazardous waste:

(I) Feed rates and composition of hazardous waste, other fuels, and industrial furnace feed stocks, and feed rates of ash, metals, and total chloride and chlorine as necessary to ensure conformance with the certification of precompliance or certification of compliance;

(II) Carbon monoxide (CO), oxygen, and if applicable, hydrocarbons (HC), on a continuous basis at a common point in the boiler or industrial furnace downstream of the combustion zone and prior to release of stack gases to the atmosphere in accordance with the operating limits specified in the certification of compliance. CO, HC, and oxygen monitors must be installed, operated, and maintained in accordance with methods specified in Appendix IX of this rule;

(III) Upon the request of the Commissioner, sampling and analysis of the hazardous waste (and other fuels and industrial furnace feed stocks as appropriate) and the stack gas emissions must be conducted to verify that the operating conditions established in the certification of precompliance or certification of compliance achieve the applicable standards of subparagraphs (e), (f), (g), and (h) of this paragraph.

(ii) The boiler or industrial furnace and associated equipment (pumps, valves, pipes, fuel storage tanks, etc.) must be subjected to thorough visual inspection when they contain hazardous waste, at least daily for leaks, spills, fugitive emissions, and signs of tampering.

(iii) The automatic hazardous waste feed cutoff system and associated alarms must be tested at least once every 7 days when hazardous waste is burned to verify operability, unless the owner or operator can demonstrate that weekly inspections will unduly restrict or upset operations and that less frequent inspections will be adequate. Support for such demonstration shall be included in the operating record. At a minimum, operational testing must be conducted at least once every 30 days.

(iv) These monitoring and inspection data must be recorded and the records must be placed in the operating log.

11. Recordkeeping

The owner or operator must keep in the operating record of the facility all information and data required by this subparagraph for five (5) years, or as required by a permit issued after the effective date of this rulemaking, but no less than five (5) years.

12. Closure

At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the boiler or industrial furnace and must comply with Rules 0400-12-01-.05(7)(b) through (f).

(e) Standards to Control Organic Emissions [40 CFR 266.104]

1. DRE Standard

(i) General

Except as provided in subpart 1(iii) of this subparagraph, a boiler or industrial furnace burning hazardous waste must achieve a destruction and removal efficiency (DRE) of 99.99% for all organic hazardous constituents in the waste feed. To demonstrate conformance with this requirement, 99.99% DRE must be

demonstrated during a trial burn for each principal organic hazardous constituent (POHC) designated (under subpart (ii) of this part) in its permit for each waste feed. DRE is determined for each POHC from the following equation:

$$DRE = \left[1 - \frac{W_{out}}{W_{in}} \times 100 \right]$$

where:

W_{in} = Mass feed rate of one principal organic hazardous constituent (POHC) in the hazardous waste fired to the boiler or industrial furnace; and

W_{out} = Mass emission rate of the same POHC present in stack gas prior to release to the atmosphere.

(ii) Designation of POHCs

Principal organic hazardous constituents (POHCs) are those compounds for which compliance with the DRE requirements of this subparagraph shall be demonstrated in a trial burn in conformance with procedures prescribed in Rule 0400-12-01-.07(1)(j). One or more POHCs shall be designated by the Commissioner for each waste feed to be burned. POHCs shall be designated based on the degree of difficulty of destruction of the organic constituents in the waste and on their concentrations or mass in the waste feed considering the results of waste analyses submitted with Part B of the permit application. POHCs are most likely to be selected from among those compounds listed in Appendix VIII of Rule 0400-12-01-.02 that are also present in the normal waste feed. However, if the applicant demonstrates to the Commissioner's satisfaction that a compound not listed in Appendix VIII or not present in the normal waste feed is a suitable indicator of compliance with the DRE requirements of this subparagraph, that compound may be designated as a POHC. Such POHCs need not be toxic or organic compounds.

(iii) Dioxin-listed Waste

A boiler or industrial furnace burning hazardous waste containing (or derived from) Hazardous Wastes Codes F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999% for each POHC designated (under subpart (ii) of this part) in its permit. This performance must be demonstrated on POHCs that are more difficult to burn than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each POHC from the equation in subpart (ii) of this part. In addition, the owner or operator of the boiler or industrial furnace must notify the Commissioner of intent to burn Hazardous Waste Codes F020, F021, F022, F023, F026, or F027.

(iv) Automatic Waiver of DRE Trial Burn

Owners and operators of boilers operated under the special operating requirements provided by subparagraph (k) of this paragraph are considered to be in compliance with the DRE standard of subpart (ii) of this part and are exempt from the DRE trial burn.

(v) Low Risk Waste

Owners and operators of boilers or industrial furnaces that burn hazardous waste in compliance with the requirements of part (j)1 of this paragraph are considered to be in compliance with the DRE standard of subpart (ii) of this part and are exempt from the DRE trial burn.

2. Carbon Monoxide Standard

(i) Except as provided in part 3 of this subparagraph, the stack gas concentration of carbon monoxide (CO) from a boiler or industrial furnace burning hazardous waste cannot exceed 100 ppmv on an hourly rolling average basis (i.e., over any 60 minute period), continuously corrected to 7 percent oxygen, dry gas basis.

(ii) CO and oxygen shall be continuously monitored in conformance with "Performance Specifications for Continuous Emission Monitoring of Carbon Monoxide and Oxygen for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste" in Appendix IX of paragraph (30) of this rule.

(iii) Compliance with the 100 ppmv CO limit must be demonstrated during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). To demonstrate compliance, the highest hourly rolling average CO level during any valid run of the trial burn or compliance test must not exceed 100 ppmv.

3. Alternative Carbon Monoxide Standard

(i) The stack gas concentration of carbon monoxide (CO) from a boiler or industrial furnace burning hazardous waste may exceed the 100 ppmv limit provided that stack gas concentrations of hydrocarbons (HC) do not exceed 20 ppmv, except as provided by part 6 of this subparagraph for certain industrial furnaces.

(ii) HC limits must be established under this subparagraph on an hourly rolling average basis (i.e., over any 60 minute period), reported as propane, and continuously corrected to 7 percent oxygen, dry gas basis.

(iii) HC shall be continuously monitored in conformance with "Performance Specifications for Continuous Emission Monitoring of Hydrocarbons for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste" in Appendix IX of paragraph (30) of this rule. CO and oxygen shall be continuously monitored in conformance with subpart 2(ii) of this subparagraph.

(iv) The alternative CO standard is established based on CO data during the trial burn (for a new facility) and the compliance test (for an interim status facility). The alternative CO standard is the average over all valid runs of the highest hourly average CO level for each run. The CO limit is implemented on an hourly rolling average basis, and continuously corrected to 7 percent oxygen, dry gas basis.

4. Special Requirements for Furnaces

Owners and operators of industrial furnaces (e.g., kilns, cupolas) that feed hazardous waste for a purpose other than solely as an ingredient (see item (d)1(v)(II) of this paragraph) at any location other than the end where products are normally discharged and where fuels are normally fired must comply with the hydrocarbon limits provided by parts 3 or 6 of this subparagraph irrespective of whether stack gas CO concentrations meet the 100 ppmv limit of part 2 of this subparagraph.

5. Controls for Dioxins and Furans

Owners and operators of boilers and industrial furnaces that are equipped with a dry

particulate matter control device that operates within the temperature range of 450-750 °F, and industrial furnaces operating under an alternative hydrocarbon limit established under part 6 of this subparagraph must conduct a site-specific risk assessment as follows to demonstrate that emissions of chlorinated dibenzo-p-dioxins and dibenzofurans do not result in an increased lifetime cancer risk to the hypothetical maximum exposed individual (MEI) exceeding 1 in 100,000:

(i) During the trial burn (for new facilities or an interim status facility applying for a permit) or compliance test (for interim status facilities), determine emission rates of the tetra-octa congeners of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs/CDFs) using Method 0023A. Sampling Method for Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans Emissions from Stationary Sources, EPA Publication SW-846, as listed in Rule 0400-12-01-.01(2)(b);

(ii) Estimate the 2,3,7,8-TCDD toxicity equivalence of the tetra-octa CDDs/CDFs congeners using "Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners" in Appendix IX of paragraph (30) of this rule. Multiply the emission rates of CDD/CDF congeners with a toxicity equivalence greater than zero (see the procedure) by the calculated toxicity equivalence factor to estimate the equivalent emission rate of 2,3,7,8-TCDD;

(iii) Conduct dispersion modeling using methods recommended in 40 CFR Part 51, Appendix W to Part 51 ("Guideline on Air Quality Models (Revised)" (1986) and its supplements), the "Hazardous Waste Combustion Air Quality Screening Procedure", provided in Appendix IX of paragraph (30) of this rule, or in Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised (listed in Rule 0400-12-01-.01(2)(b)) to predict the maximum annual average off-site ground level concentration of 2,3,7,8-TCDD equivalents determined under subpart (ii) of this part. The maximum annual average concentration must be used when a person resides on-site; and

(iv) The ratio of the predicted maximum annual average ground level concentration of 2,3,7,8-TCDD equivalents to the risk-specific dose for 2,3,7,8-TCDD provided in Appendix V of this rule (2.2×10^{-7}) shall not exceed 1.0.

6. Monitoring CO and HC in the By-pass Duct of a Cement Kiln

Cement kilns may comply with the carbon monoxide and hydrocarbon limits provided by parts 2, 3, and 4 of this subparagraph by monitoring in the by-pass duct provided that:

(i) Hazardous waste is fired only into the kiln and not at any location downstream from the kiln exit relative to the direction of gas flow; and

(ii) The by-pass duct diverts a minimum of 10% of kiln off-gas into the duct.

7. Use of Emissions Test Data to Demonstrate Compliance and Establish Operating Limits

Compliance with the requirements of this subparagraph must be demonstrated simultaneously by emissions testing or during separate runs under identical operating conditions. Further, data to demonstrate compliance with the CO and HC limits of this subparagraph or to establish alternative CO or HC limits under this subparagraph must be obtained during the time that DRE testing, and where applicable, CDD/CDF testing under part 5 of this subparagraph and comprehensive organic emissions testing under part 6 of this subparagraph is conducted.

8. Enforcement

For the purposes of permit enforcement, compliance with the operating requirements

specified in the permit (under subparagraph (c) of this paragraph) will be regarded as compliance with this subparagraph. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this subparagraph may be "information" justifying modification or revocation and re-issuance of a permit under Rule 0400-12-01-.07(9).

(f) Standards to Control Particulate Matter [40 CFR 266.105]

1. A boiler or industrial furnace burning hazardous waste may not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) after correction to a stack gas concentration of 7% oxygen, using procedures prescribed in 40 CFR Part 60, appendix A, methods 1 through 5, and Appendix IX of paragraph (30) of this rule.

2. An owner or operator meeting the requirements of part (j)2 of this paragraph for the low risk waste exemption is exempt from the particulate matter standard.

3. Oxygen correction

(i) Measured pollutant levels must be corrected for the amount of oxygen in the stack gas according to the formula:

$$Pc = Pm \times 14/(E-Y)$$

Where:

Pc is the corrected concentration of the pollutant in the stack gas;

Pm is the measured concentration of the pollutant in the stack gas;

E is the oxygen concentration on a dry basis in the combustion air fed to the device; and

Y is the measured oxygen concentration on a dry basis in the stack.

(ii) For devices that feed normal combustion air, E will equal 21 percent.

For devices that feed oxygen-enriched air for combustion (that is, air with an oxygen concentration exceeding 21 percent), the value of E will be the concentration of oxygen in the enriched air.

(iii) Compliance with all emission standards provided by this paragraph must be based on correcting to 7 percent oxygen using this procedure.

4. For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under subparagraph (c) of this paragraph) will be regarded as compliance with this subparagraph. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this subparagraph may be "information" justifying modification or revocation and re-issuance of a permit under Rule 0400-12-01-.07(9).

(g) Standards to Control Metals Emissions [40 CFR 266.106]

1. General

The owner or operator must comply with the metals standards provided by parts 2, 3, 4, 5, or 6 of this subparagraph for each metal listed in part 2 of this subparagraph that is present in the hazardous waste at detectable levels by using appropriate analytical procedures.

2. Tier I Feed Rate Screening Limits

Feed rate screening limits for metals are specified in Appendix I of this rule as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in subpart (vii) of this part.

(i) Noncarcinogenic Metals

The feed rates of antimony, barium, lead, mercury, thallium, and silver in all feed streams, including hazardous waste, fuels, and industrial furnace feed stocks shall not exceed the screening limits specified in Appendix I of this rule.

(I) The feed rate screening limits for antimony, barium, mercury, thallium, and silver are based on either:

I. An hourly rolling average as defined in subitem (c)5(vi)(I)II of this paragraph; or

II. An instantaneous limit not to be exceeded at any time.

(II) The feed rate screening limit for lead is based on one of the following:

I. An hourly rolling average as defined in subitem (c)5(vi)(I)II of this paragraph;

II. An averaging period of 2 to 24 hours as defined in item (c)5(vi)(II) of this paragraph with an instantaneous feed rate limit not to exceed 10 times the feed rate that would be allowed on an hourly rolling average basis; or

III. An instantaneous limit not to be exceeded at any time.

(ii) Carcinogenic Metals

(I) The feed rates of arsenic, cadmium, beryllium, and chromium in all feed streams, including hazardous waste, fuels, and industrial furnace feed stocks shall not exceed values derived from the screening limits specified in Appendix I of this rule. The feed rate of each of these metals is limited to a level such that the sum of the ratios of the actual feed rate to the feed rate screening limit specified in Appendix I shall not exceed 1.0, as provided by the following equation:

$$\sum_{i=1}^{n} \frac{AFR_{(i)}}{FRSL_{(i)}} \leq 1.0$$

where:

n = number of carcinogenic metals

AFR = actual feed rate to the device for metal "i"

FRSL = feed rate screening limit provided by Appendix I of this part for metal "i".

(II) The feed rate screening limits for the carcinogenic metals are based on either:

I. An hourly rolling average; or

II. An averaging period of 2 to 24 hours as defined in item (c)5(vi)(II) of this paragraph with an instantaneous feed rate limit not to exceed 10 times the feed rate that would be allowed on an hourly rolling average basis.

(iii) TESH

(I) The terrain-adjusted effective stack height is determined according to the following equation:

TESH = Ha+H1-Tr

where:

Ha = Actual physical stack height

H1 = Plume rise as determined from Appendix VI of this rule as a function of stack flow rate and stack gas exhaust temperature.

Tr = Terrain rise within five kilometers of the stack.

(II) The stack height may not exceed good engineering practice as specified in 40 CFR 51.100(ii).

(III) If the TESH for a particular facility is not listed in the table in the appendices, the nearest lower TESH listed in the table shall be used. If the TESH is four meters or less, a value of four meters shall be used.

(iv) Terrain Type

The screening limits are a function of whether the facility is located in noncomplex or complex terrain. A device located where any part of the surrounding terrain within 5 kilometers of the stack equals or exceeds the elevation of the physical stack height is considered to be in complex terrain and the screening limits for complex terrain apply. Terrain measurements are to be made from U.S. Geological Survey 7.5-minute topographic maps of the area surrounding the facility.

(v) Land Use

The screening limits are a function of whether the facility is located in an area where the land use is urban or rural. To determine whether land use in the vicinity of the facility is urban or rural, procedures provided in Appendix IX or Appendix X of this rule shall be used.

(vi) Multiple Stacks

Owners and operators of facilities with more than one on-site stack from a boiler, industrial furnace, incinerator, or other thermal treatment unit subject to controls of metals emissions under an operating permit or interim status controls must comply with the screening limits for all such units assuming all hazardous waste is fed into the device with the worst-case stack based on dispersion characteristics. The worst-case stack is determined from the following equation as applied to each stack:

K = HVT

Where:

K = a parameter accounting for relative influence of stack height and plume rise;

H = physical stack height (meters);

V = stack gas flow rate (m^3/second); and

T = exhaust temperature (°K).

The stack with the lowest value of K is the worst-case stack.

(vii) Criteria for Facilities Not Eligible for Screening Limits

If any criteria below are met, the Tier I and Tier II screening limits do not apply. Owners and operators of such facilities must comply with either the Tier III standards provided by part 4 of this subparagraph or with the adjusted Tier I feed rate screening limits provided by part 5 of this subparagraph.

(I) The device is located in a narrow valley less than one kilometer wide;

(II) The device has a stack taller than 20 meters and is located such that the terrain rises to the physical height within one kilometer of the facility;

(III) The device has a stack taller than 20 meters and is located within five kilometers of a shoreline of a large body of water such as an ocean or large lake;

(IV) The physical stack height of any stack is less than 2.5 times the height of any building within five building heights or five projected building widths of the stack and the distance from the stack to the closest boundary is within five building heights or five projected building widths of the associated building; or

(V) The Commissioner determines that standards based on site-specific dispersion modeling are required.

(viii) Implementation

The feed rate of metals in each feedstream must be monitored to ensure that the feed rate screening limits are not exceeded.

3. Tier II Emission Rate Screening Limits

Emission rate screening limits are specified in Appendix I as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in subpart 2(vii) of this subparagraph.

(i) Noncarcinogenic Metals

The emission rates of antimony, barium, lead, mercury, thallium, and silver shall not exceed the screening limits specified in Appendix I of this rule.

(ii) Carcinogenic Metals

The emission rates of arsenic, cadmium, beryllium, and chromium shall not exceed values derived from the screening limits specified in Appendix I of this rule. The emission rate of each of these metals is limited to a level such that the sum of the ratios of the actual emission rate to the emission rate screening limit specified in Appendix I shall not exceed 1.0, as provided by the following equation:

$$\sum_{i=1}^{n} \frac{AER_{(i)}}{ERSL_{(i)}} \leq 1.0$$

where:

n = number of carcinogenic metals

AER = actual emission rate for metal "i"

ERSL = emission rate screening limit provided by appendix I of this part for metal "i".

(iii) Implementation

The emission rate limits must be implemented by limiting feed rates of the individual metals to levels during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). The feed rate averaging periods are the same as provided by items 2(i)(I) and (II) and 2(ii)(II) of this subparagraph. The feed rate of metals in each feedstream must be monitored to ensure that the feed rate limits for the feedstreams specified under subparagraphs (c) or (d) of this paragraph are not exceeded.

(iv) Definitions and Limitations

The definitions and limitations provided by part 2 of this subparagraph for the following terms also apply to the Tier II emission rate screening limits provided by this part: terrain-adjusted effective stack height, good engineering practice stack height, terrain type, land use, and criteria for facilities not eligible to use the screening limits.

(v) Multiple Stacks

(I) Owners and operators of facilities with more than one onsite stack from a boiler, industrial furnace, incinerator, or other thermal treatment unit subject to controls on metals emissions under a operating permit or interim status controls must comply with the emissions screening limits for any such stacks assuming all hazardous waste is fed into the device with the worst-case stack based on dispersion characteristics.

(II) The worst-case stack is determined by procedures provided in subpart 2(vi) of this subparagraph.

(III) For each metal, the total emissions of the metal from those stacks shall not exceed the screening limit for the worst-case stack.

4. Tier III and Adjusted Tier I Site-specific Risk Assessment

The requirements of this part apply to facilities complying with either the Tier III or Adjusted Tier I controls, except where specified otherwise.

(i) General

Conformance with the Tier III metals controls must be demonstrated by emissions testing to determine the emission rate for each metal. In addition, conformance with either the Tier III or Adjusted Tier I metals controls must be demonstrated by air dispersion modeling to predict the maximum annual average off-site ground level concentration for each metal, and a demonstration that acceptable ambient levels are not exceeded.

(ii) Acceptable Ambient Levels

Appendices IV and V of this rule list the acceptable ambient levels for purposes of this rule. Reference air concentrations (RACs) are listed for the noncarcinogenic metals and 10^{-5} risk-specific doses (RSDs) are listed for the carcinogenic metals. The RSD for a metal is the acceptable ambient level for that metal provided that only one of the four carcinogenic metals is emitted. If more than one carcinogenic metal is emitted, the acceptable ambient level for the carcinogenic metals is a fraction of the RSD as described in subpart (iii) of this part.

(iii) Carcinogenic Metals

For the carcinogenic metals, arsenic, cadmium, beryllium, and chromium, the sum of the ratios of the predicted maximum annual average off-site ground level concentrations (except that on-site concentrations must be considered if a person resides on site) to the risk-specific dose (RSD) for all carcinogenic metals emitted shall not exceed 1.0 as determined by the following equation:

$$\sum_{i=1}^{n} \frac{\text{Predicted Ambient Concentration}_{(i)}}{\text{Risk-Specific Dose}_{(i)}} \leq 1.0$$

where: n = number of carcinogenic metals

(iv) Noncarcinogenic Metals

For the noncarcinogenic metals, the predicted maximum annual average off-site ground level concentration for each metal shall not exceed the reference air concentration (RAC).

(v) Multiple Stacks

Owners and operators of facilities with more than one on-site stack from a boiler, industrial furnace, incinerator, or other thermal treatment unit subject to controls on metals emissions under a operating permit or interim status controls must conduct emissions testing (except that facilities complying with Adjusted Tier I controls need not conduct emissions testing) and dispersion modeling to demonstrate that the aggregate emissions from all such on-site stacks do not result in an exceedance of the acceptable ambient levels.

(vi) Implementation

Under Tier III, the metals controls must be implemented by limiting feed rates of the individual metals to levels during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). The feed rate averaging periods are the same as provided by items 2(i)(I) and (II) and 2(ii)(II) of this subparagraph. The feed rate of metals in each feedstream must be monitored to ensure that the feed rate limits for the

feedstreams specified under subparagraph (c) or (d) of this paragraph are not exceeded.

5. Adjusted Tier I Feed Rate Screening Limits

The owner or operator may adjust the feed rate screening limits provided by appendix I of this part to account for site-specific dispersion modeling. Under this approach, the adjusted feed rate screening limit for a metal is determined by back-calculating from the acceptable ambient level provided by Appendices IV and V of this rule using dispersion modeling to determine the maximum allowable emission rate. This emission rate becomes the adjusted Tier I feed rate screening limit. The feed rate screening limits for carcinogenic metals are implemented as prescribed in subpart 2(ii) of this subparagraph.

6. Alternative Implementation Approaches

(i) The Commissioner may approve on a case-by-case basis approaches to implement the Tier II or Tier III metals emission limits provided by parts 3 or 4 of this subparagraph alternative to monitoring the feed rate of metals in each feedstream.

(ii) The emission limits provided by part 4 of this subparagraph must be determined as follows:

(I) For each noncarcinogenic metal, by back-calculating from the RAC provided in Appendix IV of this rule to determine the allowable emission rate for each metal using the dilution factor for the maximum annual average ground level concentration predicted by dispersion modeling in conformance with part 8 of this subparagraph; and

(II) For each carcinogenic metal by:

I. Back-calculating from the RSD provided in Appendix V of this rule to determine the allowable emission rate for each metal if that metal were the only carcinogenic metal emitted using the dilution factor for the maximum annual average ground level concentration predicted by dispersion modeling in conformance with part 8 of this subparagraph; and

II. If more than one carcinogenic metal is emitted, selecting an emission limit for each carcinogenic metal not to exceed the emission rate determined by subitem I of this item such that the sum for all carcinogenic metals of the ratios of the selected emission limit to the emission rate determined by that part does not exceed 1.0.

7. Emission Testing

(i) General

Emission testing for metals shall be conducted using Method 0060, Determinations of Metals in Stack Emissions, EPA Publication SW-846, listed in Rule 0400-12-01-.01(2)(b).

(ii) Hexavalent Chromium

Emissions of chromium are assumed to be hexavalent chromium unless the owner or operator conducts emissions testing to determine hexavalent chromium emissions using procedures prescribed in Method 0061, Determination of Hexavalent Chromium Emissions from Stationary Sources, EPA Publication SW-

846, listed in Rule 0400-12-01-.01(2)(b).

8. Dispersion Modeling

Dispersion modeling required under this subparagraph shall be conducted according to methods recommended in 40 CFR Part 51, Appendix W to Part 51 ("Guideline on Air Quality Models (Revised)" (1986) and its supplements), the "Hazardous Waste Combustion Air Quality Screening Procedure", provided in Appendix IX of this rule, or in Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised (listed in Rule 0400-12-01-.01(2)(b)) to predict the maximum annual average off-site ground level concentration. However, on-site concentrations must be considered when a person resides on-site.

9. Enforcement

For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under subparagraph (c) of this paragraph) will be regarded as compliance with this subparagraph. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this subparagraph may be "information" justifying modification or revocation and re-issuance of a permit under Rule 0400-12-01-.07(9).

(h) Standards to Control Hydrogen Chloride (HCl) and Chlorine Gas (Cl_2) Emissions [40 CFR 266.107]

1. General

The owner or operator must comply with the hydrogen chloride (HCl) and chlorine (Cl_2) controls provided by part 2, 3, or 5 of this subparagraph.

2. Screening Limits

(i) Tier I Feed Rate Screening Limits

Feed rate screening limits are specified for total chlorine in Appendix II of this rule as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. The feed rate of total chlorine and chloride, both organic and inorganic, in all feed streams, including hazardous waste, fuels, and industrial furnace feed stocks shall not exceed the levels specified.

(ii) Tier II Emission Rate Screening Limits

Emission rate screening limits for HCl and Cl_2 are specified in Appendix III of this rule as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. The stack emission rates of HCl and Cl_2 shall not exceed the levels specified.

(iii) Definitions and Limitations

The definitions and limitations provided by part (g)2 of this paragraph for the following terms also apply to the screening limits provided by this subpart: terrain-adjusted effective stack height, good engineering practice stack height, terrain type, land use, and criteria for facilities not eligible to use the screening limits.

(iv) Multiple Stacks

Owners and operators of facilities with more than one on-site stack from a boiler, industrial furnace, incinerator, or other thermal treatment unit subject to controls

on HCl or Cl_2 emissions under a operating permit or interim status controls must comply with the Tier I and Tier II screening limits for those stacks assuming all hazardous waste is fed into the device with the worst-case stack based on dispersion characteristics.

(I) The worst-case stack is determined by procedures provided in subpart (g)2(vi) of this paragraph.

(II) Under Tier I, the total feed rate of chlorine and chloride to all subject devices shall not exceed the screening limit for the worst-case stack.

(III) Under Tier II, the total emissions of HCl and Cl_2 from all subject stacks shall not exceed the screening limit for the worst-case stack.

3. Tier III Site-specific Risk Assessments

(i) General

Conformance with the Tier III controls must be demonstrated by emissions testing to determine the emission rate for HCl and Cl_2, air dispersion modeling to predict the maximum annual average off-site ground level concentration for each compound, and a demonstration that acceptable ambient levels are not exceeded.

(ii) Acceptable Ambient Levels

Appendix IV of this rule lists the reference air concentrations (RACs) for HCl (7 micrograms per cubic meter) and Cl_2 (0.4 micrograms per cubic meter).

(iii) Multiple Stacks

Owners and operators of facilities with more than one on-site stack from a boiler, industrial furnace, incinerator, or other thermal treatment unit subject to controls on HCl or Cl_2 emissions under a operating permit or interim status controls must conduct emissions testing and dispersion modeling to demonstrate that the aggregate emissions from all such on-site stacks do not result in an exceedance of the acceptable ambient levels for HCl and Cl_2.

4. Averaging Periods

The HCl and Cl_2 controls are implemented by limiting the feed rate of total chlorine and chloride in all feedstreams, including hazardous waste, fuels, and industrial furnace feed stocks. Under Tier I, the feed rate of total chloride and chlorine is limited to the Tier I Screening Limits. Under Tier II and Tier III, the feed rate of total chloride and chlorine is limited to the feed rates during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). The feed rate limits are based on either:

(i) An hourly rolling average as defined in subpart (c)5(vi) of this paragraph; or

(ii) An instantaneous basis not to be exceeded at any time.

5. Adjusted Tier I Feed Rate Screening Limits

The owner or operator may adjust the feed rate screening limit provided by Appendix II of this rule to account for site-specific dispersion modeling. Under this approach, the adjusted feed rate screening limit is determined by back-calculating from the acceptable ambient level for Cl_2 provided by Appendix IV of this rule using dispersion modeling to determine the maximum allowable emission rate. This emission rate becomes the

adjusted Tier I feed rate screening limit.

6. Emissions Testing

Emissions testing for HCl and Cl_2 shall be conducted using the procedures described in Methods 0050 or 0051, EPA Publication SW-846, listed in Rule 0400-12-01-.01(2)(b).

7. Dispersion Modeling

Dispersion modeling shall be conducted according to the provisions of part (g)8 of this paragraph.

8. Enforcement

For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under subparagraph (c) of this paragraph) will be regarded as compliance with this subparagraph. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this subparagraph may be "information" justifying modification or revocation and re-issuance of a permit under Rule 0400-12-01-.07(9).

(i) Small Quantity On-site Burner Exemption [40 CFR 266.108]

1. Exempt Quantities

Owners and operators of facilities that burn hazardous waste in an on-site boiler or industrial furnace are exempt from the requirements of this subpart provided that:

(i) The quantity of hazardous waste burned in a device for a calendar month does not exceed the limits provided in the following table based on the terrain-adjusted effective stack height as defined in subpart (g)2(iii) of this paragraph:

Exempt Quantities for Small Quantity Burner Exemption

Terrain-adjusted Effective Stack Height of Device (meters)	Allowable Hazardous Waste Burning Rate (gallons/month)	Terrain-adjusted Effective Stack Height of Device (meters)	Allowable Hazardous Waste Burning Rate (Gallons/month)
0 to 3.9	0	40.0 to 44.9	210
4.0 to 5.9	13	45.0 to 49.9	260
6.0 to 7.9	18	50.0 to 54.9	330
8.0 to 9.9	27	55.0 to 59.9	400
10.0 to 11.9	40	60.0 to 64.9	490
12.0 to 13.9	48	65.0 to 69.9	610
14.0 to 15.9	59	70.0 to 74.9	680
16.0 to 17.9	69	75.0 to 79.9	760
18.0 to 19.9	76	80.0 to 84.9	850
20.0 to 21.9	84	85.0 to 89.9	960
22.0 to 23.9	93	90.0 to 94.9	1,100
24.0 to 25.9	100	95.0 to 99.9	1,200
26.0 to 27.9	110	100.0 to 104.9	1,300
28.0 to 29.9	130	105.0 to 109.9	1,500
30.0 to 34.9	140	110.0 to 114.9	1,700
35.0 to 39.9	170	115.0 or greater	1,900

(ii) The maximum hazardous waste firing rate does not exceed at any time 1 percent of the total fuel requirements for the device (hazardous waste plus other fuel) on a total heat input or mass input basis, whichever results in the lower mass feed rate of hazardous waste.

(iii) The hazardous waste has a minimum heating value of 5,000 Btu/lb, as generated; and

(iv) The hazardous waste fuel does not contain (and is not derived from) Hazardous Waste Codes F020, F021, F022, F023, F026, or F027.

2. Mixing With Nonhazardous Fuels

If hazardous waste fuel is mixed with a nonhazardous fuel, the quantity of hazardous waste before such mixing is used to comply with part 1 of this subparagraph.

3. Multiple Stacks

If an owner or operator burns hazardous waste in more than one on-site boiler or industrial furnace exempt under this subparagraph, the quantity limits provided by subpart 1(i) of this subparagraph are implemented according to the following equation:

$$\sum_{i=1}^{n} \frac{\text{Actual Quantity Burned}_{(i)}}{\text{Allowable Quantity Burned}_{(i)}} \leq 1.0$$

where:

n means the number of stacks;

Actual Quantity Burned means the waste quantity burned per month in device "i";

Allowed Quantity Burned means the maximum allowable exempt quantity for stack "i" from the table in subpart 1(i) of this subparagraph.

(Note: Hazardous wastes that are subject to the special requirements for small quantity generators under Rule 0400-12-01-.02(1)(e) may be burned in an off-site device under the exemption provided by subparagraph (i) of this paragraph, but must be included in the quantity determination for the exemption.)

4. Notification Requirements

The owner or operator of facilities qualifying for the small quantity burner exemption under this subparagraph must provide a one-time signed, written notice to the Department indicating the following:

(i) The combustion unit is operating as a small quantity burner of hazardous waste;

(ii) The owner and operator are in compliance with the requirements of this subparagraph; and

(iii) The maximum quantity of hazardous waste that the facility may burn per month as provided by subpart 1(i) of this subparagraph.

5. Recordkeeping Requirements

The owner or operator must maintain at the facility for at least three years sufficient records documenting compliance with the hazardous waste quantity, firing rate, and heating value limits of this subparagraph. At a minimum, these records must indicate the quantity of hazardous waste and other fuel burned in each unit per calendar month, and the heating value of the hazardous waste.

(j) Low Risk Waste Exemption [40 CFR 266.109]

1. Waiver of DRE Standard

The DRE standard of part (e)1 of this paragraph does not apply if the boiler or industrial furnace is operated in conformance with subpart (i) of this part and the owner or operator demonstrates by procedures prescribed in subpart (ii) of this part that the burning will not result in unacceptable adverse health effects.

(i) The device shall be operated as follows:

(I) A minimum of 50 percent of fuel fired to the device shall be fossil fuel, fuels derived from fossil fuel, tall oil, or, if approved by the Commissioner on a case-by-case basis, other nonhazardous fuel with combustion characteristics comparable to fossil fuel. Such fuels are termed "primary fuel" for purposes of this subparagraph. (Tall oil is a fuel derived from vegetable and rosin fatty acids.) The 50 percent primary fuel firing rate shall be determined on a total heat or mass input basis, whichever results in the greater mass feed rate of primary fuel fired;

(II) Primary fuels and hazardous waste fuels shall have a minimum as-fired heating value of 8,000 Btu/lb;

(III) The hazardous waste is fired directly into the primary fuel flame zone of the combustion chamber; and

(IV) The device operates in conformance with the carbon monoxide controls provided by subpart (e)2(i) of this paragraph. Devices subject to the exemption provided by this subparagraph are not eligible for the alternative carbon monoxide controls provided by part (e)3 of this paragraph.

(ii) Procedures to demonstrate that the hazardous waste burning will not pose unacceptable adverse public health effects are as follows:

(I) Identify and quantify those nonmetal compounds listed in Appendix VIII of Rule 0400-12-01-.02(5) that could reasonably be expected to be present in the hazardous waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained;

(II) Calculate reasonable, worst case emission rates for each constituent identified in item (I) of this subpart by assuming the device achieves 99.9 percent destruction and removal efficiency. That is, assume that 0.1 percent of the mass weight of each constituent fed to the device is emitted;

(III) For each constituent identified in item (I) of this subpart, use emissions dispersion modeling to predict the maximum annual average ground level concentration of the constituent.

I. Dispersion modeling shall be conducted using methods specified in part (g)8 of this paragraph.

II. Owners and operators of facilities with more than one on-site stack from a boiler or industrial furnace that is exempt under this subparagraph must conduct dispersion modeling of emissions from all stacks exempt under this subparagraph to predict ambient levels prescribed by this item;

(IV) Ground level concentrations of constituents predicted under item (III) of this subpart must not exceed the following levels:

I. For the noncarcinogenic compounds listed in Appendix IV of this rule, the levels established in Appendix IV;

II. For the carcinogenic compounds listed in Appendix V of this rule, the sum for all constituents of the ratios of the actual ground level concentration to the level established in Appendix V cannot exceed 1.0; and

III. For constituents not listed in Appendix IV or V, 0.1 micrograms per cubic meter.

2. Waiver of Particulate Matter Standard

The particulate matter standard of subparagraph (f) of this paragraph does not apply if:

(i) The DRE standard is waived under part 1 of this subparagraph; and

(ii) The owner or operator complies with the Tier I or adjusted Tier I metals feed rate screening limits provided by part (g)2 or 5 of this paragraph.

(k) Waiver of DRE Trial Burn for Boilers [40 CFR 266.110]

Boilers that operate under the special requirements of this subparagraph, and that do not burn hazardous waste containing (or derived from) Hazardous Waste Codes F020, F021, F022, F023, F026, or F027, are considered to be in conformance with the DRE standard of part (e)1 of this paragraph, and a trial burn to demonstrate DRE is waived. When burning hazardous waste:

1. A minimum of 50 percent of fuel fired to the device shall be fossil fuel, fuels derived from fossil fuel, tall oil, or, if approved by the Commissioner on a case-by-case basis, other nonhazardous fuel with combustion characteristics comparable to fossil fuel. Such fuels are termed "primary fuel" for purposes of this subparagraph. (Tall oil is a fuel derived from vegetable and rosin fatty acids.) The 50 percent primary fuel firing rate shall be determined on a total heat or mass input basis, whichever results in the greater mass feed rate of primary fuel fired;

2. Boiler load shall not be less than 40 percent. Boiler load is the ratio at any time of the total heat input to the maximum design heat input;

3. Primary fuels and hazardous waste fuels shall have a minimum as-fired heating value of 8,000 Btu/lb, and each material fired in a burner where hazardous waste is fired must have a heating value of at least 8,000 Btu/lb, as-fired;

4. The device shall operate in conformance with the carbon monoxide standard provided by subpart (e)2(i) of this paragraph. Boilers subject to the waiver of the DRE trial burn provided by this subparagraph are not eligible for the alternative carbon monoxide standard provided by part (e)3 of this paragraph;

5. The boiler must be a watertube type boiler that does not feed fuel using a stoker or stoker type mechanism; and

6. The hazardous waste shall be fired directly into the primary fuel flame zone of the combustion chamber with an air or steam atomization firing system, mechanical atomization system, or a rotary cup atomization system under the following conditions:

(i) Viscosity

The viscosity of the hazardous waste fuel as-fired shall not exceed 300 SSU;

(ii) Particle Size

When a high pressure air or steam atomizer, low pressure atomizer, or mechanical atomizer is used, 70% of the hazardous waste fuel must pass through a 200 mesh (74 micron) screen, and when a rotary cup atomizer is used, 70% of the hazardous waste must pass through a 100 mesh (150 micron) screen;

(iii) Mechanical Atomization Systems

Fuel pressure within a mechanical atomization system and fuel flow rate shall be maintained within the design range taking into account the viscosity and volatility of the fuel;

(iv) Rotary Cup Atomization Systems

Fuel flow rate through a rotary cup atomization system must be maintained within the design range taking into account the viscosity and volatility of the fuel.

(l) Standards for Direct Transfer [40 CFR 266.111]

1. Applicability

The regulations in this subparagraph apply to owners and operators of boilers and industrial furnaces subject to subparagraphs (c) or (d) of this paragraph if hazardous waste is directly transferred from a transport vehicle to a boiler or industrial furnace without the use of a storage unit.

2. Definitions

(i) When used in this subparagraph, the following terms have the meanings given below:

"Direct transfer equipment" means any device (including but not limited to, such devices as piping, fittings, flanges, valves, and pumps) that is used to distribute, meter, or control the flow of hazardous waste between a container (i.e., transport vehicle) and a boiler or industrial furnace.

"Container" means any portable device in which hazardous waste is transported, stored, treated, or otherwise handled, and includes transport vehicles that are containers themselves (e.g., tank trucks, tanker-trailers, and rail tank cars), and containers placed on or in a transport vehicle.

(ii) This subparagraph references several requirements provided in paragraph (9) and (10) of Rules 0400-12-01-.05 and .06. For purposes of this subparagraph, the term "tank systems" in those referenced requirements means direct transfer equipment as defined in subpart (i) of this part.

3. General Operating Requirements

(i) No direct transfer of a pumpable hazardous waste shall be conducted from an open-top container to a boiler or industrial furnace.

(ii) Direct transfer equipment used for pumpable hazardous waste shall always be closed, except when necessary to add or remove the waste, and shall not be opened, handled, or stored in a manner that may cause any rupture or leak.

(iii) The direct transfer of hazardous waste to a boiler or industrial furnace shall be conducted so that it does not:

(I) Generate extreme heat or pressure, fire, explosion, or violent reaction;

(II) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

(III) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(IV) Damage the structural integrity of the container or direct transfer equipment containing the waste;

(V) Adversely affect the capability of the boiler or industrial furnace to meet the standards provided by subparagraph (e) through (h) of this paragraph; or

(VI) Threaten human health or the environment.

(iv) Hazardous waste shall not be placed in direct transfer equipment, if it could cause the equipment or its secondary containment system to rupture, leak, corrode, or otherwise fail.

(v) The owner or operator of the facility shall use appropriate controls and practices to prevent spills and overflows from the direct transfer equipment or its secondary containment systems. These include at a minimum:

(I) Spill prevention controls (e.g., check valves, dry discount couplings); and

(II) Automatic waste feed cutoff to use if a leak or spill occurs from the direct transfer equipment.

4. Areas Where Direct Transfer Vehicles (containers) are Located

Applying the definition of container under this subparagraph, owners and operators must comply with the following requirements:

(i) The containment requirements of Rule 0400-12-01-.06(9)(f);

(ii) The use and management requirements of Rule 0400-12-01-.05(9), except for Rule 0400-12-01-.05(9)(a) and (9)(e), and except that in lieu of the special requirements of Rule 0400-12-01-.05(9)(g) for ignitable or reactive waste, the owner or operator may comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjacent property line that can be built upon as required in Tables 2-1 through 2-6 of the National Fire Protection Association's (NFPA) "Flammable and Combustible Liquids Code," (1977 or 1981) (listed in Rule 0400-12-01-.01(2)(b)). The owner or operator must obtain and keep on file at the facility a written certification by the local Fire Marshall that the installation meets the subject NFPA codes; and

(iii) The closure requirements of Rule 0400-12-01-.06(9)(i).

5. Direct Transfer Equipment

Direct transfer equipment must meet the following requirements:

(i) Secondary Containment

Owners and operators shall comply with the secondary containment

requirements of Rule 0400-12-01-.05(10)(d), except for parts 4, 5, and 9 of that rule as follows:

(I) For all new direct transfer equipment, prior to their being put into service; and

(II) For existing direct transfer equipment within 2 years after August 21, 1991.

(ii) Requirements Prior to Meeting Secondary Containment Requirements

(I) For existing direct transfer equipment that does not have secondary containment, the owner or operator shall determine whether the equipment is leaking or is unfit for use. The owner or operator shall obtain and keep on file at the facility a written assessment reviewed and certified by a qualified, registered professional engineer in accordance with Rule 0400-12-01-.07(2)(a)10 that attests to the equipment's integrity by August 21, 1992.

(II) This assessment shall determine whether the direct transfer equipment is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be transferred to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment shall consider the following:

I. Design standard(s), if available, according to which the direct transfer equipment was constructed;

II. Hazardous characteristics of the waste(s) that have been or will be handled;

III. Existing corrosion protection measures;

IV. Documented age of the equipment, if available, (otherwise, an estimate of the age); and

V. Results of a leak test or other integrity examination such that the effects of temperature variations, vapor pockets, cracks, leaks, corrosion, and erosion are accounted for.

(III) If, as a result of the assessment specified above, the direct transfer equipment is found to be leaking or unfit for use, the owner or operator shall comply with the requirements of Rules 0400-12-01-.05(10)(g)1 and 2.

(iii) Inspections and Recordkeeping

(I) The owner or operator must inspect at least once each operating hour when hazardous waste is being transferred from the transport vehicle (container) to the boiler or industrial furnace:

I. Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;

II. The above ground portions of the direct transfer equipment to detect corrosion, erosion, or releases of waste (e.g., wet spots, dead vegetation); and

III. Data gathered from monitoring equipment and leak-detection equipment, (e.g., pressure and temperature gauges) to ensure that the direct transfer equipment is being operated according to its design.

(II) The owner or operator must inspect cathodic protection systems, if used, to ensure that they are functioning properly according to the schedule provided by Rule 0400-12-01-.05(10)(f)2.

(III) Records of inspections made under this subpart shall be maintained in the operating record at the facility, and available for inspection for at least 3 years from the date of the inspection.

(iv) Design and Installation of New Ancillary Equipment

Owners and operators must comply with the requirements of Rule 0400-12-01-.05(10)(c).

(v) Response to Leaks or Spills

Owners and operators must comply with the requirements of Rule 0400-12-01-.05(10)(g).

(vi) Closure

Owners and operators must comply with the requirements of Rule 0400-12-01-.05(10)(h), except for subparts 3(ii) through 3(iv) of that rule.

(m) Regulation of Residues [40 CFR 266.112]

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of a hazardous waste under subparts (1)(d)2(xiii), (xv), or (xvi) of Rule 0400-12-01-.02 unless the device and the owner or operator meet the following requirements:

1. The device meets the following criteria:

(i) Boilers

Boilers must burn at least 50% coal on a total heat input or mass input basis, whichever results in the greater mass feed rate of coal;

(ii) Ore or Mineral Furnaces

Industrial furnaces subject to Rule 0400-12-01-.02(1)(d)2(xv) must process at least 50% by weight normal, nonhazardous raw materials;

(iii) Cement Kilns

Cement kilns must process at least 50% by weight normal cement-production raw materials;

2. The owner or operator demonstrates that the hazardous waste does not significantly affect the residue by demonstrating conformance with either of the following criteria:

(i) Comparison of Waste-derived Residue With Normal Residue

The waste-derived residue must not contain Appendix VIII, Rule 0400-12-01-.02(5) constituents (toxic constituents) that could reasonably be attributable to

the hazardous waste at concentrations significantly higher than in residue generated without burning or processing of hazardous waste, using the following procedure. Toxic compounds that could reasonably be attributable to burning or processing the hazardous waste (constituents of concern) include toxic constituents in the hazardous waste, and the organic compounds listed in Appendix VIII of this rule that may be generated as products of incomplete combustion. For polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans, analyses must be performed to determine specific congeners and homologues, and the results converted to 2, 3, 7, 8-TCDD equivalent values using the procedure specified in section 4.0 of the Methods Manual for Compliance with the BIF Regulations. (See Appendix IX of this rule.)

(I) Normal Residue

Concentrations of toxic constituents of concern in normal residue shall be determined based on analyses of a minimum of 10 samples representing a minimum of 10 days of operation. Composite samples may be used to develop a sample for analysis provided that the compositing period does not exceed 24 hours. The upper tolerance limit (at 95% confidence with a 95% proportion of the sample distribution) of the concentration in the normal residue shall be considered the statistically-derived concentration in the normal residue. If changes in raw materials or fuels reduce the statistically-derived concentrations of the toxic constituents of concern in the normal residue, the statistically-derived concentrations must be revised or statistically-derived concentrations of toxic constituents in normal residue must be established for a new mode of operation with the new raw material or fuel. To determine the upper tolerance limit in the normal residue, the owner or operator shall use statistical procedures prescribed in "Statistical Methodology for Bevill Residue Determinations" in Appendix IX of this rule.

(II) Waste-derived Residue

Waste-derived residue shall be sampled and analyzed as often as necessary to determine whether the residue generated during each 24-hour period has concentrations of toxic constituents that are higher than the concentrations established for the normal residue under item (I) of this subpart. If so, hazardous waste burning has significantly affected the residue and the residue shall not be excluded from the definition of a hazardous waste. Concentrations of toxic constituents of concern in the waste-derived residue shall be determined based on analysis of one or more samples obtained over a 24-hour period. Multiple samples may be analyzed, and multiple samples may be taken to form a composite sample for analysis provided that the sampling period does not exceed 24 hours. If more than one sample is analyzed to characterize waste-derived residues generated over a 24-hour period, the concentration of each toxic constituent shall be the arithmetic mean of the concentrations in the samples. No results may be disregarded; or

(ii) Comparison of Waste-derived Residue Concentrations With Health-based Limits

(I) Nonmetal Constituents

The concentration of each nonmetal toxic constituent of concern (specified in subpart (i) of this part) in the waste-derived residue must not exceed the health-based level specified in Appendix VII of this rule, or the level of detection, whichever is higher. If a health-based limit for a constituent of concern is not listed in Appendix VII of this rule, then a limit

of 0.002 micrograms per kilogram or the level of detection (which must be determined by using appropriate analytic procedures), whichever is higher, must be used. The levels specified in Appendix VII of this rule (and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in Note 1 of Appendix VII of this rule) are administratively stayed under the condition, for those constituents specified in subpart (i) of this part, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in Rule 0400-12-01-.10(3)(d) for F039 nonwastewaters. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of best good-faith efforts as defined by applicable Department guidance or standards, the owner or operator is deemed to be in compliance for that constituent. Until new guidance or standards are developed, the owner or operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above the level provided by Rule 0400-12-01-.10(3)(d) for F039 nonwastewaters. In complying with the Rule 0400-12-01-.10(3)(d) F039 nonwastewater levels for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, analyses must be performed for total hexachlorodibenzo-p-dioxins, total hexachlorodibenzofurans, total pentachlorobibenzo-p-dioxins, total pentachlorodibenzofurans, total tetrachlorodibenzo-p-dioxins, and total tetrachlorodibenzofurans.

Note to this item: The administrative stay, under the condition that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in § 268.43 of this chapter for F039 nonwastewaters, remains in effect until further administrative action is taken and notice is published in the Federal Register and the Code of Federal Regulations.

(II) Metal Constituents

The concentration of metals in an extract obtained using the Toxicity Characteristic Leaching Procedure of Rule 0400-12-01-.02(3)(e) must not exceed the levels specified in Appendix VII of this rule; and

(III) Sampling and Analysis

Waste-derived residue shall be sampled and analyzed as often as necessary to determine whether the residue generated during each 24-hour period has concentrations of toxic constituents that are higher than the health-based levels. Concentrations of toxic constituents of concern in the waste-derived residue shall be determined based on analysis of one or more samples obtained over a 24-hour period. Multiple samples may be analyzed, and multiple samples may be taken to form a composite sample for analysis provided that the sampling period does not exceed 24 hours. If more than one sample is analyzed to characterize waste-derived residues generated over a 24-hour period, the concentration of each toxic constituent shall be the arithmetic mean of the concentrations in the samples. No results may be disregarded; and

3. Records sufficient to document compliance with the provisions of this subparagraph shall be retained until closure of the boiler or industrial furnace unit. At a minimum, the following shall be recorded.

(i) Levels of constituents in Appendix VIII of Rule 0400-12-01-.02(5), that are present in waste-derived residues;

(ii) If the waste-derived residue is compared with normal residue under subpart 2(i) of this subparagraph:

(I) The levels of constituents in Appendix VIII of Rule 0400-12-01-.02(5), that are present in normal residues; and

(II) Data and information, including analyses of samples as necessary, obtained to determine if changes in raw materials or fuels would reduce the concentration of toxic constituents of concern in the normal residue.

(9) through (12) (RESERVED) [40 CFR 266 Subparts I through L]

(13) Military Munitions [40 CFR 266 Subpart M]

(a) Applicability [40 CFR 266.200]

1. The regulations in this paragraph identify when military munitions become a solid waste, and, if these wastes are also hazardous under this paragraph or Rule 0400-12-01-.02, the management standards that apply to these wastes.

2. Unless otherwise specified in this paragraph, all applicable requirements in Rule 0400-12-01-.01 through .10 apply to waste military munitions.

(b) Definitions [40 CFR 266.201]

In addition to the definitions in Rule 0400-12-01-.01(2)(a), the following definitions apply to this paragraph:

"Active range" means a military range that is currently in service and is being regularly used for range activities.

"Chemical agents and munitions" are defined as in 50 U.S.C. section 1521(j)(1).

"Explosives or munitions emergency response specialist" is as defined in Rule 0400-12-01-.01(2)(a).

"Explosives or munitions emergency" is as defined in Rule 0400-12-01-.01(2)(a).

"Explosives or munitions emergency response" is as defined in Rule 0400-12-01-.01(2)(a).

"Inactive range" means a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

"Military" means the Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

"Military munitions" is as defined in Rule 0400-12-01-.01(2)(a).

"Military range" means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

"Unexploded ordnance (UXO)" means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in

such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

(c) Definition of Solid Waste [40 CFR 266.202]

1. A military munition is not a solid waste when:

(i) Used for its intended purpose, including:

(I) Use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions); or

(II) Use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or

(III) Recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use.

(ii) An unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as defined in Rule 0400-12-01-.02(1)(b)3(i), or burning for energy recovery as defined in Rule 0400-12-01-.02(1)(b)3(ii).

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

(i) The munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in part 1 of this subparagraph), incinerated, or treated prior to disposal; or

(ii) The munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal; or

(iii) The munition is deteriorated or damaged (e.g., the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or

(iv) The munition has been declared a solid waste by an authorized military official.

3. A used or fired military munition is a solid waste:

(i) When transported off range or from the site of use, where the site of use is not a range, for the purposes of storage, reclamation, treatment, disposal, or treatment prior to disposal; or

(ii) If recovered, collected, and then disposed of by burial, or landfilling either on or off a range.

4. For purposes of Tennessee Code Annotated (T.C.A.) §68-212-104(17), a used or fired military munition is a solid waste, and, therefore, is potentially subject to corrective action authorities under T.C.A. §§68-212-108(l), and 68-212-111, or imminent and substantial endangerment authorities under T.C.A. §68-212-105, T.C.A. §68-212-111, T.C.A. §68-212-114, and T.C.A. §68-212-115, if the munition lands off-range and is not promptly

rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

(d) Standards Applicable to the Transportation of Solid Waste Military Munition [40 CFR 266.203]

1. Criteria for hazardous waste regulation of waste non-chemical military munitions in transportation.

(i) Waste military munitions that are being transported and that exhibit a hazardous waste characteristic or are listed as hazardous waste under Rule 0400-12-01-.02, are listed or identified as a hazardous waste (and thus are subject to regulation under Rule 0400-12-01-.01 through .10), unless all the following conditions are met:

(I) The waste military munitions are not chemical agents or chemical munitions;

(II) The waste military munitions must be transported in accordance with the Department of Defense shipping controls applicable to the transport of military munitions;

(III) The waste military munitions must be transported from a military owned or operated installation to a military owned or operated treatment, storage, or disposal facility; and

(IV) The transporter of the waste must provide oral notice to the Division Director within 24 hours from the time the transporter becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of this subpart that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within 5 days from the time the transporter becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of this subpart.

(ii) If any waste military munitions shipped under subpart (i) of this part are not received by the receiving facility within 45 days of the day the waste was shipped, the owner or operator of the receiving facility must report this non-receipt to the Director within 5 days.

(iii) The exemption in subpart (i) of this part from regulation as hazardous waste shall apply only to the transportation of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to storage, treatment or disposal.

(iv) The conditional exemption in subpart (i) of this part applies only so long as all of the conditions in subpart (i) of this part are met.

2. Reinstatement of exemption. If any waste military munition loses its exemption under subpart 1(i) of this subparagraph, an application may be filed with the Commissioner for reinstatement of the exemption from hazardous waste transportation regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of subpart 1(i) of this subparagraph. If the Commissioner finds that reinstatement of the exemption is appropriate based on factors such as the transporter's provision of a satisfactory explanation of the circumstances of the violation or a demonstration that the violations are not likely to recur, the Commissioner may reinstate the exemption under subpart 1(i) of this subparagraph. If the Commissioner does not take action on the reinstatement application within 60 days after receipt of the application,

then reinstatement shall be deemed granted, retroactive to the date of the application. However, the Commissioner may terminate a conditional exemption reinstated by default in the preceding sentence if the Commissioner finds that reinstatement is inappropriate based on factors such as the transporter's failure to provide a satisfactory explanation of the circumstances of the violation or failure to demonstrate that the violations are not likely to recur. In reinstating the exemption under subpart 1(i) of this subparagraph, the Commissioner may specify additional conditions as are necessary to ensure and document proper transportation to protect human health and the environment.

3. Amendments to DOD shipping controls. The Department of Defense shipping controls applicable to the transport of military munitions referenced in item 1(i)(II) of this subparagraph are Government Bill of Lading (GBL) (GSA Standard Form 1109), requisition tracking form DD Form 1348, the Signature and Talley Record (DD Form 1907), Special Instructions for Motor Vehicle Drivers (DD Form 836), and the Motor Vehicle Inspection Report (DD Form 626) in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the Department of Defense shipping controls shall become effective for purposes of subpart 1(i) of this subparagraph on the date the Department of Defense publishes notice in the Federal Register that the shipping controls referenced in item 1(i)(II) of this subparagraph have been amended.

(e) Standards Applicable to Emergency Responses [40 CFR 266.204]

Explosives and munitions emergencies involving military munitions or explosives are subject to Rules 0400-12-01-.03(1)(a)10, .04(1)(a)6, .06(1)(b)2(vii), .05(1)(b)2(vii), and .07(1)(b)5, or alternatively to .07(1)(d).

(f) Standards Applicable to the Storage of Solid Waste Military Munitions [40 CFR 266.205]

1. Criteria for hazardous waste regulation of waste non-chemical military munitions in storage.

(i) Waste military munitions in storage that exhibit a hazardous waste characteristic or are listed as hazardous waste under Rule 0400-12-01-.02 are listed or identified as a hazardous waste (and thus are subject to regulation under Rules 0400-12-01-.01 through .10), unless all the following conditions are met:

(I) The waste military munitions are not chemical agents or chemical munitions.

(II) The waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB).

(III) The waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions.

(IV) Within 90 days of August 12, 1997 or within 90 days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the Commissioner of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in subpart (i) of this part is claimed.

(V) The owner or operator must provide oral notice to the Commissioner within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of subpart (i) of this part that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within 5 days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of subpart (i) of this part.

(VI) The owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of subpart (i) of this part, and must maintain records of the findings of these inventories and inspections for at least three years.

(VII) Access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

(ii) The conditional exemption in subpart (i) of this part from regulation as hazardous waste shall apply only to the storage of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to transportation, treatment or disposal.

(iii) The conditional exemption in subpart (i) of this part applies only so long as all of the conditions in subpart (i) of this part are met.

2. Notice of termination of waste storage. The owner or operator must notify the Commissioner when a storage unit identified in subpart 1(i) of this subparagraph will no longer be used to store waste military munitions.

3. Reinstatement of conditional exemption. If any waste military munition loses its conditional exemption under subpart 1(i) of this subparagraph, an application may be filed with the Commissioner for reinstatement of the conditional exemption from hazardous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of subpart 1(i) of this subparagraph. If the Commissioner finds that reinstatement of the conditional exemption is appropriate based on factors such as the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation or a demonstration that the violations are not likely to recur, the Commissioner may reinstate the conditional exemption under subpart 1(i) of this subparagraph. If the Commissioner does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement shall be deemed granted, retroactive to the date of the application. However, the Commissioner may terminate a conditional exemption reinstated by default in the preceding sentence if he/she finds that reinstatement is inappropriate based on factors such as the owner's or operator's failure to provide a satisfactory explanation of the circumstances of the violation or failure to demonstrate that the violations are not likely to recur. In reinstating the conditional exemption under subpart 1(i) of this subparagraph, the Commissioner may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.

4. Waste chemical munitions.

(i) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under Rule 0400-12-01-.02, are listed or identified as a hazardous waste and shall be subject to the applicable regulatory requirements of Chapter 0400-12-01.

(ii) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under Rule 0400-12-01-.02 are not subject to the storage prohibition in Rule 0400-12-01-.10(4)(a).

5. Amendments to DDESB storage standards. The DDESB storage standards applicable to waste military munitions, referenced in item 1(i)(III) of this subparagraph, are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the DDESB storage standards shall become effective for purposes of subpart 1(i) of this

subparagraph on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in subpart 1(i) of this subparagraph have been amended.

(g) Standards Applicable to the Treatment and Disposal of Waste Military Munitions [40 CFR 266.206]

The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in Rules 0400-12-01-.01 through .10.

(14) Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal (40 CFR 266 Subpart N)

(a) Definitions

1. What definitions apply to this subpart? (266.210)

This part uses the following special definitions:

"Agreement State" means a state that has entered into an agreement with the NRC under subsection 274b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.

"Certified Delivery" means certified mail with return receipt requested, or equivalent courier service, or other means that provides the sender with a receipt confirming delivery.

"Commissioner" refers to the definition in Rule 0400-12-01-.01(2)(a).

"Eligible Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)" is NARM that is eligible for the Transportation and Disposal Conditional Exemption. It is a NARM waste that contains hazardous waste, meets the waste acceptance criteria of, and is allowed by Sate NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with 10 CFR Part 61 or NRC Agreement State equivalent regulations.

"Exempted Waste" means a waste that meets the eligibility criteria in part (b)6 of this paragraph and meets all of the conditions in part (b)11 of this paragraph, or meets the eligibility criteria in part (m)1 of this paragraph and complies with all the conditions in part (n)1 of this paragraph. Such waste is conditionally exempted from the regulatory definition of hazardous waste described in Rule 0400-12-01-.02(1)(c).

"Hazardous Waste" means any material which is defined to be hazardous waste in accordance with Rule 0400-12-01-.02(1)(c), "Definition of Hazardous Waste".

"Land Disposal Restriction (LDR) Treatment Standards" means treatment standards, under Rule 0400-12-01-.10 that a hazardous waste must meet before it can be disposed of in a hazardous waste land disposal unit.

"License" means a license issued by the Nuclear Regulatory Commission, or NRC Agreement State, to users that manage radionuclides regulated by NRC, or NRC Agreement States, under authority of the Atomic Energy Act of 1954, as mended.

"Low-Level Mixed Waste (LLMW)" is a waste that contains both low-level radioactive waste and hazardous waste.

"Low-Level Radioactive Waste (LLW) is a radioactive waste which contains source, special nuclear, or byproduct material, and which is not classified as high-level

radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11e.(2) of the Atomic Energy Act. (See also NRC definition of "waste" at 10 CFR 61.2.)

"Mixed Waste" means a waste that contains both hazardous waste and source, special nuclear, or byproduct material subject to the Atomic Energy Act of 1954, as amended.

"Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)" means radioactive materials that:

(i) Are naturally occurring and are not source, special nuclear, or byproduct materials (as defined by the AEA) or

(ii) Are produced by an accelerator. NARM is regulated by the States under State law or by DOE (as authorized by the AEA) under DOE orders.

"NRC" means the U.S. Nuclear Regulatory Commission.

"We" or "Us" within this paragraph means the Commissioner as defined in Rule 0400-12-01-.01(2)(a).

"You" means a generator, treater, or other handler of low-level mixed waste or eligible NARM.

2. through 5. (RESERVED)

(b) Storage and Treatment Conditional Exemption and Eligibility

1. What does a storage and treatment conditional exemption do? (266.220)

The storage and treatment conditional exemption exempts your low-level mixed Waste from the regulatory definition of hazardous waste in Rule 0400-12-01-.02(1)(c) if your waste meets the eligibility criteria in part 6 of this subparagraph and you meet the conditions in part 11 of this subparagraph.

2.through 5. (RESERVED)

6. What wastes are eligible for the storage and treatment conditional exemption? (266.225)

Low-level mixed waste (LLMW), defined in part (a)1 of this paragraph for this conditional exemption if it is generated and managed by you under a single NRC or NRC Agreement State license. (Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a permit and is ineligible for this exemption. In addition, NARM waste is ineligible for this exemption.)

7. through 10. (RESERVED)

11. What conditions must you meet for your LLMW to qualify for and maintain a storage and treatment exemption? (266.230)

(i) For your LLMW to qualify for the exemption you must notify us in writing by certified delivery that you are claiming a conditional exemption for the LLMW stored on your facility. The dated notification must include your name, address, installation identification number, NRC or NRC Agreement State license number, the hazardous waste code(s) and storage unit(s) for which you are seeking an exemption, and a statement that you meet the conditions of this paragraph. Your notification must be signed by your authorized representative who certifies that the information in the notification is true, accurate, and complete. You must notify us of your claim either within 90 days of the effective date of this rule or

within 90 days of when a storage unit is first used to store conditionally exempt LLMW.

(ii) To qualify for and maintain an exemption for your LLMW you must:

(I) Store your LLMW waste in tanks or containers in compliance with the requirements of your license that apply to the proper storage of low-level radioactive waste (not including those license requirements that relate solely to recordkeeping);

(II) Store your LLMW in tanks or containers in compliance with chemical compatibility requirements of a tank or container in subparagraph (9)(h) or (10)(j) of Rule 0400-12-01-.05 or subparagraph (9)(h) or (10)(j) or Rule 0400-12-01-.06;

(III) Certify that facility personnel who manage stored conditionally Exempt LLMW are trained in a manner that ensures that the conditionally exempt waste is safely managed and includes training in chemical waste management and hazardous materials incidents response that meets the personnel training standards found in subpart (2)(g)1(iii) of Rule 0400-12-01-.05;

(IV) Conduct an inventory of your stored conditionally exempt LLMW at least annually and inspect it at least quarterly for compliance with this paragraph; and

(V) Maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities; describe evacuation plans; list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators; and list emergency equipment.

12. through 15. (RESERVED)

(c) Treatment

1. What waste treatment does the storage and treatment conditional exemption allow? (266.235)

You may treat your low-level mixed waste at your facility within a tank or container in accordance with the terms of your NRC or NRC Agreement State license. Treatment that cannot be done in a tank or container without a permit (such as incineration) is not allowed under this exemption.

2. through 5. (RESERVED)

(d) Loss of Conditional Exemption

1. How could you lose the conditional exemption for your LLMW and what action must you take? (266.240)

(i) Your LLMW will automatically lose the storage and treatment conditional exemption if you fail to meet any of the conditions specified in part (b)11 of this paragraph. When your LLMW loses the exemption, you must immediately manage that waste which failed the condition as hazardous waste, and the storage unit storing the LLMW immediately becomes subject to hazardous waste container and/or tank storage requirements.

(I) If you fail to meet any of the conditions specified in part (b)11 of this paragraph you must report to us and the NRC, or the oversight agency in the NRC Agreement State, in writing by certified delivery within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

I. The specific condition(s) you failed to meet;

II. A description of the LLMW (including the waste name, hazardous waste codes and quantity) and storage location at the facility; and

III. The date(s) on which you failed to meet the condition(s).

(II) If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers, or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environmental, you must follow the provisions of your emergency plan.

(ii) We may terminate your conditional exemption for your LLMW, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of this paragraph.

2. through 5. (RESERVED)

6. If you lose the storage and treatment conditional exemption for your LLMW, can the exemption be reclaimed? (266.245)

(i) You may reclaim the storage and treatment for your LLMW if:

(I) You again meet the conditions specified in part (b)11 of this paragraph;

(II) You send us a notice by certified delivery that you are reclaiming the exemption for your LLMW. Your notice must be signed by your authorized representative certifying that the information contained in your notice is true, complete, and accurate. In your notice you must do the following:

I. Explain the circumstances of each failure.

II. Certify that you have corrected each failure that caused you to lose the exemption for your LLMW and that you again meet all the conditions as of the date you specify.

III. Describe plans that you have implemented, listing specific steps you have taken, to ensure the conditions will be met in the future.

IV. Include any other information you want us to consider when we review your notice reclaiming the exemption.

(ii) We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to, the following:

(I) you have failed to correct the problem;

(II) you explained the circumstances of the failure unsatisfactorily; or

(III) you failed to implement a plan with steps to prevent another failure to meet the conditions of part (b)11 of this paragraph.

In reviewing a reclaimed conditional exemption under this subparagraph, we may add conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will protect human health and the environment.

(e) Recordkeeping

1. What records must you keep at your facility and for how long? (266.250)

(i) In addition to those records required by your NRC or NRC Agreement State license, you must keep records as follows:

(I) Your initial notification records, return receipts, reports to us of failure(s) to meet the exemption conditions, and all records supporting any reclaim of an exemption;

(II) Records of your LLMW annual inventories, and quarterly inspections;

(III) Your certification that facility personnel who manage stored mixed waste are trained in safe management of LLMW including training in chemical waste management and hazardous materials incidents response; and

(IV) Your emergency plan as specified in subpart (b)11(ii) of this paragraph.

(ii) You must maintain records concerning notification, personnel trained, and your emergency plan for as long as you claim this exemption and for three years thereafter, or in accordance with NRC regulations under 10 CFR Part 20 (or equivalent NRC Agreement State regulations), whichever is longer. You must maintain records concerning your annual inventory and quarterly inspections for three years after the waste is sent for disposal, or in accordance with NRC regulations under 10 CFR Part 20 (or equivalent NRC Agreement State regulations), whichever is longer.

2. through 5. (RESERVED)

(f) Reentry Into RCRA

1. When is your LLMW no longer eligible for the storage and treatment conditional exemption? (266.255)

(i) When your LLMW has met the requirements of your NRC or NRC Agreement State license for decay-in-storage and can be disposed of as non-radioactive waste, then the conditional exemption for storage no longer applies. On that date your waste is subject to hazardous waste regulation under the relevant requirements of Rules 0400-12-01-.01 through .10, and the time period for accumulation of a hazardous waste as specified in subparagraph (4)(e) of Rule 0400-12-01-.03 begins.

(ii) When your conditionally exempt LLMW, which has been generated and stored under a single NRC or NRC Agreement State license number, is removed from storage, it is no longer eligible for the storage and treatment exemption.

However, your waste may be eligible for the transportation and disposal conditional exemption at part (l)1 of this paragraph.

(g) Storage Unit Closure

1. Do closure requirements apply to units that stored LLMW prior to the effective date of paragraph (14) of this rule? (266.260)

Interim status and permitted storage units that have been used to store only LLMW prior to the effective date of subpart N of this part and, after that date, store only LLMW which becomes exempt under this subpart N, are not subject to the closure requirements of Rules 0400-12-01-.05 and .06. Storage units (or portions of units) that have been used to store both LLMW and non-mixed hazardous waste prior to the effective date of this paragraph or are used to store both after that date remain subject to closure requirements with respect to the non-mixed hazardous waste.

2. through 5. (RESERVED)

(h) through (k) (RESERVED)

(l) Transportation and Disposal Conditional Exemption

1. What does the transportation and disposal conditional exemption do? (266.305)

This conditional exemption exempts your waste from the regulatory definition of hazardous waste in Rule 0400-12-01-.02(1)(c) if your waste meets the eligibility criteria under part (m)1 of this paragraph, and you meet the conditions in part (n)1 of this paragraph.

(m) Eligibility

1. What wastes are eligible for the transportation and disposal conditional exemption? (266.310)

Eligible waste must be:

(i) A low-level mixed waste (LLMW), as defined in part (a)1 of this paragraph that meets the waste acceptance criteria of a LLRWDF; and/or

(ii) An eligible NARM waste, defined in part (a)1 of this paragraph.

2. through 5. (RESERVED)

(n) Conditions

1. What are the conditions you must meet for your waste to qualify for and maintain the transportation and disposal conditional exemption? (266.315)

You must meet the following conditions for your eligible waste to qualify for and maintain the exemption:

(i) The eligible waste must meet or be treated to meet LDR treatment standards as described in part 6 of this subparagraph.

(ii) If you are not already subject to NRC, or NRC Agreement State equivalent manifest and transportation regulations for the shipment of your waste, you must manifest and transport your waste according to NRC regulations as described in part 11 of this subparagraph.

(iii) The exempted waste must be in containers when it is disposed of in the LLRWDF as described in part 26 of this subparagraph.

(iv) The exempted waste must be disposed of at a designated LLRWDF as described in part 21 of this subparagraph.

2. through 5. (RESERVED)

6. What treatment standards must your eligible waste meet? (266.320)

Your LLMW or eligible NARM waste must meet Land Disposal Restriction (LDR) treatment standards specified in paragraph (3) of Rule 0400-12-01-.10.

7. through 10. (RESERVED)

11. Are you subject to the manifest and transportation condition in subpart 1(ii) of this subparagraph? (266.325)

If you are not already subject to NRC, or NRC Agreement State equivalent manifest and transportation regulations for the shipment of your waste, you must meet the manifest requirements under 10 CFR 20.2006 (or NRC Agreement State equivalent regulations), and the transportation requirements under 10 CFR 1.5 (or NRC Agreement State equivalent regulations) to ship the exempted waste.

12. through 15. (RESERVED)

16. When does the transportation and disposal exemption take effect? (266.330)

The exemption becomes effective once all the following have occurred:

(i) Your eligible waste meets the applicable LDR treatment standards.

(ii) You have received return receipts that you have notified us and the LLRWDF as described in part (o)1 of this paragraph.

(iii) You have completed the packaging and preparation for shipment requirements for your waste according to NRC Packaging and Transportation regulations found under 10 CFR Part 71 (or NRC Agreement State equivalent regulations); and you have prepared a manifest for your waste according to NRC manifest regulations found under 10 CFR Part 20 (or NRC Agreement State equivalent regulations), and

(iv) You have placed your waste on a transportation vehicle destined for a LLRWDF licensed by NRC or an NRC Agreement State.

17. through 20. (RESERVED)

21. Where must your exempted waste be disposed of? (266.335)

Your exempted waste must be disposed of in a LLRWDF that is regulated and licensed by NRC under 10 CFR Part 61 or by an NRC Agreement State under equivalent State regulations, including State NARM licensing regulations for eligible NARM.

22. through 25. (RESERVED)

26. What type of container must be used for disposal of exempted waste? (266.340)

Your exempted waste must be placed in containers before it is disposed. The container must be:

(i) A carbon steel drum; or

(ii) An alternative container with equivalent containment performance in the disposal environment as a carbon steel drum; or

(iii) A high integrity container as defined by NRC.

27. through 30. (RESERVED)

(o) Notification

1. Whom must you notify? (266.345)

(i) You must provide a one time notice to us stating that you are claiming the transportation and disposal conditional exemption prior to the initial shipment of an exempted waste from your facility to a LLRWDF. Your dated written notice must include your facility name, address, phone number, and installation ID number, and be sent by certified delivery.

(ii) You must notify the LLRWDF receiving your exempted waste by certified delivery before shipment of each exempted waste. You can only ship the exempted waste after you have received the return receipt of your notice to the LLRWDF. This notification must include the following:

(I) A statement that you have claimed the exemption for the waste.

(II) A statement that the eligible waste meets applicable LDR treatment standards.

(III) Your facility's name, address, and installation number.

(IV) The hazardous waste codes prior to the exemption of the waste streams.

(V) A statement that the exempted waste must be placed in a container according to part (n)26 of this paragraph prior to disposal in order for the waste to remain exempt under the transportation and disposal conditional exemption of this paragraph.

(VI) The manifest number of the shipment that will contain the exempted waste.

(VII) A certification that all the information provided is true, complete, and accurate. The statement must be signed by your authorized representative.

2. through 5. (RESERVED)

(p) Recordkeeping

1. What records must you keep at your facility and for how long? (266.350)

In addition to those records required by your NRC or NRC Agreement State license, you must keep records as follows:

(i) You must follow the applicable existing recordkeeping requirements under subparagraph (5)(d) of Rule 0400-12-01-05, subparagraph (5)(d) of Rule 0400-12-01-.06, and subparagraph (1)(g) of Rule 0400-12-01-.10 to demonstrate that your waste has met LDR treatment standards prior to your claiming the

exemption.

(ii) You must keep a copy of all notifications and return receipts required under parts (q)1 and 6 of this paragraph for three years after the exempted waste is sent for disposal.

(iii) You must keep a copy of all notification and return receipts required under subpart (o)1(i) of this paragraph for three years after the last exempted waste is sent for disposal.

(iv) You must keep a copy of the notification and return receipt required under subpart (o)1(ii) of this paragraph for three years after the exempted waste is sent for disposal.

(v) If you are not already subject to NRC, or NRC Agreement State equivalent manifest and transportation regulations for the shipment of your waste, you must also keep all other documents related to tracking the exempted waste as required under 10 CFR 20.2006 or NRC Agreement State equivalent regulations, including applicable NARM requirements, in addition to the records specified in subparts (i) through (iv) of this part.

(q) Loss of Transportation and Disposal Conditional Exemption

1. How could you lose the transportation and disposal conditional exemption for your waste and what action must you take? (266.355)

(i) Any waste will automatically lose the transportation and disposal exemption if you fail to manage it in accordance with all of the conditions specified in part (n)1 of this paragraph.

(I) When you fail to meet any of the conditions specified in part (n)1 of this paragraph for any of your wastes, you must report to us, in writing by certified delivery, within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

I. The specific condition(s) that you failed to meet for the waste;

II. A description of the waste (including the waste name, hazardous waste codes and quantity) that lost the exemption; and

III. The date(s) on which you failed to meet the condition(s) for the waste.

(II) If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within 5 days.

(ii) We may terminate your ability to claim a conditional exemption for your waste, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of this paragraph.

2. through 5. (RESERVED)

6. If you lose the transportation and disposal conditional exemption for a waste, can the exemption be reclaimed? (266.360)

(i) You may reclaim the transportation and disposal exemption for a waste after you

have received a return receipt confirming that we have received your notification of the loss of the exemption specified in subpart 1(i) of this subparagraph and if:

(I) You again meet the conditions specified in part (n)1 of this paragraph for the waste; and

(II) You send a notice, by certified delivery, to us that you are reclaiming the exemption for the waste. Your notice must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. The notice must:

I. Explain the circumstances of each failure.

II. Certify that each failure that caused you to lose the exemption for the waste has been corrected and that you again meet all conditions for the waste as of the date you specify.

III. Describe plans you have implemented, listing the specific steps that you have taken, to ensure that conditions will be met in the future.

IV. Include any other information you want us to consider when we review your notice reclaiming the exemption.

(ii) We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to:

(I) you have failed to correct the problem;

(II) you explained the circumstances of the failure unsatisfactorily; or

(III) you failed to implement a plan with steps to prevent another failure to meet the conditions of part (n)1 of this paragraph.

In reviewing a reclaimed conditional exemption under this subparagraph, we may add conditions to the exemption to ensure that transportation and disposal activities will protect human health and the environment.

(15) through (26) (RESERVED) [40 CFR 266 Subpart O-Z]

(27) through (29) (RESERVED) [40 CFR 266 Subpart AA-CC]

(30) APPENDICES TO RULE 0400-12-01-.09 [40 CFR 266 APPENDICES]

Appendix I-Tier I and Tier II Feed Rate and Emissions Screening Limits for Metals [40 CFR 266 APPENDIX I]

Table I-A.-Tier I and Tier II Feed Rate and Emissions Screening Limits for Noncarcinogenic Metals for Facilities in Noncomplex Terrain

[Values for Urban Areas]

Terrain-adjusted Eff. Stack Ht. (m)	Antimony (g/hr)	Barium (g/hr)	Lead (g/hr)	Mercury (g/hr)	Silver (g/hr)	Thallium (g/hr)
4	6.0E+01	1.0E+04	1.8E+01	6.0E+01	6.0E+02	6.0E+01
6	6.8E+01	1.1E+04	2.0E+01	6.8E+01	6.8E+02	6.8E+01
8	7.6E+01	1.3E+04	2.3E+01	7.6E+01	7.6E+02	7.6E+01
10	8.6E+01	1.4E+04	2.6E+01	8.6E+01	8.6E+02	8.6E+01
12	9.6E+01	1.7E+04	3.0E+01	9.6E+01	9.6E+02	9.6E+01

14	1.1E+02	1.8E+04	3.4E+01	1.1E+02	1.1E+03	1.1E+02
16	1.3E+02	2.1E+04	3.6E+01	1.3E+02	1.3E+03	1.3E+02
18	1.4E+02	2.4E+04	4.3E+01	1.4E+02	1.4E+03	1.4E+02
20	1.6E+02	2.7E+04	4.6E+01	1.6E+02	1.6E+03	1.6E+02
22	1.8E+02	3.0E+04	5.4E+01	1.8E+02	1.8E+03	1.8E+02
24	2.0E+02	3.4E+04	6.0E+01	2.0E+02	2.0E+03	2.0E+02
26	2.3E+02	3.9E+04	6.8E+01	2.3E+02	2.3E+03	2.3E+02
28	2.6E+02	4.3E+04	7.8E+01	2.6E+02	2.6E+03	2.6E+02
30	3.0E+02	5.0E+04	9.0E+01	3.0E+02	3.0E+03	3.0E+02
35	4.0E+02	6.6E+04	1.1E+02	4.0E+02	4.0E+03	4.0E+02
40	4.6E+02	7.8E+04	1.4E+02	4.6E+02	4.6E+03	4.6E+02
45	6.0E+02	1.0E+05	1.8E+02	6.0E+02	6.0E+03	6.0E+02
50	7.8E+02	1.3E+05	2.3E+02	7.8E+02	7.8E+03	7.8E+02
55	9.6E+02	1.7E+05	3.0E+02	9.6E+02	9.6E+03	9.6E+02
60	1.2E+03	2.0E+05	3.6E+02	1.2E+03	1.2E+04	1.2E+03
65	1.5E+03	2.5E+05	4.3E+02	1.5E+03	1.5E+04	1.5E+03
70	1.7E+03	2.8E+05	5.0E+02	1.7E+03	1.7E+04	1.7E+03
75	1.9E+03	3.2E+05	5.8E+02	1.9E+03	1.9E+04	1.9E+03
80	2.2E+03	3.6E+05	6.4E+02	2.2E+03	2.2E+04	2.2E+03
85	2.5E+03	4.0E+05	7.6E+02	2.5E+03	2.5E+04	2.5E+03
90	2.8E+03	4.6E+05	8.2E+02	2.8E+03	2.8E+04	2.8E+03
95	3.2E+03	5.4E+05	9.6E+02	3.2E+03	3.2E+04	3.2E+03
100	3.6E+03	6.0E+05	1.1E+03	3.6E+03	3.6E+04	3.6E+03
105	4.0E+03	6.8E+05	1.2E+03	4.0E+03	4.0E+04	4.0E+03
110	4.6E+03	7.8E+05	1.4E+03	4.6E+03	4.6E+04	4.6E+03
115	5.4E+03	8.6E+05	1.6E+03	5.4E+03	5.4E+04	5.4E+03
120	6.0E+03	1.0E+06	1.8E+03	6.0E+03	6.0E+04	6.0E+03

Table I-B.-Tier I and Tier II Feed Rate and Emissions Screening Limits for Noncarcinogenic Metals for Facilities in Noncomplex Terrain

[Values for Rural Areas]

Terrain-adjusted Eff. Stack Ht. (m)	Antimony (g/hr)	Barium (g/hr)	Lead (g/hr)	Mercury (g/hr)	Silver (g/hr)	Thallium (g/hr)
4	3.1E+01	5.2E+03	9.4E+00	3.1E+01	3.1E+02	3.1E+01
6	3.6E+01	6.0E+03	1.1E+01	3.6E+01	3.6E+02	3.6E+01
8	4.0E+01	6.8E+03	1.2E+01	4.0E+01	4.0E+02	4.0E+01
10	4.6E+01	7.8E+03	1.4E+01	4.6E+01	4.6E+02	4.6E+01
12	5.8E+01	9.6E+03	1.7E+01	5.8E+01	5.8E+02	5.8E+01
14	6.8E+01	1.1E+04	2.1E+01	6.8E+01	6.8E+02	6.8E+01
16	8.6E+01	1.4E+04	2.6E+01	8.6E+01	8.6E+02	8.6E+01
18	1.1E+02	1.8E+04	3.2E+01	1.1E+02	1.1E+03	1.1E+02
20	1.3E+02	2.2E+04	4.0E+01	1.3E+02	1.3E+03	1.3E+02
22	1.7E+02	2.8E+04	5.0E+01	1.7E+02	1.7E+03	1.7E+02
24	2.2E+02	3.6E+04	6.4E+01	2.2E+02	2.2E+03	2.2E+02
26	2.8E+02	4.6E+04	8.2E+01	2.8E+02	2.8E+03	2.8E+02
28	3.5E+02	5.8E+04	1.0E+02	3.5E+02	3.5E+03	3.5E+02
30	4.3E+02	7.6E+04	1.3E+02	4.3E+02	4.3E+03	4.3E+02
35	7.2E+02	1.2E+05	2.1E+02	7.2E+02	7.2E+03	7.2E+02
40	1.1E+03	1.8E+05	3.2E+02	1.1E+03	1.1E+04	1.1E+03
45	1.5E+03	2.5E+05	4.6E+02	1.5E+03	1.5E+04	1.5E+03
50	2.0E+03	3.3E+05	6.0E+02	2.0E+03	2.0E+04	2.0E+03
55	2.6E+03	4.4E+05	7.8E+02	2.6E+03	2.6E+04	2.6E+03
60	3.4E+03	5.8E+05	1.0E+03	3.4E+03	3.4E+04	3.4E+03
65	4.6E+03	7.6E+05	1.4E+03	4.6E+03	4.6E+04	4.6E+03
70	5.4E+03	9.0E+05	1.6E+03	5.4E+03	5.4E+04	5.4E+03
75	6.4E+03	1.1E+06	1.9E+03	6.4E+03	6.4E+04	6.4E+03
80	7.6E+03	1.3E+06	2.3E+03	7.6E+03	7.6E+04	7.6E+03
85	9.4E+03	1.5E+06	2.8E+03	9.4E+03	9.4E+04	9.4E+03
90	1.1E+04	1.8E+06	3.3E+03	1.1E+04	1.1E+05	1.1E+04
95	1.3E+04	2.2E+06	3.9E+03	1.3E+04	1.3E+05	1.3E+04
100	1.5E+04	2.6E+06	4.6E+03	1.5E+04	1.5E+05	1.5E+04
105	1.8E+04	3.0E+06	5.4E+03	1.8E+04	1.8E+05	1.8E+04
110	2.2E+04	3.6E+06	6.6E+03	2.2E+04	2.2E+05	2.2E+04
115	2.6E+04	4.4E+06	7.8E+03	2.6E+04	2.6E+05	2.6E+04
120	3.1E+04	5.0E+06	9.2E+03	3.1E+04	3.1E+05	3.1E+04

Table I-C.-Tier I and Tier II Feed Rate and Emissions Screening Limits for Noncarcinogenic Metals for Facilities in Complex Terrain

[Values for Urban and Rural Areas]

Terrain-adjusted Eff. Stack Ht. (m)	Antimony (g/hr)	Barium (g/hr)	Lead (g/hr)	Mercury (g/hr)	Silver (g/hr)	Thallium (g/hr)
4	1.4E+01	2.4E+03	4.3E+00	1.4E+01	1.4E+02	1.4E+01
6	2.1E+01	3.5E+03	6.2E+00	2.1E+01	2.1E+02	2.1E+01
8	3.0E+01	5.0E+03	9.2E+00	3.0E+01	3.0E+02	3.0E+01
10	4.3E+01	7.6E+03	1.3E+01	4.3E+01	4.3E+02	4.3E+01
12	5.4E+01	9.0E+03	1.7E+01	5.4E+01	5.4E+02	5.4E+01
14	6.8E+01	1.1E+04	2.0E+01	6.8E+01	6.8E+02	6.8E+01
16	7.8E+01	1.3E+04	2.4E+01	7.8E+01	7.8E+02	7.8E+01
18	8.6E+01	1.4E+04	2.6E+01	8.6E+01	8.6E+02	8.6E+01
20	9.6E+01	1.6E+04	2.9E+01	9.6E+01	9.6E+02	9.6E+01
22	1.0E+02	1.8E+04	3.2E+01	1.0E+02	1.0E+03	1.0E+02
24	1.2E+02	1.9E+04	3.5E+01	1.2E+02	1.2E+03	1.2E+02
26	1.3E+02	2.2E+04	3.6E+01	1.3E+02	1.3E+03	1.3E+02
28	1.4E+02	2.4E+04	4.3E+01	1.4E+02	1.4E+03	1.4E+02
30	1.6E+02	2.7E+04	4.6E+01	1.6E+02	1.6E+03	1.6E+02
35	2.0E+02	3.3E+04	5.8E+01	2.0E+02	2.0E+03	2.0E+02
40	2.4E+02	4.0E+04	7.2E+01	2.4E+02	2.4E+03	2.4E+02
45	3.0E+02	5.0E+04	9.0E+01	3.0E+02	3.0E+03	3.0E+02
50	3.6E+02	6.0E+04	1.1E+02	3.6E+02	3.6E+03	3.6E+02
55	4.6E+02	7.6E+04	1.4E+02	4.6E+02	4.6E+03	4.6E+02
60	5.8E+02	9.4E+04	1.7E+02	5.8E+02	5.8E+03	5.8E+02
65	6.8E+02	1.1E+05	2.1E+02	6.8E+02	6.8E+03	6.8E+02
70	7.8E+02	1.3E+05	2.4E+02	7.8E+02	7.8E+03	7.8E+02
75	8.6E+02	1.4E+05	2.6E+02	8.6E+02	8.6E+03	8.6E+02
80	9.6E+02	1.6E+05	2.9E+02	9.6E+02	9.6E+03	9.6E+02
85	1.1E+03	1.8E+05	3.3E+02	1.1E+03	1.1E+04	1.1E+03
90	1.2E+03	2.0E+05	3.6E+02	1.2E+03	1.2E+04	1.2E+03
95	1.4E+03	2.3E+05	4.0E+02	1.4E+03	1.4E+04	1.4E+03
100	1.5E+03	2.6E+05	4.6E+02	1.5E+03	1.5E+04	1.5E+03
105	1.7E+03	2.8E+05	5.0E+02	1.7E+03	1.7E+04	1.7E+03
110	1.9E+03	3.2E+05	5.8E+02	1.9E+03	1.9E+04	1.9E+03
115	2.1E+03	3.6E+05	6.4E+02	2.1E+03	2.1E+04	2.1E+03
120	2.4E+03	4.0E+05	7.2E+02	2.4E+03	2.4E+04	2.4E+03

Table I-D.-Tier I and Tier II Feed Rate and Emissions Screening Limits for Carcinogenic Metals for Facilities in Noncomplex Terrain

Values for Use in Urban Areas					Values for Use in Rural Areas			
Terrain-adjusted Eff. Stack Ht. (m)	Arsenic (g/hr)	Cadmium (g/hr)	Chromium (g/hr)	Beryllium (g/hr)	Arsenic (g/hr)	Cadmium (g/hr)	Chromium (g/hr)	Beryllium (g/hr)
4	4.6E-01	1.1E+00	1.7E-01	8.2E-01	2.4E-01	5.8E-01	8.6E-02	4.3E-01
6	5.4E-01	1.3E+00	1.9E-01	9.4E-01	2.8E-01	6.6E-01	1.0E-01	5.0E-01
8	6.0E-01	1.4E+00	2.2E-01	1.1E+00	3.2E-01	7.6E-01	1.1E-01	5.6E-01
10	6.8E-01	1.6E+00	2.4E-01	1.2E+00	3.6E-01	8.6E-01	1.3E-01	6.4E-01
12	7.6E-01	1.8E+00	2.7E-01	1.4E+00	4.3E-01	1.1E+00	1.6E-01	7.8E-01
14	8.6E-01	2.1E+00	3.1E-01	1.5E+00	5.4E-01	1.3E+00	2.0E-01	9.6E-01
16	9.6E-01	2.3E+00	3.5E-01	1.7E+00	6.8E-01	1.6E+00	2.4E-01	1.2E+00
18	1.1E+00	2.6E+00	4.0E-01	2.0E+00	8.2E-01	2.0E+00	3.0E-01	1.5E+00
20	1.2E+00	3.0E+00	4.4E-01	2.2E+00	1.0E+00	2.5E+00	3.7E-01	1.9E+00
22	1.4E+00	3.4E+00	5.0E-01	2.5E+00	1.3E+00	3.2E+00	4.8E-01	2.4E+00
24	1.6E+00	3.9E+00	5.8E-01	2.8E+00	1.7E+00	4.0E+00	6.0E-01	3.0E+00
26	1.8E+00	4.3E+00	6.4E-01	3.2E+00	2.1E+00	5.0E+00	7.6E-01	3.9E+00
28	2.0E+00	4.8E+00	7.2E-01	3.6E+00	2.7E+00	6.4E+00	9.8E-01	5.0E+00
30	2.3E+00	5.4E+00	8.2E-01	4.0E+00	3.5E+00	8.2E+00	1.2E+00	6.2E+00
35	3.0E+00	6.8E+00	1.0E+00	5.4E+00	5.4E+00	1.3E+01	1.9E+00	9.6E+00
40	3.6E+00	9.0E+00	1.3E+00	6.8E+00	8.2E+00	2.0E+01	3.0E+00	1.5E+01
45	4.6E+00	1.1E+01	1.7E+00	8.6E+00	1.1E+01	2.8E+01	4.2E+00	2.1E+01
50	6.0E+00	1.4E+01	2.2E+00	1.1E+01	1.5E+01	3.7E+01	5.4E+00	2.8E+01
55	7.6E+00	1.8E+01	2.7E+00	1.4E+01	2.0E+01	5.0E+01	7.2E+00	3.6E+01
60	9.4E+00	2.2E+01	3.4E+00	1.7E+01	2.7E+01	6.4E+01	9.6E+00	4.8E+01
65	1.1E+01	2.8E+01	4.2E+00	2.1E+01	3.6E+01	8.6E+01	1.3E+01	6.4E+01
70	1.3E+01	3.1E+01	4.6E+00	2.4E+01	4.3E+01	1.0E+02	1.5E+01	7.6E+01
75	1.5E+01	3.6E+01	5.4E+00	2.7E+01	5.0E+01	1.2E+02	1.8E+01	9.0E+01
80	1.7E+01	4.0E+01	6.0E+00	3.0E+01	6.0E+01	1.4E+02	2.2E+01	1.1E+02
85	1.9E+01	4.6E+01	6.8E+00	3.4E+01	7.2E+01	1.7E+02	2.6E+01	1.3E+02

90	2.2E+01	5.0E+01	7.8E+00	3.9E+01	8.6E+01	2.0E+02	3.0E+01	1.5E+02
95	2.5E+01	5.8E+01	9.0E+00	4.4E+01	1.0E+02	2.4E+02	3.6E+01	1.8E+02
100	2.8E+01	6.8E+01	1.0E+01	5.0E+01	1.2E+02	2.9E+02	4.3E+01	2.2E+02
105	3.2E+01	7.6E+01	1.1E+01	5.6E+01	1.4E+02	3.4E+02	5.0E+01	2.6E+02
110	3.6E+01	8.6E+01	1.3E+01	6.4E+01	1.7E+02	4.0E+02	6.0E+01	3.0E+02
115	4.0E+01	9.6E+01	1.5E+01	7.2E+01	2.0E+02	4.8E+02	7.2E+01	3.6E+02
120	4.6E+01	1.1E+02	1.7E+01	8.2E+01	2.4E+02	5.8E+02	8.6E+01	4.3E+02

Table I-E.-Tier I and Tier II Feed Rate and Emissions Screening Limits for Carcinogenic Metals for Facilities in Complex Terrain

Values for Use in Urban and Rural Areas				
Terrain-adjusted Eff. Stack Ht. (m)	Arsenic (g/hr)	Cadmium (g/hr)	Chromium (g/hr)	Beryllium (g/hr)
4	1.1E-01	2.6E-01	4.0E-02	2.0E-01
6	1.6E-01	3.9E-01	5.8E-02	2.9E-01
8	2.4E-01	5.8E-01	8.6E-02	4.3E-01
10	3.5E-01	8.2E-01	1.3E-01	6.2E-01
12	4.3E-01	1.0E+00	1.5E-01	7.6E-01
14	5.0E-01	1.3E+00	1.9E-01	9.4E-01
16	6.0E-01	1.4E+00	2.2E-01	1.1E+00
18	6.8E-01	1.6E+00	2.4E-01	1.2E+00
20	7.6E-01	1.8E+00	2.7E-01	1.3E+00
22	8.2E-01	1.9E+00	3.0E-01	1.5E+00
24	9.0E-01	2.1E+00	3.3E-01	1.6E+00
26	1.0E+00	2.4E+00	3.6E-01	1.8E+00
28	1.1E+00	2.7E+00	4.0E-01	2.0E+00
30	1.2E+00	3.0E+00	4.4E-01	2.2E+00
35	1.5E+00	3.7E+00	5.4E-01	2.7E+00
40	1.9E+00	4.6E+00	6.8E-01	3.4E+00
45	2.4E+00	5.4E+00	8.4E-01	4.2E+00
50	2.9E+00	6.8E+00	1.0E+00	5.0E+00
55	3.5E+00	8.4E+00	1.3E+00	6.4E+00
60	4.3E+00	1.0E+01	1.5E+00	7.8E+00
65	5.4E+00	1.3E+01	1.9E+00	9.6E+00
70	6.0E+00	1.4E+01	2.2E+00	1.1E+01
75	6.8E+00	1.6E+01	2.4E+00	1.2E+01
80	7.6E+00	1.8E+01	2.7E+00	1.3E+01
85	8.2E+00	2.0E+01	3.0E+00	1.5E+01
90	9.4E+00	2.3E+01	3.4E+00	1.7E+01
95	1.0E+01	2.5E+01	4.0E+00	1.9E+01
100	1.2E+01	2.8E+01	4.3E+00	2.1E+01
105	1.3E+01	3.2E+01	4.8E+00	2.4E+01
110	1.5E+01	3.5E+01	5.4E+00	2.7E+01
115	1.7E+01	4.0E+01	6.0E+00	3.0E+01
120	1.9E+01	4.4E+01	6.4E+00	3.3E+01

Appendix II - Tier I Feed Rate Screening Limits for Total Chlorine [40 CFR 266 APPENDIX II]

Tier I Feed Rate Screening Limits for Total Chlorine

Terrain-adjusted Effective Stack Height (m)	Noncomplex Terrain		Complex Terrain
	Urban (g/hr)	Rural (g/hr)	(g/hr)
4	8.2E + 01	4.2E + 01	1.9E + 01
6	9.1E + 01	4.8E + 01	2.8E + 01
8	1.0E + 02	5.3E + 01	4.1E + 01
10	1.2E + 02	6.2E + 01	5.8E + 01
12	1.3E + 02	7.7E + 01	7.2E + 01
14	1.5E + 02	9.1E + 01	9.1E + 01
16	1.7E + 02	1.2E + 02	1.1E + 02
18	1.9E + 02	1.4E + 02	1.2E + 02
20	2.1E + 02	1.8E + 02	1.3E + 02
22	2.4E + 02	2.3E + 02	1.4E + 02
24	2.7E + 02	2.9E + 02	1.6E + 02
26	3.1E + 02	3.7E + 02	1.7E + 02
28	3.5E + 02	4.7E + 02	1.9E + 02
30	3.9E + 02	5.8E + 02	2.1E + 02
35	5.3E + 02	9.6E + 02	2.6E + 02
40	6.2E + 02	1.4E + 03	3.3E + 02
45	8.2E + 02	2.0E + 03	4.0E + 02
50	1.1E + 03	2.6E + 03	4.8E + 02
55	1.3E + 03	3.5E + 03	6.2E + 02
60	1.6E + 03	4.6E + 03	7.7E + 02
65	2.0E + 03	6.2E + 03	9.1E + 02
70	2.3E + 03	7.2E + 03	1.1E + 03
75	2.5E + 03	8.6E + 03	1.2E + 03
80	2.9E + 03	1.0E + 04	1.3E + 03
85	3.3E + 03	1.2E + 04	1.4E + 03
90	3.7E + 03	1.4E + 04	1.6E + 03
95	4.2E + 03	1.7E + 04	1.8E + 03
100	4.8E + 03	2.1E + 04	2.0E + 03
105	5.3E + 03	2.4E + 04	2.3E + 03
110	6.2E + 03	2.9E + 04	2.5E + 03
115	7.2E + 03	3.5E + 04	2.8E + 03
120	8.2E + 03	4.1E + 04	3.2E + 03

Appendix III - Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride [40 CFR 266 APPENDIX III]

Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

Terrain-adjusted Effective Stack Height (m)	Noncomplex Terrain				Complex Terrain	
	Values for Urban Areas		Values for Rural Areas		Values for Use in Urban and Rural Areas	
	Cl_2 (g/hr)	HCl (g/hr)	Cl_2 (g/hr)	HCl (g/hr)	Cl_2 (g/hr)	HCl (g/hr)
4	8.2E + 01	1.4E + 03	4.2E + 01	7.3E + 02	1.9E + 01	3.3E + 02
6	9.1E + 01	1.6E + 03	4.8E + 01	8.3E + 02	2.8E + 01	4.9E + 02
8	1.0E + 02	1.8E + 03	5.3E + 01	9.2E + 02	4.1E + 01	7.1E + 02
10	1.2E + 02	2.0E + 03	6.2E + 01	1.1E + 03	5.8E + 01	1.0E + 03
12	1.3E + 02	2.3E + 03	7.7E + 01	1.3E + 03	7.2E + 01	1.3E + 03
14	1.5E + 02	2.6E + 03	9.1E + 01	1.6E + 03	9.1E + 01	1.6E + 03
16	1.7E + 02	2.9E + 03	1.2E + 02	2.0E + 03	1.1E + 02	1.8E + 03
18	1.9E + 02	3.3E + 03	1.4E + 02	2.5E + 03	1.2E + 02	2.0E + 03
20	2.1E + 02	3.7E + 03	1.8E + 02	3.1E + 03	1.3E + 02	2.3E + 03
22	2.4E + 02	4.2E + 03	2.3E + 02	3.9E + 03	1.4E + 02	2.4E + 03
24	2.7E + 02	4.8E + 03	2.9E + 02	5.0E + 03	1.6E + 02	2.8E + 03
26	3.1E + 02	5.4E + 03	3.7E + 02	6.5E + 03	1.7E + 02	3.0E + 03
28	3.5E + 02	6.0E + 03	4.7E + 02	8.1E + 03	1.9E + 02	3.4E + 03
30	3.9E + 02	6.9E + 03	5.8E + 02	1.0E + 04	2.1E + 02	3.7E + 03
35	5.3E + 02	9.2E + 03	9.6E + 02	1.7E + 04	2.6E + 02	4.6E + 03
40	6.2E + 02	1.1E + 04	1.4E + 03	2.5E + 04	3.3E + 02	5.7E + 03
45	8.2E + 02	1.4E + 04	2.0E + 03	3.5E + 04	4.0E + 02	7.0E + 03
50	1.1E + 03	1.8E + 04	2.6E + 03	4.6E + 04	4.8E + 02	8.4E + 03
55	1.3E + 03	2.3E + 04	3.5E + 03	6.1E + 04	6.2E + 02	1.1E + 04
60	1.6E + 03	2.9E + 04	4.6E + 03	8.1E + 04	7.7E + 02	1.3E + 04
65	2.0E + 03	3.4E + 04	6.2E + 03	1.1E + 05	9.1E + 02	1.6E + 04
70	2.3E + 03	3.9E + 04	7.2E + 03	1.3E + 05	1.1E + 03	1.8E + 04
75	2.5E + 03	4.5E + 04	8.6E + 03	1.5E + 05	1.2E + 03	2.0E + 04
80	2.9E + 03	5.0E + 04	1.0E + 04	1.8E + 05	1.3E + 03	2.3E + 04
85	3.3E + 03	5.8E + 04	1.2E + 04	2.2E + 05	1.4E + 03	2.5E + 04
90	3.7E + 03	6.6E + 04	1.4E + 04	2.5E + 05	1.6E + 03	2.9E + 04
95	4.2E + 03	7.4E + 04	1.7E + 04	3.0E + 05	1.8E + 03	3.2E + 04
100	4.8E + 03	8.4E + 04	2.1E + 04	3.6E + 05	2.0E + 03	3.5E + 04
105	5.3E + 03	9.2E + 04	2.4E + 04	4.3E + 05	2.3E + 03	3.9E + 04
110	6.2E + 03	1.1E + 05	2.9E + 04	5.1E + 05	2.5E + 03	4.5E + 04
115	7.2E + 03	1.3E + 05	3.5E + 04	6.1E + 05	2.8E + 03	5.0E + 04
120	8.2E + 03	1.4E + 05	4.1E + 04	7.2E + 05	3.2E + 03	5.6E + 04

Appendix IV-Reference Air Concentrations*

Constituent	CAS No.	RAC (ug/m^3)
Acetaldehyde	75-07-0	10
Acetonitrile	75-05-8	10
Acetophenone	98-86-2	100
Acrolein	107-02-8	20
Aldicarb	116-06-3	1
Aluminum Phosphide	20859-73-8	0.3
Allyl Alcohol	107-18-6	5
Antimony	7440-36-0	0.3
Barium	7440-39-3	50
Barium Cyanide	542-62-1	50
Bromomethane	74-83-9	0.8
Calcium Cyanide	592-01-8	30
Carbon Disulfide	75-15-0	200
Chloral	75-87-6	2
Chlorine (free)		0.4
2-Chloro-1,3-butadiene	126-99-8	3
Chromium III	16065-83-1	1000
Copper Cyanide	544-92-3	5
Cresols	1319-77-3	50
Cumene	98-82-8	1
Cyanide (free)	57-12-15	20
Cyanogen	460-19-5	30
Cyanogen Bromide	506-68-3	80
Di-n-butyl Phthalate	84-74-2	100
o-Dichlorobenzene	95-50-1	10
p-Dichlorobenzene	106-46-7	10
Dichlorodifluoromethane	75-71-8	200
2,4-Dichlorophenol	120-83-2	3
Diethyl Phthalate	84-66-2	800
Dimethoate	60-51-5	0.8
2,4-Dinitrophenol	51-28-5	2
Dinoseb	88-85-7	0.9
Diphenylamine	122-39-4	20
Endosulfan	115-29-1	0.05
Endrin	72-20-8	0.3
Fluorine	7782-41-4	50
Formic Acid	64-18-6	2000
Glycidyaldehyde	765-34-4	0.3
Hexachlorocyclopentadiene	77-47-4	5
Hexachlorophene	70-30-4	0.3
Hydrocyanic Acid	74-90-8	20
Hydrogen Chloride	7647-01-1	7
Hydrogen Sulfide	7783-06-4	3
Isobutyl Alcohol	78-83-1	300
Lead	7439-92-1	0.09
Maleic Anhydride	108-31-6	100
Mercury	7439-97-6	0.3
Methacrylonitrile	126-98-7	0.1
Methomyl	16752-77-5	20
Methoxychlor	72-43-5	50
Methyl Chlorocarbonate	79-22-1	1000
Methyl Ethyl Ketone	78-93-3	80
Methyl Parathion	298-00-0	0.3
Nickel Cyanide	557-19-7	20
Nitric Oxide	10102-43-9	100

Nitrobenzene	98-95-3	0.8
Pentachlorobenzene	608-93-5	0.8
Pentachlorophenol	87-86-5	30
Phenol	108-95-2	30
M-Phenylenediamine	108-45-2	5
Phenylmercuric Acetate	62-38-4	0.075
Phosphine	7803-51-2	0.3
Phthalic Anhydride	85-44-9	2000
Potassium Cyanide	151-50-8	50
Potassium Silver Cyanide	506-61-6	200
Pyridine	110-86-1	1
Selenious Acid	7783-60-8	3
Selenourea	630-10-4	5
Silver	7440-22-4	3
Silver Cyanide	506-64-9	100
Sodium Cyanide	143-33-9	30
Strychnine	57-24-9	0.3
1,2,4,5-Tetrachlorobenzene	95-94-3	0.3
2,3,4,6-Tetrachlorophenol	58-90-2	30
Tetraethyl Lead	78-00-2	0.0001
Tetrahydrofuran	109-99-9	10
Thallic Oxide	1314-32-5	0.3
Thallium	7440-28-0	0.5
Thallium (I) Acetate	563-68-8	0.5
Thallium (I) Carbonate	6533-73-9	0.3
Thallium (I) Chloride	7791-12-0	0.3
Thallium (I) Nitrate	10102-45-1	0.5
Thallium Selenite	12039-52-0	0.5
Thallium (I) Sulfate	7446-18-6	0.075
Thiram	137-26-8	5
Toluene	108-88-3	300
1,2,4-Trichlorobenzene	120-82-1	20
Trichloromonofluoromethane	75-69-4	300
2,4,5-Trichlorophenol	95-95-4	100
Vanadium Pentoxide	1314-62-1	20
Warfarin	81-81-2	0.3
Xylenes	1330-20-7	80
Zinc Cyanide	557-21-1	50
Zinc Phosphide	1314-84-7	0.3

FOOTNOTE:* The RAC for other Appendix VIII Rule 0400-12-01-.02(5) constituents not listed herein or in Appendix V of this rule is 0.1 ug/m^3.

Appendix V - Risk Specific Doses [40 CFR 266 APPENDIX V]

Risk Specific Doses (10^{-5})

Constituent	CAS No.	Unit Risk (m^3/ug)	RsD (ug/m^3)
Acrylamide	79-06-1	1.3E-03	7.7E-03
Acrylonitrile	107-13-1	6.8E-05	1.5E-01
Aldrin	309-00-2	4.9E-03	2.0E-03
Aniline	62-53-3	7.4E-06	1.4E+00
Arsenic	7440-38-2	4.3E-03	2.3E-03
Benz(a)anthracene	56-55-3	8.9E-04	1.1E-02
Benzene	71-43-2	8.3E-06	1.2E+00
Benzidine	92-87-5	6.7E-02	1.5E-04
Benzo(a)pyrene	50-32-8	3.3E-03	3.0E-03
Beryllium	7440-41-7	2.4E-03	4.2E-03
Bis(2-chloroethyl)ether	111-44-4	3.3E-04	3.0E-02
Bis(chloromethyl)ether	542-88-1	6.2E-02	1.6E-04
Bis(2-ethylhexyl)-phthalate	117-81-7	2.4E-07	4.2E+01
1,3-Butadiene	106-99-0	2.8E-04	3.6E-02
Cadmium	7440-43-9	1.8E-03	5.6E-03
Carbon Tetrachloride	56-23-5	1.5E-05	6.7E-01
Chlordane	57-74-9	3.7E-04	2.7E-02
Chloroform	67-66-3	2.3E-05	4.3E-01
Chloromethane	74-87-3	3.6E-06	2.8E+00
Chromium VI	7440-47-3	1.2E-02	8.3E-04
DDT	50-29-3	9.7E-05	1.0E-01
Dibenz(a,h)anthracene	53-70-3	1.4E-02	7.1E-04
1,2-Dibromo-3-chloropropane	96-12-8	6.3E-03	1.6E-03
1,2-Dibromoethane	106-93-4	2.2E-04	4.5E-02
1,1-Dichloroethane	75-34-3	2.6E-05	3.8E-01
1,2-Dichloroethane	107-06-2	2.6E-05	3.8E-01
1,1-Dichloroethylene	75-35-4	5.0E-05	2.0E-01
1,3-Dichloropropene	542-75-6	3.5E-01	2.9E-05
Dieldrin	60-57-1	4.6E-03	2.2E-03
Diethylstilbestrol	56-53-1	1.4E-01	7.1E-05
Dimethylnitrosamine	62-75-9	1.4E-02	7.1E-04
2,4-Dinitrotoluene	121-14-2	8.8E-05	1.1E-01
1,2-Diphenylhydrazine	122-66-7	2.2E-04	4.5E-02
1,4-Dioxane	123-91-1	1.4E-06	7.1E+00
Epichlorohydrin	106-89-8	1.2E-06	8.3E+00
Ethylene Oxide	75-21-8	1.0E-04	1.0E-01
Ethylene Dibromide	106-93-4	2.2E-04	4.5E-02
Formaldehyde	50-00-0	1.3E-05	7.7E-01
Heptachlor	76-44-8	1.3E-03	7.7E-03
Heptachlor Epoxide	1024-57-3	2.6E-03	3.8E-03
Hexachlorobenzene	118-74-1	4.9E-04	2.0E-02
Hexachlorobutadiene	87-68-3	2.0E-05	5.0E-01
Alpha-hexachlorocyclo-hexane	319-84-6	1.8E-03	5.6E-03
Beta-hexachlorocyclohexane	319-85-7	5.3E-04	1.9E-02
Gamma-hexachlorocyclo-hexane	58-89-9	3.8E-04	2.6E-02
Hexachlorocyclohexane, Technical		5.1E-04	2.0E-02
Hexachlorodibenzo-p-dioxin(1,2 Mixture)		1.3E+0	7.7E-06
Hexachloroethane	67-72-1	4.0E-06	2.5E+00

Hydrazine	302-01-2	2.9E-03	3.4E-03
Hydrazine Sulfate	302-01-2	2.9E-03	3.4E-03
3-Methylcholanthrene	56-49-5	2.7E-03	3.7E-03
Methyl Hydrazine	60-34-4	3.1E-04	3.2E-02
Methylene Chloride	75-09-2	4.1E-06	2.4E+00
4,4'-Methylene-bis-2-chloroaniline	101-14-4	4.7E-05	2.1E-01
Nickel	7440-02-0	2.4E-04	4.2E-02
Nickel Refinery Dust	7440-02-0	2.4E-04	4.2E-02
Nickel Subsulfide	12035-72-2	4.8E-04	2.1E-02
2-Nitropropane	79-46-9	2.7E-02	3.7E-04
N-Nitroso-n-butylamine	924-16-3	1.6E-03	6.3E-03
N-Nitroso-n-methylurea	684-93-5	8.6E-02	1.2E-04
N-Nitrosodiethylamine	55-18-5	4.3E-02	2.3E-04
N-Nitrosopyrrolidine	930-55-2	6.1E-04	1.6E-02
Pentachloronitrobenzene	82-68-8	7.3E-05	1.4E-01
PCBs	1336-36-3	1.2E-03	8.3E-03
Pronamide	23950-58-5	4.6E-06	2.2E+00
Reserpine	50-55-5	3.0E-03	3.3E-03
2,3,7,8-Tetrachloro-dibenzo-p-dioxin	1746-01-6	4.5E+01	2.2E-07
1,1,2,2-Tetrachloroethane	79-34-5	5.8E-05	1.7E-01
Tetrachloroethylene	127-18-4	4.8E-07	2.1E+01
Thiourea	62-56-6	5.5E-04	1.8E-02
1,1,2-Trichloroethane	79-00-5	1.6E-05	6.3E-01
Trichloroethylene	79-01-6	1.3E-06	7.7E+00
2,4,6-Trichlorophenol	88-06-2	5.7E-06	1.8E+00
Toxaphene	8001-35-2	3.2E-04	3.1E-02
Vinyl Chloride	75-01-4	7.1E-06	1.4E+00

Appendix VI-Stack Plume Rise [40 CFR 266 APPENDIX VI]

[Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

Flow rate (m^3/s)	Exhaust Temperature (K°)										
	<325	325-349	350-399	400-449	450-499	500-599	600-699	700-799	800-999	1000-1499	>1499
<0.5	0	0	0	0	0	0	0	0	0	0	0
0.5-0.9	0	0	0	0	0	0	0	0	1	1	1
1.0-1.9	0	0	0	0	1	1	2	3	3	3	4
2.0-2.9	0	0	1	3	4	4	6	6	7	8	9
3.0-3.9	0	1	2	5	6	7	9	10	11	12	13
4.0-4.9	1	2	4	6	8	10	12	13	14	15	17
5.0-7.4	2	3	5	8	10	12	14	16	17	19	21
7.5-9.9	3	5	8	12	15	17	20	22	22	23	24
10.0-12.4	4	6	10	15	19	21	23	24	25	26	27
12.5-14.9	4	7	12	18	22	23	25	26	27	28	29
15.0-19.9	5	8	13	20	23	24	26	27	28	29	31
20.0-24.9	6	10	17	23	25	27	29	30	31	32	34
25.0-29.9	7	12	20	25	27	29	31	32	33	35	36
30.0-34.9	8	14	22	26	29	31	33	35	36	37	39
35.0-39.9	9	16	23	28	30	32	35	36	37	39	41
40.0-49.9	10	17	24	29	32	34	36	38	39	41	42
50.0-59.9	12	21	26	31	34	36	39	41	42	44	46
60.0-69.9	14	22	27	33	36	39	42	43	45	47	49
70.0-79.9	16	23	29	35	38	41	44	46	47	49	51
80.0-89.9	17	25	30	36	40	42	46	48	49	51	54
90.0-99.9	19	26	31	38	42	44	48	50	51	53	56
100.0-119.9	21	26	32	39	43	46	49	52	53	55	58
120.0-139.9	22	28	35	42	46	49	52	55	56	59	61
140.0-159.9	23	30	36	44	48	51	55	58	59	62	65
160.0	25	31	38	46	50	54	58	60	62	65	67

- 179.9											
180.0 - 199.9	26	32	40	48	52	56	60	63	65	67	70
>199.9	26	33	41	49	54	58	62	65	67	69	73

Appendix VII-Health-Based Limits for Exclusion of Waste-derived Residues* [40 CFR 266 APPENDIX VII]

Metals-TCLP Extract Concentration Limits

Constituent	CAS No.	Concentration Limits (mg/L)
Antimony	7440-36-0	1xE+00
Arsenic	7440-38-2	5xE+00
Barium	7440-39-3	1xE+02
Beryllium	7440-41-7	7xE-03
Cadmium	7440-43-9	1xE+00
Chromium	7440-47-3	5xE+00
Lead	7439-92-1	5xE+00
Mercury	7439-97-6	2xE-01
Nickel	7440-02-0	7xE+01
Selenium	7782-49-2	1xE+00
Silver	7440-22-4	5xE+00
Thallium	7440-28-0	7xE+00

Nonmetals-Residue Concentration Limits

Constituent	CAS No.	Concentration Limits for Residues (mg/kg)
Acetonitrile	75-05-8	2xE-01
Acetophenone	98-86-2	4xE+00
Acrolein	107-02-8	5xE-01
Acrylamide	79-06-1	2xE-04
Acrylonitrile	107-13-1	7xE-04
Aldrin	309-00-2	2xE-05
Allyl alcohol	107-18-6	2xE-01
Aluminum phosphide	20859-73-8	1xE-02
Aniline	62-53-3	6xE-02
Barium cyanide	542-62-1	1xE+00
Benz(a)anthracene	56-55-3	1xE-04
Benzene	71-43-2	5xE-03
Benzidine	92-87-5	1xE-06
Bis(2-chloroethyl) ether	111-44-4	3xE-04
Bis(chloromethyl) ether	542-88-1	2xE-06
Bis(2-ethylhexyl) phthalate	117-81-7	3xE+01
Bromoform	75-25-2	7xE-01
Calcium cyanide	592-01-8	1xE-06
Carbon disulfide	75-15-0	4xE+00
Carbon tetrachloride	56-23-5	5xE-03
Chlordane	57-74-9	3xE-04
Chlorobenzene	108-90-7	1xE+00
Chloroform	67-66-3	6xE-02
Copper cyanide	544-92-3	2xE-01
Cresols (Cresylic acid)	1319-77-3	2xE+00
Cyanogen	460-19-5	1xE+00
DDT	50-29-3	1xE-03
Dibenz(a, h)-anthracene	53-70-3	7xE-06
1,2-Dibromo-3-chloropropane	96-12-8	2xE-05
p-Dichlorobenzene	106-46-7	7.5xE-02
Dichlorodifluoromethane	75-71-8	7xE+00
1,1-Dichloroethylene	75-35-4	5xE-03
2,4-Dichlorophenol	120-83-2	1xE-01
1,3-Dichloropropene	542-75-6	1xE-03
Dieldrin	60-57-1	2xE-05
Diethyl phthalate	84-66-2	3xE+01
Diethylstilbesterol	56-53-1	7xE-07

Dimethoate	60-51-5	3xE-02
2,4-Dinitrotoluene	121-14-2	5xE-04
Diphenylamine	122-39-4	9xE-01
1,2-Diphenylhydrazine	122-66-7	5xE-04
Endosulfan	115-29-7	2xE-03
Endrin	72-20-8	2xE-04
Epichlorohydrin	106-89-8	4xE-02
Ethylene dibromide	106-93-4	4xE-07
Ethylene oxide	75-21-8	3xE-04
Fluorine	7782-41-4	4xE+00
Formic acid	64-18-6	7xE+01
Heptachlor	76-44-8	8xE-05
Heptachlor epoxide	1024-57-3	4xE-05
Hexachlorobenzene	118-74-1	2xE-04
Hexachlorobutadiene	87-68-3	5xE-03
Hexachlorocyclopentadiene	77-47-4	2xE-01
Hexachlorodibenzo-p-dioxins	19408-74-3	6xE-08
Hexachloroethane	67-72-1	3xE-02
Hydrazine	302-01-1	1xE-04
Hydrogen cyanide	74-90-8	7xE-05
Hydrogen sulfide	7783-06-4	1xE-06
Isobutyl alcohol	78-83-1	1xE+01
Methomyl	16752-77-5	1xE+00
Methoxychlor	72-43-5	1xE-01
3-Methylcholanthrene	56-49-5	4xE-05
4,4'-Methylenebis (2-chloroaniline)	101-14-4	2xE-03
Methylene chloride	75-09-2	5xE-02
Methyl ethyl ketone (MEK)	78-93-3	2xE+00
Methyl hydrazine	60-34-4	3xE-04
Methyl parathion	298-00-0	2xE-02
Naphthalene	91-20-3	1xE+01
Nickel cyanide	557-19-7	7xE-01
Nitric oxide	10102-43-9	4xE+00
Nitrobenzene	98-95-3	2xE-02
N-Nitrosodi-n-butylamine	924-16-3	6xE-05
N-Nitrosodiethylamine	55-18-5	2xE-06
N-Nitroso-N-methylurea	684-93-5	1xE-07
N-Nitrosopyrrolidine	930-55-2	2xE-04
Pentachlorobenzene	608-93-5	3xE-02
Pentachloronitrobenzene (PCNB)	82-68-8	1xE-01
Pentachlorophenol	87-86-5	1xE+00
Phenol	108-95-2	1xE+00
Phenylmercury acetate	62-38-4	3xE-03
Phosphine	7803-51-2	1xE-02
Polychlorinated biphenyls, N.O.S	1336-36-3	5xE-05
Potassium cyanide	151-50-8	2xE+00
Potassium silver cyanide	506-61-6	7xE+00
Pronamide	23950-58-5	3xE+00
Pyridine	110-86-1	4xE-02
Reserpine	50-55-5	3xE-05
Selenourea	630-10-4	2xE-01
Silver cyanide	506-64-9	4xE+00
Sodium cyanide	143-33-9	1xE+00
Strychnine	57-24-9	1xE-02
1,2,4,5-Tetrachlorobenzene	95-94-3	1xE-02
1,1,2,2-tetrachloroethane	79-34-5	2xE-03
Tetrachloroethylene	127-18-4	7xE-01
2,3,4,6-Tetrachlorophenol	58-90-2	1xE-02
Tetraethyl lead	78-00-2	4xE-06

Thiourea	62-56-6	2xE-04
Toluene	108-88-3	1xE+01
Toxaphene	8001-35-2	5xE-03
1,1,2-Trichloroethane	79-00-5	6xE-03
Trichloroethylene	79-01-6	5xE-03
Trichloromonofluoromethane	75-69-4	1xE+01
2,4,5-Trichlorophenol	95-95-4	4xE+00
2,4,6-Trichlorophenol	88-06-2	4xE+00
Vanadium pentoxide	1314-62-1	7xE-01
Vinyl chloride	75-01-4	2xE-03

*Note 1: The health-based concentration limits for Appendix VIII of Rule 0400-12-01-.02(5) constituents for which a health-based concentration is not provided below is 2xE-06 mg/kg.

Note 2: The levels specified in this appendix and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in Note 1 of this appendix are administratively stayed under the condition, for those constituents specified in subpart (8)(m)2(i) of this rule, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in Rule 0400-12-01-.10(3)(d) for F039 nonwastewaters. See item (8)(m)2(ii)(I) of this rule.

Appendix VIII-Organic Compounds For Which Residues Must Be Analyzed [40 CFR 266 APPENDIX VIII]

Volatiles	Semivolatiles
Benzene	Bis(2-ethylhexyl)phthalate
Toluene	Naphthalene
Carbon tetrachloride	Phenol
Chloroform	Diethyl phthalate
Methylene chloride	Butyl benzyl phthalate
Trichloroethylene	2,4-Dimethylphenol
Tetrachloroethylene	o-Dichlorobenzene
1,1,1-Trichloroethane	m-Dichlorobenzene
Chlorobenzene	p-Dichlorobenzene
cis-1,4-Dichloro-2-butene	Hexachlorobenzene
Bromochloromethane	2,4,6-Trichlorophenol
Bromodichloromethane	Fluoranthene
Bromoform	o-Nitrophenol
Bromomethane	1,2,4-Trichlorobenzene
Methylene bromide	o-Chlorophenol
Methyl ethyl ketone	Pentachlorophenol
	Pyrene
	Dimethyl phthalate
	Mononitrobenzene
	2,6-Toluene diisocyanate
	Polychlorinated dibenzo-p-dioxins[1]
	Polychlorinated dibenzo-furans[1]

[1] Analyses for polychlorinated dibenso-p-dioxins and polychlorinated dibenzo-furans are required only for residues collected from areas downstream of the combustion chamber (e.g., ductwork, boiler tubes, heat exchange surfaces, air pollution control devices, etc.).

NOTE TO THE TABLE: Analysis is not required for those compounds that do not have an established F039 nonwastewater concentration limit.

Appendix IX - Methods Manual for Compliance With the BIF Regulations

The Methods Manual for Compliance with the BIF Regulations presents required methods for demonstrating compliance with Tennessee's Hazardous Waste Regulations for boilers and industrial furnaces (BIFs) burning hazardous waste.

(Note: A copy of this Methods Manual may be obtained by contacting the Division Director at the following address:

Division Director
Division of Solid Waste Management
Tennessee Department of Environment
and Conservation
L & C Tower, 5th Floor
401 Church Street
Nashville, Tennessee 37243-1535

or calling 615-532-0780. The Methods Manual may also be found at 40 CFR 266 Appendix IX.)

Appendix X - (RESERVED)

Appendix XI - Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters [40 CFR 266 APPENDIX XI]

A. Exempt Lead-Bearing Materials When Generated or Originally Produced By Lead-Associated Industries:

Acid dump/fill solids
Sump mud
Materials from laboratory analyses
Acid filters
Baghouse bags
Clothing (e.g., coveralls, aprons, shoes, hats, gloves)
Sweepings
Air filter bags and cartridges
Respiratory cartridge filters
Shop abrasives
Stacking boards
Waste shipping containers (e.g., cartons, bags, drums, cardboard)
Paper hand towels
Wiping rags and sponges
Contaminated pallets
Water treatment sludges, filter cakes, residues, and solids
Emission control dusts, sludges, filter cakes, residues, and solids from lead-associated industries (e.g., K069 and D008 wastes)
Spent grids, posts, and separators
Spent batteries
Lead oxide and lead oxide residues
Lead plates and groups
Spent battery cases, covers, and vents
Pasting belts
Water filter media
Cheesecloth from pasting rollers
Pasting additive bags
Asphalt paving materials

B. Exempt Lead-Bearing Materials When Generated or Originally Produced By Any Industry

Charging jumpers and clips
Platen abrasive
Fluff from lead wire and cable casings
Lead-based pigments and compounding pigment dust

Appendix XII -Nickel or Chromium-bearing Material That May Be Processed in Exempt Nickel-chromium Recovery Furnaces [40 CFR 266 APPENDIX XII]

A. Exempt Nickel or Chromium-Bearing Materials when Generated by Manufacturers or Users of Nickel, Chromium, or Iron

Baghouse bags
Raney nickel catalyst
Floor sweepings
Air filters
Electroplating bath filters
Wastewater filter media
Wood pallets
Disposable clothing (coveralls, aprons, hats, and gloves)
Laboratory samples and spent chemicals
Shipping containers and plastic liners from containers or vehicles used to transport nickel or chromium-containing wastes
Respirator cartridge filters
Paper hand towels

B. Exempt Nickel or Chromium-Bearing Materials when Generated by Any Industry

Electroplating wastewater treatment sludges (F006)
Nickel and/or chromium-coating solutions
Nickel, chromium, and iron catalysts
Nickel-cadmium and nickel-iron batteries
Filter cake from wet scrubber system water treatment plants in the specialty steel industry
Filter cake from nickel-chromium alloy pickling operations

Appendix XIII -Mercury Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units [40 CFR 266 APPENDIX XIII]

These are exempt mercury-bearing materials with less than 500 ppm of Rule 0400-12-01-.02(5), Appendix VIII organic constituents when generated by manufacturers or users of mercury or mercury products.

1. Activated carbon
2. Decomposer graphite
3. Wood
4. Paper
5. Protective clothing
6. Sweepings
7. Respiratory cartridge filters
8. Cleanup articles
9. Plastic bags and other contaminated containers
10. Laboratory and process control samples
11. K106 and other wastewater treatment plant sludge and filter cake
12. Mercury cell sump and tank sludge
13. Mercury cell process solids
14. Recoverable levels of mercury contained in soil

Authority: T.C.A. §§ 68-212-101 et seq., and 4-5-201 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Dr. Warren Anderson	✓				
Michael Atchison	✓				
Elaine Boyd	✓				
Melissa Bryant				✓	
Dr. Jack Deibert	✓				
Kenneth Donaldson	✓				
Dr. George Hyfantis, Jr.	✓				
Jared L. Lynn	✓				
Mayor Franklin Smith, III	✓				
Mark Williams				✓	
Glenn Youngblood	✓				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Solid Waste Disposal Control Board on 10/04/2011, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/07/11

Rulemaking Hearing(s) Conducted on: (add more dates). 08/05/11

Date: October 4, 2011

Signature: [signature]

Name of Officer: Kenneth Donaldson

Title of Officer: Chairman

MARY EVANS
STATE OF TENNESSEE
NOTARY PUBLIC
DAVIDSON COUNTY

Subscribed and sworn to before me on: October 4, 2011

Notary Public Signature: Mary Evans

My commission expires on: January 6, 2014

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[signature]

Robert E. Cooper, Jr.
Attorney General and Reporter

2-21-12

Date

Department of State Use Only

Filed with the Department of State on: 6/19/12

Effective on: 9/17/12

Tre Hargett
Secretary of State

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2012 JUN 19 PM 3:47
SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment: On May 14, 2009, EPA published in the Federal Register a notice that the National Environmental Performance Track Program was terminated. All regulations referring to EPA's Performance Track Program should be terminated and it is recommended that following regulations be appropriately amended, deleted, or deleted and its place reserved since they are now obsolete:

Rule 0400-12-01-.07: Subpart (9)(c)5(xii) should be deleted and reserved; and part (10)(o)1 should be deleted and reserved.

Response: The Department checked with EPA Region IV and was directed to delete all references to the National Performance Track Program from Tennessee's regulations since that program has been terminated by the EPA. Therefore, the Department agrees with the commenter and all requested changes (deletions) have been made.

Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

This rulemaking includes the adoption of the January 8, 2010 federal revisions incorporating recent changes to the agreements concerning transboundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development (OECD) and the federal technical corrections published by EPA on March 18, 2010, June 4, 2010 and December 20, 2010. The vast majority of the changes to these regulations substantially codify federal regulations. On May 14, 2009, EPA published in the Federal Register a notice that the National Environmental Performance Track Program was terminated, and as result, all references to this program have been eliminated from these rules. The remaining changes are those necessary to change the regulatory Chapter designation from "1200-01-11" to "0400-12-01", correcting typos, delete obsolete language, and to make general housekeeping changes. Therefore, these questions regarding the impact on small businesses will address the impact of the non-federal changes.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

This rulemaking changes the rule numbers from Chapter 1200-01-11 to 0400-12-01. It also makes housekeeping changes correcting editorial errors. Therefore, there is no impact on small business.

(2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There are no projected additional reporting, recordkeeping or administrative costs as a result of this rulemaking.

(3) A statement of the probable effect on impacted small businesses and consumers.

There is no adverse affect on small businesses as a result of this rulemaking.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The Department is unaware of alternatives to the proposed rules.

(5) A comparison of the proposed rule with any federal or state counterparts.

There is no exact match with any federal or state counterparts.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Due to the administrative nature of this rulemaking, small businesses could not be exempt from this rulemaking.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule to proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The Department does not anticipate that this rulemaking will have an impact on local government.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rulemaking includes the adoption of the January 8, 2010 federal revisions incorporating recent changes to the agreements concerning transboundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development (OECD) and the federal technical corrections published by EPA on March 18, 2010, June 4, 2010 and December 20, 2010. The vast majority of the changes to these regulations substantially codify federal regulations. On May 14, 2009, EPA published in the Federal Register a notice that the National Environmental Performance Track Program was terminated, and as result, all references to this program have been eliminated from these rules. The remaining changes reflect a reorganization of all TDEC rules in order to be more logical and user friendly. The regulatory Chapter designation is being changed from "1200-01-11" to "0400-12-01", along with correcting typos, delete obsolete language, and to make general housekeeping changes.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

These rules are promulgated under the authorities of T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All entities regulated under T.C.A. §§ 68-212-101 et seq. are affected by this rule. None of these affected entities commented on this rule change.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Board is not aware of any related Attorney General Actions or judicial ruling directly relating to the rule.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

The Department is not aware of any increase of decrease of revenues resulting from this rulemaking.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

David Moran
Division of Solid Waste Management
5th Floor, L & C Tower, 401 Church Street
Nashville, TN 37243
Phone: (615) 532-0875

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Alan M. Leiserson
Legal Services Director, Office of General Counsel
Tennessee Department of Environment and Conservation

20th Floor, L & C Tower
Nashville, TN 37243-1548

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Legal Services Director, Office of General Counsel
Tennessee Department of Environment and Conservation
20th Floor, L & C Tower
Nashville, TN 37243-1548
Alan.Leiserson@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Board is not aware of any additional information requested by the committee.

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: _____
Rule ID(s): _____
File Date: _____
Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Environment and Conservation
Division:	Solid Waste Management
Contact Person:	David Moran
Address:	5th Floor, L & C Annex 401 Church Street Nashville, Tennessee
Zip:	37243-1535
Phone:	(615) 532-0875
Email:	David.Moran@tn.gov

Revision Type (check all that apply):

___ Amendment
_X_ New
_X_ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0400-12-01	Hazardous Waste Management
Rule Number	**Rule Title**
0400-12-01-.07	Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities
0400-12-01-.08	Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Wastes and for Certain Used Oil Facilities or Transporters
0400-12-01-.09	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

Chapter Number	**Chapter Title**
1200-01-11	Hazardous Waste Management Regulations
Rule Number	**Rule Title**
1200-01-11-.07	Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities
1200-01-11-.08	Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Wastes and for Certain Used Oil Facilities or Transporters
1200-01-11-.09	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://tn.gov/sos/rules/1360/1360.htm)

Repeals

Chapter 1200-01-11
Hazardous Waste Management Regulations

Rule 1200-01-11-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities, Rule 1200-01-11-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Wastes and for Certain Used Oil Facilities or Transporters, and Rule 1200-01-11-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities are repealed.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

New Rules

Chapter 0400-12-01
Hazardous Waste Management

~~1200-01-11-.07~~ 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities

(1) General

(a) Purpose [40 CFR 270.1]

The purpose of this rule is to establish the procedures, documentation, and other requirements which must be met in order for a person to be permitted to operate a hazardous waste treatment, storage, or disposal facility in Tennessee.

(b) Scope/Applicability [40 CFR 270.1]

1. The requirements of this rule apply as specified to owners and operators of new and existing hazardous waste management facilities in Tennessee. Except as may be specifically provided otherwise in this rule or in Rule ~~1200-01-11-.02~~ 0400-12-01-.02:

(i) No new hazardous waste management facility in Tennessee can lawfully treat, store, or dispose of hazardous waste unless the owner or operator has a permit under the Act; and

(ii) No existing hazardous waste management facility in Tennessee can lawfully treat, store, or dispose of hazardous waste unless the owner and operator has a permit under the Act or interim status as provided in paragraph (3) of this rule.

2. A permit is required for the treatment, storage, and disposal of any "hazardous waste" as identified or listed in Rule ~~1200-01-11-.02~~ 0400-12-01-.02. The terms "treatment", "storage", "disposal" and "hazardous waste" are defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a). Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners and operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to Rule ~~1200-01-11-.05~~ 0400-12-01-.05(7)(f)) after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal or decontamination as provided under parts 7 and 8 of this subparagraph, or obtain an enforceable document in lieu of a post-closure permit, as provided under part 9 of this subparagraph. If a post-closure permit is required, the permit must address applicable Rule ~~1200-01-11-.06~~ 0400-12-01-.06 Groundwater Monitoring, Unsaturated Zone Monitoring, Corrective Action, and Post-closure Care Requirements. The denial of a permit for the active life of a hazardous

waste management facility or unit does not affect the requirement to obtain a post-closure permit under this paragraph.

3. Owners and operators of certain facilities require permits under the Act as well as permits under other environmental regulatory programs for certain aspects of the facility operation. Permits under the Act are required for:

   (i) Injection wells that dispose of hazardous waste, and associated surface facilities that treat, store, or dispose of hazardous waste. However, the owner or operator with permits issued under the Tennessee Water Quality Control Act (T.C.A. §§69-3-101 et seq.), through Chapter 1200-04-06 of the rules of the State of Tennessee, and under Part C of the Federal Safe Drinking Water Act (42 U.S.C. 3001 et seq.), will be deemed to have a permit under the Act for the injection well itself if they comply with the requirements of subpart (c)1(ii) and part (c)2 of this paragraph (permit by rule for injection wells).

   (ii) Off-site wastewater treatment units. However, the owner or operator of an off-site wastewater treatment unit that complies with the requirements of subpart (c)1(iii) of this paragraph will be deemed to have a permit under the Act (permit-by-rule for off-site wastewater treatment units).

   (iii) Treatment, storage, or disposal of hazardous waste at facilities requiring a pollutant discharge permit under T.C.A. §§69-3-101 et seq. However, the owner or operator of a publicly owned treatment works receiving hazardous waste will be deemed to have a permit under the Act for that waste if they comply with the requirements of subpart (c)1(i) and part (c)2 of this paragraph (permit by rule for POTWs).

4. The following persons are among those who are not required to obtain a permit under the Act and this rule:

   (i) Generators who accumulate hazardous waste on-site for less than the time periods provided in Rule ~~1200-01-11-.03~~ 0400-12-01-.03(4)(e), unless the generator is accumulating the waste in a unit otherwise subject to this rule;

   (ii) Persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulation under this rule by Rules ~~1200-01-11-.02~~ 0400-12-01-.02(1)(d) and (e) (exclusions or small generator exemption);

   (iii) Owners or operators of totally enclosed treatment facilities as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a);

   (iv) Owners or operators of one of the following units, as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a):

      (I) an elementary neutralization unit;

      (II) an on-site wastewater treatment unit; or

      (III) an off-site wastewater treatment unit located at a facility otherwise required to have a permit issued pursuant to ~~Rule 0400-12-01-.07~~ paragraph (7) of this rule.

   (v) Transporters storing manifested shipments of hazardous waste in containers meeting applicable DOT and PSC packaging regulations at a transfer facility for a period of ten days or less;

(vi) Persons adding absorbent material to waste in a container (as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a)) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container and Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(h)2 and Rule ~~1200-01-11-.06~~ 0400-12-01-.06(9)(b) and (c) are complied with;

(vii) Owners and operators of facilities which treat or store hazardous waste that is to be recycled, except to the extent the requirements of this rule are referred to in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(f) and Rule ~~1200-01-11-.09~~ 0400-12-01-.09;

(viii) Farmers who dispose of hazardous waste pesticides from their own use as provided in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(d)2(ii)(II);

(ix) Universal waste handlers and universal waste transporters (as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a)) managing the wastes listed in Rule ~~1200-01-11-.12~~ 0400-12-01-.12(1)(a). These handlers are subject to regulation under Rule ~~1200-01-11-.12~~ 0400-12-01-.12.

5. (i) A person is not required to obtain a permit under the Act for treatment or containment activities taken during immediate response to any of the following situations:

(I) A discharge of a hazardous waste;

(II) An imminent and substantial threat of a discharge of hazardous waste;

(III) A discharge of a material which, when discharged, becomes a hazardous waste; or

(IV) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a).

(ii) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this rule for those activities.

(iii) In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

6. The Commissioner may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

7. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination standards under Rule ~~1200-01-11-.05~~ 0400-12-01-.05(7)(b) must obtain a post-closure permit unless they can demonstrate to the Commissioner that the closure meets the standards for closure by removal or decontamination in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(i), (12)(i) or (13)(k)5 respectively. The demonstration may be made in the following ways:

(i) If the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information

contained in the application, that closure by Rule ~~1200-01-11-.06~~ 0400-12-01-.06 removal standards were met. If the Commissioner believes that Rule ~~1200-01-11-.06~~ 0400-12-01-.06 standards were met, he/she will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in part 8 of this subparagraph.

(ii) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the Commissioner for a determination that a post-closure permit is not required because the closure met the applicable Rule ~~1200-01-11-.06~~ 0400-12-01-.06 closure standards.

(I) The petition must include data demonstrating that closure by removal or decontamination standards were met, or it must demonstrate that the unit closed met or exceeded the applicable Rule ~~1200-01-11-.06~~ 0400-12-01-.06 closure-by-removal standards.

(II) The Commissioner shall approve or deny the petition according to the procedures outlined in part 8 of this subparagraph.

8. (i) If a facility owner/operator seeks an equivalency demonstration under part 7 of this subparagraph, the Commissioner will provide the public, through a newspaper notice, published by the owner or operator, as provided for in ~~Rule 1200-01-11-.07~~ subparagraph (7)(e) of this rule and as prepared and required by the Commissioner, the opportunity to submit written comments on the information submitted by the owner/operator within 30 days from the date of the notice. The Commissioner will also, in response to a request or at his/her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the Rule ~~1200-01-11-.05~~ 0400-12-01-.05 closure to a Rule ~~1200-01-11-.06~~ 0400-12-01-.06 closure. The Commissioner will give public notice, published by the owner or operator, as provided for in ~~Rule 0400-12-01-.07~~ subparagraph (7)(e) of this rule and as prepared and required by the Commissioner, 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 owner or operator shall provide proof of the completion of all notice requirements to the Commissioner within ten (10) days following conclusion of the public notice procedures.

(ii) The Commissioner will determine whether the Rule ~~1200-01-11-.05~~ 0400-12-01-.05 closure met Rule ~~1200-01-11-.06~~ 0400-12-01-.06 closure by removal or decontamination requirements within 90 days of its receipt. If the Commissioner finds that the closure did not meet the applicable Rule ~~1200-01-11-.06~~ 0400-12-01-.06 standards, he/she will provide the owner/operator with a written statement of the reasons why the closure failed to meet Rule ~~1200-01-11-.06~~ 0400-12-01-.06 standards. The owner/operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The Commissioner will review any additional information submitted and make a final determination within 60 days.

(iii) If the Commissioner determines that the facility did not close in accordance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06 closure-by-removal standards, the facility is subject to post-closure permitting requirements.

9. Enforceable documents for post-closure care. At the discretion of the Commissioner, an owner or operator may obtain, in lieu of a post-closure permit, an enforceable document imposing the requirements of Rule ~~1200-01-11-.05~~ 0400-12-01-.05(7)(l). "Enforceable document" means an order, a plan, or other document issued by EPA or by the Commissioner including, but not limited to a corrective action order, a remedial action order, or a closure or post-closure plan.

(Note: As provided in Rule ~~1200-01-11-.08~~ 0400-12-01-.08(1)(d), no permit or other authorization shall be issued or renewed by the Division of Solid Waste Management pursuant to ~~Rule~~ this Chapter ~~0400-12-01~~ or Chapter ~~1200-01-14~~ 0400-12-02 until all fees and/or penalties owed by the applicant to the Division are paid in full, unless a time schedule for payments has been approved and all payments are current or contested fees or penalties are under appeal.)

(c) Permits-By-Rule [40 CFR 270.60]

1. Notwithstanding any other provision of this rule, the following shall be deemed to have a permit under the Act if the conditions listed are met:

(i) The owner or operator of a POTW which accepts for treatment hazardous waste:

(I) If the owner or operator has a permit under T.C.A. §§69-3-101 et seq.;

(II) If the owner or operator complies with the conditions of that permit;

(III) If the owner or operator complies with the notification requirement of part 2 of this subparagraph;

(IV) If the owner or operator complies with the following regulations:

I. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(b) (Use of Manifest System);

II. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(c) (Manifest Discrepancies);

III. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(d)1 and 2(i) (Operating Record);

IV. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(f) (Annual Report); and

V. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(g) (Unmanifested Waste Report);

VI. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(l) (Corrective Action for Solid Waste Management Units) for NPDES permits issued after November 8, 1984; and

(V) If the waste meets all Federal, State, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance.

(ii) The owner or operator of an injection well disposing of hazardous wastes, if the owner or operator:

(I) Has permits for underground injection issued under the Tennessee Water Quality Control Act (T.C.A. §§69-3-101 et seq.), through Chapter 1200-04-06 of the rules of the State of Tennessee, and under Part C of the Federal Safe Drinking Water Act (42 U.S.C. 3001 et seq.).

(II) Complies with the conditions of those permits and the following requirements:

I. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(b) (Use of Manifest System);

II. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(c) (Manifest Discrepancies);

III. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(d)1 and 2(i) (Operating Record);

IV. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(f) (Annual Report);

V. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(g) (Unmanifested Waste Report);

VI. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(g) (Personnel Training);

VII. Submitted to the Commissioner, when abandonment is completed, of certification by the owner or operator and certification by an independent registered professional engineer that the facility has been closed in accordance with the plugging and abandonment plan approved as part of his underground injection permit; and

VIII. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(l) (Corrective Action for Solid Waste Management Units) for NPDES permits issued after November 8, 1984.

(III) For Underground Injection Control (UIC) permits issued after November 8, 1984:

I. Complies with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(l); and

II. Where the UIC well is the only unit at a facility which requires a permit, complies with subparagraph (5)(e) of this rule.

(iii) The owner or operator of an off-site wastewater treatment unit (as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a)) provided that the only wastes received by the unit from off-site are from facilities owned or operated by the same manufacturing corporation or subsidiaries of such corporation or from product distribution facilities operating under contract to that manufacturing corporation or subsidiaries, if the owner or operator:

(I) Complies with the notification requirement of part 2 of this subparagraph;

(II) Meets all appropriate standards of Tennessee ~~Rule~~ Chapters 1200-04-01 through 1200-04-05 that are in effect on the effective date of this rulemaking;

(III) Complies with the following requirements relative to hazardous wastes received from off-site locations:

I. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(b) (Use of Manifest System);

II. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(c) (Manifest Discrepancies);

III. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(f) (Annual Report); and

IV. Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(g) (Unmanifested Waste Report); and

(IV) Complies with the requirements set out in part (2)(h)2 of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in Rule ~~1200-01-11-.10~~ 0400-12-01-.10(3)(a), Table: Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal.

(iv) The owner or operator of a "controlled crusher system" used explicitly for the crushing of universal waste lamps listed in Rule ~~1200-01-11-.12~~ 0400-12-01-.12(1)(a) to achieve volume reduction, if the owner or operator:

(I) Complies with the notification requirement of part 2 of this subparagraph;

(II) Complies with the following:

I. The lamps must be crushed in a system designed and operated to minimize the loss of mercury or other hazardous constituents to the atmosphere. Any air exhausted from the unit shall pass through a well-maintained high efficiency particulate air filter (HEPA) designed to minimize such loss. Detailed records regarding this operation must be kept and made available for review for at least three (3) years, including, but not limited to, the technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit;

II. The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of Rule ~~1200-01-11-.03~~ 0400-12-01-.03(4)(e), and has available equipment necessary to comply with this requirement;

III. The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable Occupational Safety and Health Administration (OSHA) exposure levels for mercury;

IV. The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury or other hazardous constituents handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and

V. The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation; and

(III) Complies with all other applicable aspects of Rule ~~1200-01-11-.12~~ 0400-12-01-.12, including, but not limited to, the provisions of paragraph (8) of that rule.

(Note: A small or large quantity handler who crushes his own lamps on site may operate without a Permit-by-Rule pursuant to subparts (2)(d)4(ii) or (3)(d)4(ii) of Rule ~~1200-01-11-.12~~ 0400-12-01-.12~~(2)(d)4(ii) or (3)(d)4(ii)~~, respectively.)

2. An owner or operator of a facility or universal waste "crusher" subject to a permit-by-rule under part 1 of this subparagraph must notify the Department in accordance with the requirements of this part.

(i) For existing facilities or crushers, notification must be filed within 90 days of the date the facility or process becomes subject to these rules. For new facilities or processes, notification must be filed at least 30 days before the management of hazardous waste is to commence.

(ii) Notification must be filed only on notification forms obtained from the Department.

(iii) The notification shall include, but not necessarily be limited to, the following information about the facility or process:

(I) The organization/facility name and mailing address;

(II) The site location (county, city, street address);

(III) The Installation Identification Number assigned to the facility or process by EPA or the Department; or, if no EPA Installation Identification Number has been assigned, one of the following:

I. If known, the facility's Dunn and Bradstreet Universal Numbering System (DUNS) identification number, or

II. For a federal facility, its General Services Administration (GSA) Real Property Number;

(IV) The name, title, and telephone number of the facility or process operator or other responsible individual at the facility who could be contacted for clarification of information submitted;

(V) A description of hazardous waste or product handled, by listing or other identification based on the waste's hazardous characteristics (~~Rules~~ Rule ~~1200-01-11-.02~~ 0400-12-01-.02);

(VI) An estimate of the quantity of each such waste handled in a year;

(VII) A brief description of hazardous waste storage and treatment methods utilized; and

(VIII) A certification, to be signed and dated by the facility or process operator or his authorized representative.

3. Upon being notified as per part 2 of this subparagraph, the Commissioner shall issue an Installation Identification Number to the facility or process; such number to be included on all manifests, all reports and official documents, and any other correspondence between the facility or process and the Department.

(d) Emergency Permits [40 CFR 270.61]

1. Notwithstanding any other provision of this rule, in the event the Commissioner finds an imminent and substantial endangerment to human health or the environment the Commissioner may issue a temporary emergency permit:

(i) To a non-permitted facility to allow treatment, storage, or disposal of hazardous waste; or

(ii) To a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit.

2. This emergency permit:

(i) May be oral or written. If oral, it shall be followed in five days by a written emergency permit;

(ii) Shall not exceed 90 days in duration;

(iii) Shall clearly specify the hazardous wastes to be received, and the manner and location of their treatment, storage, or disposal;

(iv) May be terminated by the Commissioner at any time without process if he or she determines that termination is appropriate to protect human health and the environment;

(v) Shall be accompanied by a public notice which is published by the owner or operator, as provided for in ~~Rule 1200-01-11-.07~~ subparagraph (7)(e) of this rule and as prepared and required by the Commissioner, in a daily or weekly local newspaper of general circulation. (The owner or operator shall provide proof of the completion of all notice requirements to the Commissioner within ten (10) days following conclusion of the public notice procedures.) The public notice shall include the following information:

(I) Name and address of the office granting the emergency authorization;

(II) Name and location of the permitted HWM facility;

(III) A brief description of the wastes involved;

(IV) A brief description of the action authorized and reasons for authorizing it; and

(V) Duration of the emergency permit; and

(vi) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this rule and Rules ~~1200-01-11-.06~~ 0400-12-01-.06 and .09.

(e) Hazardous Waste Incinerator Permits [40 CFR 270.62]

When an owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations in 40 CFR 63 Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of 40 CFR 63 Subpart EEE), the requirements of this ~~part~~ subparagraph do not apply, except those provisions the Commissioner determines are necessary to ensure compliance with parts (15)(f)1 and 3 of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 if you elect to comply with ~~subpart~~ item (12)(a)1(i)(I) of this rule to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Commissioner may apply the provisions of this ~~part~~ subparagraph, on a case-by-case basis, for purposes of information collection in accordance with subparagraphs (2)(g) and ~~(2)~~(h) and subparts (8)(b)2(ii) and ~~(8)(b)~~2(iii) of this rule.

1. For the purposes of determining operational readiness following completion of physical construction, the Commissioner must establish permit conditions, including but not limited to allowable waste feeds and operating conditions, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to bring the incinerator to a point of operational readiness to conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The Commissioner may extend the duration of this operational period once, for up to 720 additional hours, at

the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to part (9)(c)5 of this rule.

(i) Applicants must submit a statement, with Part B of the permit application, which suggests the conditions necessary to operate in compliance with the performance standards of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d) during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(f).

(ii) The Commissioner will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d) based on his engineering judgment.

2. For the purposes of determining feasibility of compliance with the performance standards of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d) and of determining adequate operating conditions under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(f), the Commissioner must establish conditions in the permit for a new hazardous waste incinerator to be effective during the trial burn.

(i) Applicants must propose a trial burn plan, prepared under subpart ~~(c)~~2 (ii) of this ~~Rule~~ subparagraph with a Part B of the permit application.

(ii) The trial burn plan must include the following information:

(I) An analysis of each waste or mixture of wastes to be burned which includes:

I. Heat value of the waste in the form and composition in which it will be burned.

II. Viscosity (if applicable), or description of the physical form of the waste.

III. An identification of any hazardous organic constituents listed in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02 which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for the exclusion stated. The waste analysis must rely on appropriate analytical techniques.

IV. An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by appropriate analytical methods.

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

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

II. Type of incinerator.

III. Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber.

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

V. Capacity of prime mover.

VI. Description of automatic waste feed cut-off system(s).

VII. Stack gas monitoring and pollution control equipment.

VIII. Nozzle and burner design.

IX. Construction materials.

X. 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 each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the Commissioner's decision under subpart ~~(e)2~~ (v) of this ~~Rule~~ part.

(V) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any 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, any 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) Such other information as the Commissioner reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this paragraph and the criteria in subpart ~~(e)2~~ (v) of this ~~Rule~~ part.

(iii) The Commissioner, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this ~~paragraph~~ subparagraph.

(iv) Based on the waste analysis data in the trial burn plan, the Commissioner will specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Commissioner based on his estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(4), the hazardous waste organic constituent or constituents identified in Appendix VII of that rule as the basis for listing.

(v) The Commissioner shall approve a trial burn plan if he finds that:

(I) The trial burn is likely to determine whether the incinerator performance standard required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d) can be met;

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

(III) The trial burn will help the Commissioner to determine operating requirements to be specified under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(f); and

(IV) The information sought in items ~~(e)~~2 (v)(I) and (II) of this ~~Rule~~ part cannot reasonably be developed through other means.

(vi) The Commissioner must send a notice to all persons on the facility mailing list as set forth in item (7)(e)3(i)(V) of this rule and to the appropriate units of State and local government as set forth in item (7)(e)3(i)(VI) of this rule announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Commissioner has issued such notice.

(I) This notice must be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the permitting agency.

(II) This notice must contain:

I. The name and telephone number of the applicant's contact person;

II. The name and telephone number of the permitting agency's contact office;

III. The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

IV. An expected time period for commencement and completion of the trial burn.

(vii) During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

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

(II) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, oxygen (O_2) and hydrogen chloride (HCl).

(III) 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.

(IV) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d)1.

(V) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d)2.

(VI) A computation of particulate emissions, in accordance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d)3.

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

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

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

(X) Such other information as the Commissioner may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d) and to establish the operating conditions required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(f) as necessary to meet that performance standard.

(viii) The applicant must submit to the Commissioner a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in subpart ~~(e)~~2 (vi) of this ~~Rule~~ part. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Commissioner.

(ix) All data collected during any trial burn must be submitted to the Commissioner following the completion of the trial burn.

(x) All submissions required by this part must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under subparagraph (2)(a) of this rule.

(xi) Based on the results of the trial burn, the Commissioner shall set the operating requirements in the final permit according to Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(f). The permit modification shall proceed according to part (9)(c)5 of this rule.

3. For the purposes of allowing operation of a new hazardous waste incinerator following completion of the trial burn and prior to final modification of the permit conditions to reflect the trial burn results, the Commissioner may establish permit conditions, including but not limited to allowable waste feeds and operating conditions sufficient to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(f), in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation and submission of the trial burn results by the applicant, and modification of the facility permit by the Commissioner.

(i) Applicants must submit a statement, with Part B of the permit application, which identifies the conditions necessary to operate in compliance with the performance standards of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d), during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(f).

(ii) The Commissioner will review this statement and any other relevant information submitted with Part B of the permit application and specify those requirements for

this period most likely to meet the performance standards of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d) based on his engineering judgment.

4. For the purpose of determining feasibility of compliance with the performance standards of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d) and of determining adequate operating conditions under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(f), the applicant for a permit for an existing hazardous waste incinerator must prepare and submit a trial burn plan and perform a trial burn in accordance with subpart (5)(b)5(ii) of this rule and subparts 2(ii) through ~~2~~(v) and ~~2~~(vii) through ~~2~~(x) of this subparagraph or, instead, submit other information as specified in subpart (5)(b)5(iii) of this rule. The Commissioner must announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of subpart 2(vi) of this subparagraph. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under subpart (5)(b)5(i) of this rule are exempt from compliance with Rules ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d) and (f) and, therefore, are exempt from the requirement to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in subpart 2(vii) of this subparagraph, with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Commissioner to establish a later date for submission of the Part B application or the trial burn results. Trial burn results must be submitted prior to issuance of the permit. When the applicant submits a trial burn plan with Part B of the permit application, the Commissioner will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

(f) Permits for Land Treatment Demonstrations Using Field Test or Laboratory Analyses [40 CFR 270.63]

1. For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(c), the Commissioner may issue a treatment demonstration permit. The permit must contain only those requirements necessary to meet the standards in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(c)3. The permit may be issued either as a treatment or disposal permit covering only the field test or laboratory analyses, or as a two-phase facility permit covering the field tests, or laboratory analyses, and design, construction operation and maintenance of the land treatment unit.

   (i) The Commissioner may issue a two-phase facility permit if he finds that, based on information submitted in Part B of the application, substantial, although incomplete or inconclusive, information already exists upon which to base the issuance of a facility permit.

   (ii) If the Commissioner finds that not enough information exists upon which he can establish permit conditions to attempt to provide for compliance with all of the requirements of paragraph (13) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06, he must issue a treatment demonstration permit covering only the field test or laboratory analyses.

2. If the Commissioner finds that a phased permit may be issued, he will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration clean-up activities, and any other conditions which the Commissioner

finds may be necessary under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(c)3. The Commissioner will include conditions in the second phase of the facility permit to attempt to meet all requirements of paragraph (13) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 pertaining to unit design, construction, operation, and maintenance. The Commissioner will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application.

(i) The first phase of the permit will be effective as provided in part (7)(i)2 of this rule.

(ii) The second phase of the permit will be effective as provided in part 4 of this subparagraph.

3. When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the Commissioner a certification, signed by a person authorized to sign a permit application or report under parts (2)(a)7 and 8 of this rule, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the Commissioner approves a later date.

4. If the Commissioner determines that the results of the field tests or laboratory analyses meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(c), he will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13), based upon the results of the field tests or laboratory analyses.

(i) This permit modification may proceed under part (9)(c)5 of this rule, or otherwise will proceed as a modification under subpart (9)(c)3(ii) of this rule. If such modifications are necessary, the second phase of the permit will become effective only after those modifications have been made.

(ii) If no modifications of the second phase of the permit are necessary, the Commissioner will give notice of his final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of the final decision on the second phase of the permit. The second phase of the permit then will become effective as specified in part (7)(i)2 of this rule.

(g) Research, Development, and Demonstration Permits [40 CFR 270.65]

1. The Commissioner may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under Rule ~~1200-01-11-.06~~ 0400-12-01-.06 or .09. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:

(i) Shall provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in part ~~(g)~~ 4 of this ~~paragraph~~ subparagraph, and

(ii) Shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the Commissioner deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and

(iii) Shall include such requirements as the Commissioner deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure, and remedial action), and such requirements as the Commissioner deems necessary regarding testing and providing of information to the Commissioner with respect to the operation of the facility.

2. For the purpose of expediting review and issuance of permits under this ~~section~~ subparagraph, the Commissioner may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in this rule except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

3. The Commissioner may order an immediate termination of all operations at the facility at any time he determines that termination is necessary to protect human health and the environment.

4. Any permit issued under this ~~section~~ subparagraph may be renewed not more than three times. Each such renewal shall be for a period of not more than 1 year.

(h) Confidentiality of Information

Permit application information which meets the definition of proprietary information set forth in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(7) shall be subject to the confidential handling provided in that paragraph. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the Commissioner may make the information available to the public without further notice. However, such proprietary information shall not include the name and address of permit applicants or permittees.

(i) Project Supervision

A registered engineer must plan, design, and inspect the construction of any hazardous waste treatment, storage, or disposal works; also, a registered engineer must assist in the start-up of, and outline correct operating procedures for, any new or altered facility. Any registered engineer herein required shall be governed by the terms of T.C.A. Title 62, Chapter 2.

(j) Permits for Boilers and Industrial Furnaces Burning Hazardous Waste [40 CFR 270.66]

When an owner or operator of a cement kiln , lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005 or when an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations in 40 CFR 63 Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of 40 CFR 63 Subpart EEE), the requirements of this ~~part~~ subparagraph do not apply. The requirements of this ~~part~~ subparagraph do apply, however, if the Commissioner determines certain provisions are necessary to ensure compliance with subpart (8)(c)5(i) and item (8)(c)5(ii)(III) of Rule ~~1200-01-11-.09~~ 0400-12-01-.09 if you elect to comply with subpart (12)(a)1(i) of this rule to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; or if you are an area source and elect to comply with subparagraphs (8)(f), ~~(8)~~(g), and ~~(8)~~(h) of Rule ~~1200-01-11-.09~~ 0400-12-01-.09 standards and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or the Commissioner determines certain provisions apply, on a case-by-case basis, for purposes of information collection in accordance with subparagraphs (2)(g) and ~~(2)~~(h) and subparts (8)(b)2(ii) and ~~(8)(b)2~~(iii) of this rule.

1. General

Owners and operators of new boilers and industrial furnaces (those not operating under the interim status standards of Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(d)) are subject to parts 2 through 6 of this subparagraph. Boilers and industrial furnaces operating under the interim status standards of Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(d) are subject to part 7 of this subparagraph.

2. Permit Operating Periods for New Boilers and Industrial Furnaces

A permit for a new boiler or industrial furnace shall specify appropriate conditions for the following operating periods:

(i) Pretrial Burn Period

For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the boiler or industrial furnace to a point of operational readiness to conduct a trial burn, not to exceed 720 hours operating time when burning hazardous waste, the Commissioner must establish in the Pretrial Burn Period of the permit conditions, including but not limited to, allowable hazardous waste feed rates and operating conditions. The Commissioner may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to part (9)(c)5 of this rule.

(I) Applicants must submit a statement, with Part B of the permit application, that suggests the conditions necessary to operate in compliance with the standards of Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through (h) during this period. This statement should include, at a minimum, restrictions on the applicable operating requirements identified in Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(c)5.

(II) The Commissioner will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through (h) based on his/her engineering judgment.

(ii) Trial Burn Period

For the duration of the trial burn, the Commissioner must establish conditions in the permit for the purposes of determining feasibility of compliance with the performance standards of Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through (h) and determining adequate operating conditions under Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(c)5. Applicants must propose a trial burn plan, prepared under part 3 of this subparagraph, to be submitted with Part B of the permit application.

(iii) Post-trial Burn Period

(I) 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 Commissioner to reflect the trial burn results, the Director will establish the operating requirements most likely to ensure compliance with the performance standards of Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through (h) based on his engineering judgment.

(II) Applicants must submit a statement, with part B of the application, that identifies the conditions necessary to operate during this period in compliance with the performance standards of Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through (h). This statement should include, at a minimum, restrictions on the operating requirements provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(c)5.

(III) The Commissioner will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through (h) based on his/her engineering judgment.

(iv) Final Permit Period

For the final period of operation, the Commissioner will develop operating requirements in conformance with Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(c)5 that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through (h). Based on the trial burn results, the Commissioner shall make any necessary modifications to the operating requirements to ensure compliance with the performance standards. The permit modification shall proceed according to part (9)(c)5 of this rule.

3. Requirements for Trial Burn Plans

The trial burn plan must include the following information. The Commissioner, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this paragraph:

(i) An analysis of each feed stream, including hazardous waste, other fuels, and industrial furnace feed stocks, as fired, that includes:

(I) Heating value, levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, thallium, total chlorine/chloride, and ash;

(II) Viscosity or description of the physical form of the feed stream;

(ii) An analysis of each hazardous waste, as fired, including:

(I) An identification of any hazardous organic constituents listed in Appendix VIII, of Rule ~~1200-01-11-.02~~ 0400-12-01-.02 that are present in the feed stream, except that the applicant need not analyze for constituents listed in appendix VIII that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The waste analysis must be conducted in accordance with appropriate analytical techniques.

(II) An approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by appropriate analytical methods.

(III) A description of blending procedures, if applicable, prior to firing the hazardous waste, including a detailed analysis of the hazardous waste prior to blending, an analysis of the material with which the hazardous waste is blended, and blending ratios.

(iii) A detailed engineering description of the boiler or industrial furnace, including:

(I) Manufacturer's name and model number of the boiler or industrial furnace;

(II) Type of boiler or industrial furnace;

(III) Maximum design capacity in appropriate units;

(IV) Description of the feed system for the hazardous waste, and, as appropriate, other fuels and industrial furnace feedstocks;

(V) Capacity of hazardous waste feed system;

(VI) Description of automatic hazardous waste feed cutoff system(s); and

(VII) Description of any pollution control system; and

(VIII) Description of stack gas monitoring and any pollution control monitoring systems.

(iv) 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.

(v) A detailed test schedule for each hazardous waste for which the trial burn is planned, including date(s), duration, quantity of hazardous waste to be burned, and other factors relevant to the Commissioner's decision under subpart 2(ii) of this subparagraph.

(vi) A detailed test protocol, including, for each hazardous waste identified, the ranges of hazardous waste feed rate, and, as appropriate, the feed rates of other fuels and industrial furnace feedstocks, and any other relevant parameters that may affect the ability of the boiler or industrial furnace to meet the performance standards in Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through (h).

(vii) A description of, and planned operating conditions for, any emission control equipment that will be used.

(viii) Procedures for rapidly stopping the hazardous waste feed and controlling emissions in the event of an equipment malfunction.

(ix) Such other information as the Commissioner reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this subpart and the criteria in subpart 2(ii) of this subparagraph.

4. Trial Burn Procedures

(i) A trial burn must be conducted to demonstrate conformance with the standards of Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through (h) under an approved trial burn plan.

(ii) The Commissioner shall approve a trial burn plan if he/she finds that:

(I) The trial burn is likely to determine whether the boiler or industrial furnace can meet the performance standards of Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through (h);

(II) The trial burn itself will not present an imminent hazard to human health and the environment;

(III) The trial burn will help the Commissioner to determine operating requirements to be specified under Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(c)5; and

(IV) The information sought in the trial burn cannot reasonably be developed through other means.

(iii) The Commissioner must send a notice to all persons on the facility mailing list as set forth in item (7)(e)3(i)(V) of this rule and to the appropriate units of State and local government as set forth in item (7)(e)3(i)(VI) of this rule announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Commissioner has issued such notice.

(I) This notice must be mailed within a reasonable time period before the trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the permitting agency.

(II) This notice must contain:

I. The name and telephone number of applicant's contact person;

II. The name and telephone number of the permitting agency contact office;

III. The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

IV. An expected time period for commencement and completion of the trial burn.

(iv) The applicant must submit to the Commissioner a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in part 3 of this subparagraph. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Commissioner.

(v) All data collected during any trial burn must be submitted to the Commissioner following completion of the trial burn.

(vi) All submissions required by this subparagraph must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report described in part (2)(a)7 of this rule.

5. Special Procedures for DRE Trial Burns

When a DRE trial burn is required under Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e)1, the Commissioner will specify (based on the hazardous waste analysis data and other information in the trial burn plan) as trial Principal Organic Hazardous Constituents (POHCs) those compounds for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Commissioner based on information including his/her estimate of the difficulty of destroying the constituents identified in the hazardous waste analysis, their concentrations or mass in the hazardous waste feed, and, for hazardous waste containing or derived from wastes

listed in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(4), the hazardous waste organic constituent(s) identified in Appendix VII of that rule as the basis for listing.

6. Determinations Based on Trial Burn

During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(i) A quantitative analysis of the levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, thallium, silver, and chlorine/chloride, in the feed streams (hazardous waste, other fuels, and industrial furnace feedstocks);

(ii) When a DRE trial burn is required under Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e)1:

(I) A quantitative analysis of the trial POHCs in the hazardous waste feed;

(II) A quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs; and

(III) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e);

(iii) When a trial burn for chlorinated dioxins and furans is required under Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e)5, a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra-octa congeners of chlorinated dibenzo-p-dioxins and furans, and a computation showing conformance with the emission standard;

(iv) When a trial burn for particulate matter, metals, or HCl/Cl_2 is required under ~~Rules 1200-01-11-.09~~ subparagraph (8)(f) of Rule 0400-12-01-.09, ~~.09~~ part (8)(g)3 or 4 of Rule 0400-12-01-.09, ~~or .09~~ subpart (8)(h)2(ii) of Rule 0400-12-01-.09 or part (8)(h)3 of Rule 0400-12-01-.09, a quantitative analysis of the stack gas for the concentrations and mass emissions of particulate matter, metals, or hydrogen chloride (HCl) and chlorine (Cl_2), and computations showing conformance with the applicable emission performance standards;

(v) When a trial burn for DRE, metals, or HCl/Cl_2 is required under ~~Rules 21200-01-11-.09~~ subparagraph (8)(f) of Rule 0400-12-01-.09, ~~.09~~ part (8)(g)3 or 4 of Rule 0400-12-01-.09, ~~or .09~~ subpart (8)(h)2(ii) of Rule 0400-12-01-.09 or part (8)(h)3 of Rule 0400-12-01-.09, a quantitative analysis of the scrubber water (if any), ash residues, other residues, and products for the purpose of estimating the fate of the trial POHCs, metals, and chlorine/chloride;

(vi) An identification of sources of fugitive emissions and their means of control;

(vii) A continuous measurement of carbon monoxide (CO), oxygen, and where required, hydrocarbons (HC), in the stack gas; and

(viii) Such other information as the Commissioner may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through ~~.09(8)~~(h) and to establish the operating conditions required by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(c)5 as necessary to meet those performance standards.

7. Interim Status Boilers and Industrial Furnaces

For the purpose of determining feasibility of compliance with the performance standards of Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through ~~.09(8)~~(h) and of determining adequate operating conditions under Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(d), applicants owning or operating existing boilers or industrial furnaces operated under the interim status standards of Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(d) must either prepare and submit a trial burn plan and perform a trial burn in accordance with the requirements of this ~~section~~ subparagraph or submit other information as specified in item (5)(b)8(i)(VI) of this rule. The Commissioner must announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of subpart 4(iii) of this subparagraph. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants who submit a trial burn plan and receive approval before submission of the Part B permit application must complete the trial burn and submit the results specified in part 6 of this subparagraph with the Part B permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Commissioner to establish a later date for submission of the Part B application or the trial burn results. If the applicant submits a trial burn plan with Part B of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the Commissioner.

(k) (RESERVED) [40 CFR 270.67]

(l) Remedial Action Plans (RAPs) [40 CFR 270.68]

Remedial Action Plans (RAPs) are special forms of permits that are regulated under paragraph (11) of this rule.

(m) Pre-application public meeting and notice for a new hazardous waste treatment, storage or disposal facility permit or a permit renewal.

1. The requirements of this subparagraph shall apply to all permit applicants seeking a new hazardous waste facility permit or applicants seeking a hazardous waste facility permit renewal.

2. Prior to submission of a Part B permit application for a facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses. At the pre-application community meeting the applicant must provide a community impact statement which shall also be maintained in the facility file. The community impact statement shall include the following:

(i) A description of the facility (including a scale drawing or photograph of the facility) and the proposed hazardous waste management activities;

(ii) A description of security procedures at the facility;

(iii) Information on hazard prevention and preparedness, including a summary of the contingency plan and arrangements with local emergency authorities;

(iv) A description of procedures, structures or equipment used to prevent employee exposure, hazards during unloading, runoff from handling areas and contamination of water supplies;

(v) A description of traffic patterns, traffic volume and control, condition of access roads, and the adequacy of traffic control signals; and

(vi) A description of the facility location information relative to compliance with flood plain requirements and with respect to any commercial applicant, seismic requirements.

3. The applicant shall submit documentation of the public notices, a summary of the meeting, along with the list of attendees and their addresses developed under part 2 of this subparagraph, and copies of any written comments or materials submitted at the meeting, to the permitting agency as a part of the Part B application, in accordance with part (5)(a)1 of this rule.

4. The applicant must provide public notice of the pre-application meeting at least 30 days prior to the meeting.

(i) The applicant shall provide public notice in all of the following forms:

(I) A newspaper advertisement.

The applicant shall publish a notice, fulfilling the requirements in subpart (ii) of this part, in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Commissioner shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Commissioner determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.

(II) A visible and accessible sign.

The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in subpart (ii) of this part. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.

(III) A broadcast media announcement.

The applicant shall broadcast a notice, fulfilling the requirements in subpart (ii) of this part, at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Commissioner.

(IV) A notice to the permitting agency.

The applicant shall send a copy of the newspaper notice to the permitting agency and to the appropriate units of State and local government, in accordance with item (7)(e)3(i)(III) and (IV) of this rule.

(ii) The notices required under subpart (i) of this part must include:

(I) The date, time, and location of the meeting;

(II) A brief description of the purpose of the meeting;

(III) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

(IV) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

(V) The name, address, and telephone number of a contact person for the applicant.

(2) Application For a Permit

(a) General [40 CFR 270.10 & 270.11]

1. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Commissioner as described in this paragraph. Persons currently authorized with interim status (paragraph (3) of this rule) shall apply for permits when required by the Commissioner. Persons covered by permits-by-rule (subparagraph (1)(c) of this rule) need not apply. Procedures for application, issuance, and administration of emergency permits are found in subparagraph (1)(d) of this rule. Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in subparagraph (1)(g) of this rule. Additionally, subparagraphs (1)(e) and (f) of this rule provide special requirements concerning applications for, respectively, hazardous waste incinerator permits and permits for land treatment demonstrations.

2. When a facility is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, except that the owner must also sign the permit application.

3. The Commissioner shall not issue a permit before receiving a complete application for a permit except for permits-by-rule or emergency permits. An application for a permit is complete when the Commissioner receives an application form and any supplemental information which are completed to his or her satisfaction. An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in subparagraph (f) of this paragraph. The Commissioner may deny a permit for the active life of a hazardous waste management facility or unit before receiving a complete application for a permit.

4. Permit applicants shall keep records of all data and supplemental information used to complete permit applications for a period of at least 3 years from the date the application is signed.

5. Four copies of the required permit application information must be submitted to the Commissioner.

6. All reports, plans, specifications, and manuals must be prepared in proper technical format, typewritten, and bound (in 8 1/2 x 11 inch format). Any documents prepared by firms other than the owner or operator of the facility shall be accompanied by the letter of transmittal to the client.

7. All permit applications will be signed as follows:

(i) For a corporation: by a responsible corporate officer. For the purpose of this part, a responsible corporate officer means:

(I) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who

performs similar policy- or decision-making functions for the corporation, or

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

(Note: The Department does not require specific assignments or delegations of authority to responsible corporate officers identified in this subpart ~~(I)~~. The Department will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Commissioner to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under item ~~(I)~~(II) of this subpart rather than to specific individuals.)

(ii) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

(iii) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this part, a principal executive officer of a Federal agency includes:

(I) The chief executive officer of the agency, or

(II) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

8. All reports required by permits and other information requested by the Commissioner shall be signed by a person described in part 7 of this paragraph or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in part 7 of this subparagraph;

(ii) The authorization specifies either an individual or a position having responsibility for the 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 person of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(iii) The written authorization is submitted to the Commissioner.

9. If an authorization under part 8 of this subparagraph is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of part 8 of this subparagraph must be submitted to the Commissioner prior to or together with any reports, information, or applications to be signed by an authorized representative.

10. (i) Any person signing a document under parts 7 or 8 of this subparagraph must make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the

system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(ii) For remedial action plans (RAPs) under paragraph (11) of this rule, if the operator certifies according to subpart (i) of this part, then the owner may choose to make the following certification instead of the certification in subpart (i) of this part:

"Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons who manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(b) Existing Facilities [40 CFR 270.10(e)]

1. Owners and operators of existing hazardous waste management facilities or of hazardous waste management facilities in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to the requirement to have a permit must submit Part A of their permit application no later than whichever of the following dates first occurs:

(i) Ninety days after the effective date of regulations which first require them to comply with the standards set forth in Rules ~~1200-01-11-.05~~ 0400-12-01-.05 or ~~1200-01-11-.09~~ 0400-12-01-.09; or

(ii) Thirty days after the date they first became subject to the standards set forth in Rules ~~1200-01-11-.05~~ 0400-12-01-.05 or ~~1200-01-11-.09~~ 0400-12-01-.09; or

(iii) For generators generating greater than 100 kilograms but less than 1000 kilograms in a calendar month and treating, storing, or disposing of these wastes in an on-site facility for which he is required to apply for and obtain a permit under this rule, by March 24, 1987.

2. Owners and operators of existing facilities who submitted Part A application (or their equivalent) to the Commissioner under emergency rules promulgated earlier under the Act shall not be required to resubmit their Part A application unless required to do so under subparagraph (d) of this paragraph.

3. The Commissioner may by issuance of a public notice extend the date by which owners and operators of specified classes of existing hazardous waste management facilities must submit Part A of their permit application if he finds that

(i) there has been substantial confusion as to whether the owners and operators of such facilities were required to file a permit application and

(ii) such confusion is attributable to ambiguities in Rules ~~1200-01-11-.01~~ 0400-12-01-.01, ~~1200-01-11-.02~~ 0400-12-01-.02, or ~~1200-01-11-.05~~ 0400-12-01-.05.

4. The Commissioner may by compliance order issued under T.C.A. §68-212-111 extend the date by which the owner and operator of an existing hazardous waste management facility must submit Part A of their permit application.

5. The owner or operator of an existing facility must submit Part B of their permit application as required by the Commissioner or Board. The Commissioner or Board may require such submission at any time after the due date of the Part A application for the facility, except that any owner or operator of an existing facility shall be allowed at least six months from the date of request to submit Part B of the application. Any owner or operator of an existing facility may voluntarily submit Part B of the application at any time.

6. Failure to furnish a requested Part B application on time, or to furnish in full the information required by the Part B application, is grounds for termination of interim status.

7. The Commissioner shall assign an Installation Identification Number to the owner or operator of an existing facility upon receipt of the Part A application.

8. All existing facilities shall follow the procedure requirements of ~~Rule 1200-01-11-.07(2)(c)3(i)~~ subparagraph (1)(m) of this rule as part of the Part B application process.

(c) New Facilities [40 CFR 270.10(f),124.31]

1. Except as provided in part 4 of this subparagraph, no person shall begin physical construction of a new hazardous waste management facility without having submitted Part A and Part B of the permit application and having received an effective permit.

2. An application for a permit for a new facility (including both Part A and Part B) may be filed with the Commissioner at any time after promulgation of those standards in Rule ~~1200-01-11-.06~~ 0400-12-01-.06, paragraph (9) et seq. applicable to such facility. Except as provided in part 4 of this subparagraph, all applications must be submitted at least 180 days before physical construction is expected to commence.

3. The owner or operator of a hazardous waste treatment or disposal facility which he anticipates will receive hazardous wastes generated off-site must submit his Part A permit application, completed to the best of his ability, to the Commissioner at least 120 days prior to submission of his Part B permit application. Failure to do so will result in the Commissioner delaying the processing of the Part B application for an equivalent amount of time.

~~(i) Pre-application public meeting and notice~~

~~(I) Applicability. The requirements of this subpart shall apply to all Part B applications seeking an initial permit or seeking a permit renewal for hazardous waste management units.~~

~~(II) Prior to submission of a Part B permit application for a facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses. At the pre-application community meeting the applicant must provide a community impact statement which shall also be maintained in the facility file. The community impact statement shall include the following:~~

~~I. A description of the facility (including a scale drawing or photograph of the facility) and the proposed hazardous waste management activities;~~

~~II. A description of security procedures at the facility;~~

III. Information on hazard prevention and preparedness, including a summary of the contingency plan and arrangements with local emergency authorities;

IV. A description of procedures, structures or equipment used to prevent employee exposure, hazards during unloading, runoff from handling areas and contamination of water supplies;

V. A description of traffic patterns, traffic volume and control, condition of access roads, and the adequacy of traffic control signals; and

VI. A description of the facility location information relative to compliance with flood plain requirements and with respect to any commercial applicant, seismic requirements.

(III) The applicant shall submit documentation of the public notices, a summary of the meeting, along with the list of attendees and their addresses developed under item (II) of this subpart, and copies of any written comments or materials submitted at the meeting, to the permitting agency as a part of the part B application, in accordance with part (5)(a)1 of this Rule.

(IV) The applicant must provide public notice of the pre-application meeting at least 30 days prior to the meeting.

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

A. A newspaper advertisement. The applicant shall publish a notice, fulfilling the requirements in subitem (IV)II of this subpart, in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Commissioner shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Commissioner determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.

B. A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in subitem (IV)II of this subpart. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.

C. A broadcast media announcement. The applicant shall broadcast a notice, fulfilling the requirements in subitem (IV)II of this subpart, at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Commissioner.

D. A notice to the permitting agency. The applicant shall send a copy of the newspaper notice to the permitting agency and to the appropriate units of State and local

~~government, in accordance with item (7)(e)3(i)(III) and (IV) of this Rule.~~

~~II. The notices required under subitem (IV)II of this subpart must include:~~

~~A. The date, time, and location of the meeting;~~

~~B. A brief description of the purpose of the meeting;~~

~~C. A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;~~

~~D. A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and~~

~~E. The name, address, and telephone number of a contact person for the applicant.~~

4. Notwithstanding part 1 of this subparagraph, a person may construct a facility for the incineration of polychlorinated biphenyls pursuant to an approval issued by the EPA under section (6)(e) of the federal Toxic Substance Control Act and any person owning or operating such a facility may, at any time after construction or operation of such facility has begun, file an application for a permit to incinerate hazardous waste pursuant to this rule.

(d) Updating Permit Application [40 CFR 270.10(g)]

1. If any owner or operator of a hazardous waste management facility has filed Part A of a permit application, the owner or operator shall file an amended Part A application with the Commissioner:

(i) No later than thirty days after the date on which additional hazardous wastes listed or otherwise identified by revision of Rule ~~1200-01-11-.02~~ 0400-12-01-.02 become subject to the requirements of this rule, if the facility is treating, storing, or disposing of any those newly listed or identified wastes;

(ii) As necessary to comply with provisions of paragraph (3)(c) of this rule for changes during interim status.

2. The owner or operator of a facility who fails to comply with the updating requirements of part 1 of this subparagraph does not receive interim status as to the wastes not covered by duly filed Part A applications.

(e) Reapplications [40 CFR 270.10(h)]

Any hazardous waste management facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Commissioner. (The Commissioner shall not grant permission for applications to be submitted later than the expiration date of the existing permit.) Facilities shall follow the procedure requirements of ~~Rule 1200-01-11-.07(2)(c)3(i)~~ subparagraph (1)(m) of this rule for all reapplications for a permit.

(f) Exposure Information [40 CFR 270.10(j)]

1. After February 2, 1986, any Part B permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment

or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:

(i) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

(ii) The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under subpart (i) of this part; and

(iii) The potential magnitude and nature of the human exposure resulting from such releases.

2. By 30 days after February 2, 1986, owners and operators of a landfill or a surface impoundment who have already submitted a Part B application must submit the exposure information required in part 1 of this subparagraph.

(g) The Commissioner may require a permittee or an applicant to submit information in order to establish permit conditions under subpart (8)(b)2(ii) and under part (8)(c)4 of this rule.

(h) General application requirements [40 CFR 270.10(l)]

1. If the Commissioner concludes, based on one or more of the factors listed in subpart 1(i) of this ~~subparagraph~~ part that compliance with the standards of 40 CFR 63 Subpart EEE alone may not be protective of human health or the environment, the Commissioner shall require the additional information or assessment(s) necessary to determine whether additional controls are necessary to ensure protection of human health and the environment. This includes information necessary to evaluate the potential risk to human health and/or the environment resulting from both direct and indirect exposure pathways. The Commissioner may also require a permittee or applicant to prove information necessary to determine whether such an assessment(s) should be required.

(i) The Commissioner shall base the evaluation of whether compliance with the standards of 40 CFR 63 Subpart EEE alone is protective of human health or the environment on factors relevant to the potential risk from a hazardous waste combustion unit, including as appropriate, any of the following factors:

(I) Particular site-specific considerations such as proximity to receptors (such as schools, hospitals, nursing homes, day care centers, parks, community activity centers, or other potentially sensitive receptors), unique dispersion patterns, etc.;

(II) Identities and quantities of emissions of persistent, bioaccumulative or toxic pollutants considering enforceable controls in place to limit those pollutants;

(III) Identities and quantities of nondioxin products of incomplete combustion most likely to be emitted and to pose significant risk based on known toxicities (confirmation of which should be made through emissions testing);

(IV) Identities and quantities of other off-site sources of pollutants in proximity of the facility that significantly influence interpretation of a facility-specific risk assessment;

(V) Presence of significant ecological considerations, such as the proximity of a particularly sensitive ecological area;

(VI) Volume and types of wastes, for example wastes containing highly toxic constituents;

(VII) Other on-site sources of hazardous air pollutants that significantly influence interpretation of the risk posed by the operation of the source in question;

(VIII) Adequacy of any previously conducted risk assessment, given any subsequent changes in conditions likely to affect risk; and

(IX) Such other factors as may be appropriate.

2. (RESERVED)

(3) Interim Status [40 CFR 270 Subpart G]

(a) Qualifying for Interim Status [40 CFR 270.70]

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

(i) Complied with the requirements of Rule ~~1200-01-11-.03~~ 0400-12-01-.03(2) pertaining to notification of hazardous waste activity.

(Comment: Some existing facilities may not be required to file a notification under Rule ~~1200-01-11-.03~~ 0400-12-01-.03(2). These facilities may qualify for interim status by meeting subpart ~~1~~(ii) of this ~~subparagraph~~ part.)

(ii) Complied with the requirements of paragraph (2) of this rule governing submission of Part A applications;

2. Failure to Qualify for Interim Status

If the Department has reason to believe upon examination of a Part A application that it fails to meet the requirements of paragraph (4) of this rule, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for Department's belief that the application is deficient. The owner or operator shall have 30 days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, the Department determines that the application is deficient it may take appropriate enforcement action.

3. Part 1 of this subparagraph shall not apply to any facility which has been previously denied a RCRA or a Hazardous Waste Permit or if authority to operate the facility under the Act has been previously terminated.

(b) Operation during Interim Status [40 CFR 270.71]

1. During the interim status period the facility shall not:

(i) Treat, store, or dispose of hazardous waste not specified in Part A of the permit application;

(ii) Employ processes not specified in Part A of the permit application; or

(iii) Exceed the design capacities specified in Part A of the permit application.

2. Interim status standards. During interim status, owners or operators shall comply with the interim status standards at Rule ~~1200-01-11-.05~~ 0400-12-01-.05.

(c) Changes during Interim Status [40 CFR 270.72]

1. Except as provided in part 2 of this subparagraph, the owner or operator of an interim status facility may make the following changes at the facility:

(i) Treatment, storage, or disposal of new hazardous wastes not previously identified in Part A of the permit application (and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the hazardous wastes on the effective date of the listing or identification) if the owner or operator submits a revised Part A permit application prior to such treatment, storage, or disposal;

(ii) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the Commissioner approves the changes because:

(I) There is a lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities, or

(II) The change is necessary to comply with a Federal, State, or local requirement.

(iii) Changes in the processes for the treatment, storage, or disposal of hazardous waste or addition of processes if the owner or operator submits a revised Part A permit application prior to such change (along with a justification explaining the need for the change) and the Commissioner approves the change because:

(I) The change is necessary to prevent a threat to human health and the environment because of an emergency situation, or

(II) The change is necessary to comply with a Federal, State, or local requirement.

(iv) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of operational control of a facility occurs, the old owner or operator shall comply with the requirements of Rule ~~1200-01-11-.05~~ 0400-12-01-.05(8) (Financial Requirements), until the new owner or operator has demonstrated to the Commissioner that he is complying with the requirements of that paragraph. The new owner or operator must demonstrate compliance with Rule ~~1200-01-11-.05~~ 0400-12-01-.05(8) requirements within six months of the date of the change in ownership or operational control of the facility. Upon demonstration to the Commissioner by the new owner or operator of compliance with Rule ~~1200-01-11-.05~~ 0400-12-01-.05(8), the Commissioner shall notify the old owner or operator in writing that he no longer needs to comply with Rule ~~1200-01-11-.05~~ 0400-12-01-.05(8) as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the change in ownership or operational control of the facility.

(v) Changes made in accordance with an interim status corrective action order issued by EPA under section 3008(h) or other Federal authority, by an authorized State under comparable State authority, or by a court in a judicial action brought by EPA or by an authorized State. Changes under this paragraph are limited to

the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

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

2. Except as specifically allowed under this paragraph, changes listed under part 1 of this subparagraph may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

(i) Changes made solely for the purposes of complying with the requirements of Rule ~~1200-01-11-.05~~ 0400-12-01-.05(10)(d) for tanks and ancillary equipment.

(ii) If necessary to comply with Federal, State, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of federal RCRA section 3004(o).

(iii) Changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

(iv) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

(v) Changes necessary to comply with an interim status corrective action order issued by EPA under section 3008(h) or other Federal authority, by an authorized State under comparable State authority, or by a court in a judicial proceeding brought by EPA or an authorized State, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(vi) Changes to treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed by Rule ~~1200-01-11-.10~~ 0400-12-01-.10 or federal RCRA section 3004, provided that such changes are made solely for the purpose of complying with Rule ~~1200-01-11-.10~~ 0400-12-01-.10 or federal RCRA section 3004.

(vii) Addition of newly regulated units under subpart 1(vi) of this subparagraph.

(viii) Changes necessary to comply with standards under 40 CFR part 63, Subpart EEE-National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.

(d) Termination of Interim Status [40 CFR 270.73]

Interim status terminates:

1. When final administrative disposition of a permit application, except an application for a remedial action plan (RAP) under paragraph (11) of this rule, is made.

2. When interim status is terminated as provided in part (2)(b)6 of this rule.

3. For owners or operators of each land disposal facility which has been granted interim status prior to November 8, 1984, on November 8, 1985, unless:

(i) The owner or operator submits a Part B application for a permit for such facility prior to that date; and

(ii) The owner or operator certifies that such facility is in compliance with all applicable ground-water monitoring and financial responsibility requirements.

4. For owners or operators of each land disposal facility which is in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to the requirement to have a permit and which is granted interim status, twelve months after the date on which the facility first becomes subject to such permit requirement unless the owner or operator of such facility:

(i) Submits a Part B application for a permit for such facility before the date 12 months after the date on which the facility first becomes subject to such permit requirement; and

(ii) Certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

5. For owners or operators of any land disposal unit that is granted authority to operate under subparts (3)(c)1(i), (ii) or (iii) of this rule, on the date 12 months after the effective date of such requirement, unless the owner or operator certifies that such unit is in compliance with all applicable ground-water monitoring and financial responsibility requirements.

6. For owners and operators of each incinerator facility which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1989, unless the owner or operator of the facility submits a Part B application for a permit for an incinerator facility by November 8, 1986.

7. For owners or operators of any facility (other than a land disposal or an incinerator facility) which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1992, unless the owner or operator of the facility submits a Part B application for a permit for the facility by November 8, 1988.

8. For facilities where no hazardous waste remains after closure, when prior to the due date of his Part B application, the owner or operator voluntarily closes his facility in accordance with Rule ~~1200-01-11-.05~~ 0400-12-01-.05(7)(b) through (f) and the Commissioner grants his request to withdraw his interim status and Part A application.

(4) Contents of Part A

(a) Required Information [40 CFR 270.13]

The Part A permit application must include, but shall not necessarily be limited to, the following information:

1. The activities conducted by the applicant which require it to obtain a permit under this rule;

2. The name, mailing address, and location of the facility for which the application is submitted;

3. Up to four SIC codes which best reflect the principal products or services provided by the facility;

4. The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity;

5. A listing of all permits or construction approvals received or applied for by this facility under any of the following programs:

   (i) State or Federal programs regulating underground injections;

   (ii) State or Federal programs regulating point source discharges to waters of the State;

   (iii) State, Federal, or local programs regulating emissions to the air;

   (iv) State or Federal programs regulating discharges of dredge or fill material to waters of the state; and

   (v) Other relevant State or Federal environmental permit programs;

6. A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well 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 1/4 mile of the facility property boundary;

7. A brief description of the nature of the business;

8. The latitude and longitude of the facility;

9. The name, address, and telephone number of the owner of the facility;

10. An indication of whether the facility is new or existing and whether it is a first or revised application;

11. For existing facilities, a scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas;

12. For existing facilities, photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas;

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

14. A specification of the hazardous wastes listed or designated under Rule ~~1200-01-11-.02~~ 0400-12-01-.02 to be treated, stored, or disposed of at the facility, an estimate of the quantity of such wastes to be treated, stored, or disposed of annually, and a general description of the processes to be used for such wastes; and

15. For hazardous debris, a description of the debris category(ies) and contaminant category(ies) to be treated, stored, or disposed of at the facility.

(b) Required Form

Part A permit applications must be submitted on forms provided by the Department and completed as per the accompanying instructions.

(Note: The Part A permit application information requirements as stated in this paragraph are substantially equivalent to those similarly required by EPA under 40 CFR 270.10 and 270.13. Thus, copies of the EPA Part A permit application submitted to EPA will, if properly completed, suffice as the copies of the Part A permit application required by this paragraph.)

(5) Contents of Part B

Part B of the permit application consists of the general information requirements of this rule, and the specific information requirements in paragraphs (5) and (6) of this rule applicable to the facility. The part B information requirements presented in paragraphs (5) and (6) reflect the standards promulgated in Rule ~~1200-01-11-.06~~ 0400-12-01-.06. These information requirements are necessary in order for the Department to determine compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06 standards. If owners and operators of HWM facilities can demonstrate that the information prescribed in Part B can not be provided to the extent required, the Commissioner may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the Commissioner and signed in accordance with the requirements in ~~Rule 1200-01-11-.07~~ subparagraph (2)(a) of this rule. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a qualified Registered Professional Engineer. For post-closure permits, only the information specified in ~~Rule 1200-01-11-.07~~ part (5)(b)14 of this rule is required in Part B of this permit application.

(a) General Requirements [40 CFR 270.14]

1. General Information Requirements [40 CFR 270.14(b)]

The following information is required for all HWM facilities, except as Rule ~~1200-01-11-.06~~ 0400-12-01-.06(1) provides otherwise:

(i) A general description of the facility.

(ii) Chemical and physical analyses of the hazardous waste and hazardous debris to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06.

(iii) A copy of the waste analysis plan required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(d)2 and, if applicable Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(d)3.

(iv) A description of the security procedures and equipment required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(e), or a justification demonstrating the reasons for requesting a waiver of this requirement.

(v) A copy of the general inspection schedule required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(f)2. Include, where applicable, as part of the inspection schedule, specific requirements in Rules ~~1200-01-11-.06~~ 0400-12-01-.06(9)(e), (10)(d)9, (10)(f), (11)(g), (12)(e), (13)(d), (14)(d), (27)(c), (30)(d), (31)(c), (31)(d), (31)(i), (32)(e), (32)(f), (32)(g), and (32)(i).

(vi) A justification of any request for (a) waiver(s) of the preparedness and prevention requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(3).

(vii) A copy of the contingency plan required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(4). Note: Include, where applicable, as part of the contingency plan, specific requirements in Rules ~~1200-01-11-.06~~ 0400-12-01-.06(11)(h) and (12)(f).

(viii) A description of procedures, structures, or equipment used at the facility to:

(I) Prevent hazards in unloading operations (for example, ramps, special forklifts);

(II) Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(III) Prevent contamination of water supplies;

(IV) Mitigate effects of equipment failure and power outages;

(V) Prevent undue exposure of personnel to hazardous waste (for example, protective clothing); and

(VI) Prevent releases to atmosphere.

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(h) including documentation demonstrating compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(h)3.

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(xi) Facility location information:

(I) In order to determine the applicability of the seismic standard [Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(i)1] the owner or operator of a new facility must identify the political jurisdiction (e.g., county, township, or election district) in which the facility is proposed to be located.

(Comment: If the county or election district is not listed in Appendix VI of Rule ~~1200-01-11-.06~~ 0400-12-01-.06, no further information is required to demonstrate compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(i)1.)

(II) If the facility is proposed to be located in an area listed in Appendix VI of Rule ~~1200-01-11-.06~~ 0400-12-01-.06, the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:

I. No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within 3,000 feet of a facility are present, based on data from:

A. Published geologic studies,

B. Aerial reconnaissance of the area within a five-mile radius from the facility,

C. An analysis of aerial photographs covering a 3,000 foot radius of the facility, and

D. If needed to clarify the above data, a reconnaissance based on walking portions of the area within 3,000 feet of the facility, or

II. If faults (to include lineations) which have had displacement in Holocene time are present within 3,000 feet of a facility, no faults pass within 200 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within 200 feet of such portions of the facility data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than 200 feet from portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within 3,000 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such investigation shall document with supporting maps and other analyses, the location of faults found.

(Comment: The Guidance Manual for the Location Standards provides greater detail on the content of each type of seismic investigation and the appropriate conditions under which each approach or a combination of approaches would be used.)

(III) Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.

(Comment: Where maps for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the 100-year floodplain. However, where the FIA map excludes an area (usually areas of the floodplain less than 200 feet in width), these areas must be considered and a determination made as to whether they are in the 100-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the 100-year floodplain, and if so located, what the 100-year flood elevation would be.)

(IV) Owners and operators of facilities located in the 100-year floodplain must provide the following information:

I. Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as consequence of a 100-year flood.

II. Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection

devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout.

III. If applicable, and in lieu of subitems I and II ~~above~~ of this item, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:

A. Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility.

B. A description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with the regulations under Rules ~~1200-01-11-.05~~ 0400-12-01-.05 through .07 and .09.

C. The planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use.

D. The potential for accidental discharges of the waste during movement.

(V) Existing facilities NOT in compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(i)2 shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the HWM facility in a safe manner as required to demonstrate compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(g). A brief description of how training will be designed to meet actual job tasks in accordance with requirements in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(g)1(iii).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(7)(c), (7)(i) and (10)(h). Include, where applicable, as part of the plans, specific requirements in Rules ~~1200-01-11-.06~~ 0400-12-01-.06(9)(i), (10(h), (11)(i), (12)(i), (13)(k), (14)(k), (15)(i), (27)(b) and (27)(d).

(xiv) For hazardous waste disposal units that have been closed, documentation that notices required under ~~Rule 0400-12-01-.07~~ subparagraph (7)(j) of Rule 0400-12-01-.06 have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8)(c) and a copy of the documentation required to demonstrate financial assurance under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8)(d). For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8)(e) plus a copy of the documentation required to demonstrate financial assurance under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8)(f). For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8)~~(k)~~(n). For a new facility, documentation showing the amount of insurance meeting the specification of Rule ~~1200-01-11-.06~~ 0400-12-01-.06~~(8)(k)1~~ (8)(n)1 and, if applicable, Rule 0400-12-01-.06(8)(n)2, that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06~~(8)(k)3~~ (8)(n)3.

(xviii) (Reserved) [40 CFR 270.14(b)(18)]

(xix) A topographic map showing a distance of 1000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of HWM facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

(I) Map scale and date.

(II) 100-year floodplain area.

(III) Surface waters including intermittent streams.

(IV) Surrounding land uses (residential, commercial, agricultural, recreational).

(V) A wind rose (i.e., prevailing wind-speed and direction).

(VI) Orientation of the map (north arrow).

(VII) Legal boundaries of the HWM facility site.

(VIII) Access control (fences, gates).

(IX) Injection and withdrawal wells both on-site and off-site.

(X) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.)

(XI) Barriers for drainage or flood control.

(XII) Location of operational units within the HWM facility site, where hazardous waste is (or will be) treated, stored, or disposed (include equipment cleanup areas).

(Note: For large HWM facilities the Department will allow the use of other scales on a case-by-case basis.)

(xx) (Reserved) [40 CFR 270.14(b)(20)]

(xxi) For land disposal facilities, if a case-by-case extension has been approved under Rule ~~1200-01-11-.10~~ 0400-12-01-.10(1)(e) or a petition has been approved under Rule ~~1200-01-11-.10~~ 0400-12-01-.10(1)(f), a copy of the notice of approval for the extension or petition is required.

(xxii) A summary of the pre-application meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under ~~item (2)(c)3(i)(III)~~ part (1)(m)3 of this rule.

2. The following additional information is also required:

(i) A description of the forms and procedures used or to be used to maintain the operating record required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(d).

(ii) A description of any other wastes or other materials planned to be stored, treated, or disposed of along with hazardous waste in the hazardous waste management units covered by the permit application, and a description of how such other wastes or other materials will be managed in order to comply with the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(k).

(iii) The name, address, and telephone number of each person who is the legal or beneficial owner of ten percent or more of the stock of the company or corporation applying for the permit; a statement as to whether any of these persons have been convicted of any felony or have been convicted of a misdemeanor for the unlawful storage, treatment, or disposal of hazardous waste; and a full description of such convictions.

(b) Specific Information Requirements

1. Specific Part B Information Requirements For Containers [40 CFR 270.15]

Except as otherwise provided in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(9)(a), owners or operators of facilities that store containers of hazardous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(9)(f). Show at least the following:

(I) Basic design parameters, dimensions, and materials of construction;

(II) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system;

(III) Capacity of the containment system relative to the number and volume of containers to be stored;

(IV) Provisions for preventing or managing run-on; and

(V) How accumulated liquids can be analyzed and removed to prevent overflow.

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(9)(f)3, including:

(I) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids;

(II) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) Sketches, drawings, or data demonstrating compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(9)(g) (location of buffer zone and containers holding ignitable or reactive wastes) and Rule ~~1200-01-11-.06~~ 0400-12-01-.06(9)(h)3 (location of incompatible wastes), where applicable;

(iv) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with Rules ~~1200-01-11-.06~~ 0400-12-01-.06(9)(h)1 and 2, and Rules ~~1200-01-11-.06~~ 0400-12-01-.06(2)(h)2 and 3; and

(v) Information on air emission control equipment as required in part 13 of this subparagraph.

2. Specific Part B Information Requirements for Tank Systems [40 CFR 270.16]

Except as otherwise provided in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(10)(a), owners and operators of facilities that use tanks to store or treat hazardous waste must provide the following additional information:

(i) A written assessment that is reviewed and certified by a qualified Professional Engineer as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under Rules ~~1200-01-11-.06~~ 0400-12-01-.06(10)(b) and (10)(c);

(ii) Dimensions and capacity of each tank;

(iii) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(iv) A diagram of piping, instrumentation, and process flow for each tank system;

(v) A description of materials and equipment used to provide external corrosion protection, as required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(10)(c)1(iii)(II);

(vi) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(10)(c)2, 3, 4, and 5;

(vii) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(10)(d)1, 2, 3, 4, 5, and 6;

(viii) For tank systems for which a variance from the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(10)(d) is sought (as provided by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(10)(d)7):

(I) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous waste or hazardous constituents into the ground water or surface water during the life of the facility, or

(II) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment;

(ix) Description of controls and practices to prevent spills and overflows, as required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(10)(e)2;

(x) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of Rules ~~1200-01-11-.06~~ 0400-12-01-.06(10)(i) and (j); and

(xi) Information on air emission control equipment as required in part 13 of this subparagraph.

3. Specific Part B Information Requirements for Surface Impoundments [40 CFR 270.17]

Except as otherwise provided in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(1)(b) or (d), owners and operators of facilities that store, treat or dispose of hazardous waste in surface impoundments must provide the following additional information:

(i) A list of the hazardous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is designed and is or will be constructed, operated, and maintained to meet the requirements of Rules ~~1200-01-11-.06~~ 0400-12-01-.06(2)(j), (11)((b), (11)(c), and (11)(d), addressing the following items:

(I) The liner system (except for an existing portion of a surface impoundment). If an exemption from the requirement for a liner is sought as provided by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(b)2, submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the surface impoundment must meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(b)3. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(b)4, 5, or 6, submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(j);

(V) Proposed action leakage rate, with rationale, if required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(c), and response action plan, if required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(d);

(VI) Prevention of overtopping; and

(VII) Structural integrity of dikes;

(iii) A description of how each surface impoundment, including the double liner system, leak detection system, cover system, and appurtenances for control of overtopping, will be inspected in order to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(g)1, 2, and 4. This information must be included in the inspection plan submitted under subpart ~~(5)~~(a)1(v) of this ~~Rule~~ paragraph;

(iv) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(g)3. For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(v) A description of the procedure to be used for removing a surface impoundment from service, as required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(h)2 and 3. This information should be included in the contingency plan submitted under subpart ~~(5)~~ (a)1(vii) of this ~~Rule~~ paragraph;

(vi) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(i)1(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(i)1(ii) and 2 will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under subpart ~~(5)~~ (a)1(xiii) of this ~~Rule~~ paragraph;

(vii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(j) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(k) will be complied with;

(ix) A waste management plan for Hazardous Waste Codes F020, F021, F022, F023, F026, and F027 describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(l). This submission must address the following items as specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(11)(l):

(I) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(II) The attenuative properties of underlying and surrounding soils or other materials;

(III) The mobilizing properties of other materials co-disposed with these wastes; and

(IV) The effectiveness of additional treatment, design, or monitoring techniques; and

(x) Information on air emission control equipment as required in part 13 of this subparagraph.

4. Specific Part B Information Requirements for Waste Piles [40 CFR 270.18]

Except as otherwise provided in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(1)(b) or (d), owners and operators of facilities that store or treat hazardous waste in waste piles must provide the following additional information:

(i) A list of hazardous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(b) and Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6) as provided by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(a)3 or Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(a)2(ii), an explanation of how the standards of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(a)3 will be complied with or detailed plans and an engineering report describing how the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(a)2(ii) will be met;

(iii) Detailed plans and an engineering report describing how the waste pile is designed and is or will be constructed, operated, and maintained to meet the requirements of Rules ~~1200-01-11-.06~~ 0400-12-01-.06(2)(j), (12)(b), (12)(c) and (12)(d), addressing the following items:

(I) I. The liner system (except for an existing portion of a waste pile), if the waste pile must meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(b)1. If an exemption from the requirement for a liner is sought as provided by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(b)2, submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

II. The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(b)3. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(b)4, 5, or 6, submit appropriate information;

III. If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

IV. The construction quality assurance (CQA) plan if required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(j); and

V. Proposed action leakage rate, with rationale, if required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(c), and response action plan, if required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(d);

(II) Control of run-on;

(III) Control of run-off;

(IV) Management of collection and holding units associated with run-on and run-off control systems; and

(V) Control of wind dispersal of particulate matter, where applicable;

(iv) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(e)1, 2, and 3. This information must be included in the inspection plan submitted under subpart ~~(5)~~ (a)1(v) of this ~~Rule~~ paragraph;

(v) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vi) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(g) will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(h) will be complied with;

(viii) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(i)1. For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(k)1 and 2 will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under subpart ~~(5)~~ (a)1(xiii) of this ~~Rule~~ paragraph; and

(ix) A waste management plan for Hazardous Waste Codes F020, F021, F022, F023, F026, and F027 describing how a waste pile that is not enclosed (as defined in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(a)3) is or will be designed, constructed, operated, and maintained to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(j). This submission must address the following items as specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(j):

(I) The volume, physical, and chemical characteristics of the wastes to be disposed in the waste pile, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(II) The attenuative properties of underlying and surrounding soils or other materials;

(III) The mobilizing properties of other materials co-disposed with these wastes; and

(IV) The effectiveness of additional treatment, design, or monitoring techniques.

5. Specific Part B Information Requirements for Incinerators [40 CFR 270.19]

Except as Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(a) and subpart (v) of this part provide otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of subparts (i), (ii), or (iii) of this part.

(i) When seeking an exemption under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(a)(ii) or (iii) (Ignitable, corrosive, or reactive wastes only):

(I) Documentation that the waste is listed as a hazardous waste in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(4), because it is ignitable (Hazard Code I) or corrosive (Hazard Code C) or both; or

(II) Documentation that the waste is listed as a hazardous waste in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(4), solely because it is reactive (Hazard Code R) for characteristics other than those listed in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(3)(d)1(iv) and (v), and will not be burned when other hazardous wastes are present in the combustion zone; or

(III) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous waste under Rule ~~1200-01-11-.02~~ 0400-12-01-.02(3); or

(IV) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(3)(d)1(i), (ii), (iii), (vi), (vii), or (viii), and that it will not be burned when other hazardous wastes are present in the combustion zone; or

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with subparagraph (1)(e) of this rule; or

(iii) In lieu of a trial burn, the applicant may submit the following information:

(I) An analysis of each waste or mixture of wastes to be burned including:

I. Heat value of the waste in the form and composition in which it will be burned.

II. Viscosity (if applicable), or description of physical form of the waste.

III. An identification of any hazardous organic constituents listed in Rule ~~1200-01-11-.02~~ 0400-12-01-.02, Appendix VIII, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Rule ~~1200-01-11-.02~~ 0400-12-01-.02, Appendix VIII, which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on appropriate analytical techniques.

IV. An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by appropriate analytical methods.

V. A quantification of those hazardous constituents in the waste which may be designated as POHC's based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d).

(II) A detailed engineering description of the incinerator, including:

I. Manufacturer's name and model number of incinerator.

II. Type of incinerator.

III. Linear dimension of incinerator unit including cross sectional area of combustion chamber.

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

V. Capacity of prime mover.

VI. Description of automatic waste feed cutoff system(s).

VII. Stack gas monitoring and pollution control monitoring system.

VIII. Nozzle and burner design.

IX. Construction materials.

X. Location and description of temperature, pressure, and flow indicating devices and control devices.

(III) 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 should include those items listed in item ~~(iii)~~ (I) of this ~~part~~ subpart. This analysis should specify the POHC's which the applicant has identified in the waste for which a permit is sought, and any differences from the POHC's in the waste for which burn data are provided.

(IV) The design and operating conditions of the incinerator unit to be used compared with that for which comparative burn data are available.

(V) A description of the results submitted from any previously conducted trial burn(s) including:

I. Sampling and analysis techniques used to calculate performance standards in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d), and

II. Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement).

(VI) The expected incinerator operation information to demonstrate compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d) and (15)(f) including:

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

II. Waste feed rate.

III. Combustion zone temperature.

IV. Indication of combustion gas velocity.

V. Expected stack gas volume, flow rate, and temperature.

VI. Computed residence time for waste in the combustion zone.

VII. Expected hydrochloric acid removal efficiency.

VIII. Expected fugitive emissions and their control procedures.

IX. Proposed waste feed cut-off limits based on the identified significant operating parameters.

(VII) Such supplemental information as the Commissioner finds necessary to achieve the purposes of this subpart.

(VIII) Waste analysis data, including that submitted in item ~~(iii)~~ (I) of this ~~part~~ subpart, sufficient to allow the Commissioner to specify as permit Principal Organic Hazardous Constituents (permit POHC's) those constituents for which destruction and removal efficiencies will be required.

(iv) The Commissioner shall approve a permit application without a trial burn if he finds that:

(I) The wastes are sufficiently similar; and

(II) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(f)) operating conditions that will ensure that the performance standards in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(15)(d) will be met by the incinerator.

(v) When an owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations in 40 CFR 63 Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of 40 CFR 63 Subpart EEE), the requirements of this part do not apply, except those provisions the Commissioner determines are necessary to ensure compliance with parts (15)(f) 1 and 3 of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 if you elect to comply with subpart (12)(a)1(i)(I) of this rule to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Commissioner may apply the provisions of this part, on a case-by-case basis, for purposes of information collection in accordance with subparagraphs (2)(g) and (2)(h) and subparts (8)(b)2(ii) and ~~(8)(b)~~2(iii) of this rule.

6. Specific Part B Information Requirements for Land Treatment Facilities [40 CFR 270.20]

Except as otherwise provided in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(1)(b), owners and operators of facilities that use land treatment to dispose of hazardous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(c). The description must include the following information:

(I) The wastes for which the demonstration will be made and the potential hazardous constituents in the waste;

(II) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(III) Any specific laboratory or field test that will be conducted, including:

I. The type of test (e.g., column leaching, degradation);

II. Materials and methods, including analytical procedures;

III. Expected time for completion;

IV. Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(b). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(I) The wastes to be land treated;

(II) Design measures and operating practices necessary to maximize treatment in accordance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(d)1 including:

I. Waste application method and rate;

II. Measures to control soil pH;

III. Enhancement of microbial or chemical reactions;

IV. Control of moisture content;

(III) Provisions for unsaturated zone monitoring, including:

I. Sampling equipment, procedures, and frequency;

II. Procedures for selecting sampling locations;

III. Analytical procedures;

IV. Chain of custody control;

V. Procedures for establishing background values;

VI. Statistical methods for interpreting results;

VII. The justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for such selection in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(i)1;

(IV) A list of hazardous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(d);

(V) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(d). This submission must address the following items:

(I) Control of run-on;

(II) Collection and control of run-off;

(III) Minimization of run-off of hazardous constituents from the treatment zone;

(IV) Management of collection and holding facilities associated with run-on and run-off control systems;

(V) Periodic inspection of the unit. This information should be included in the inspection plan submitted under subpart ~~(5)~~ (a)1(v) of this ~~Rule~~ paragraph;

(VI) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(g)1 will be conducted including:

(I) Characteristics of the food-chain crop for which the demonstration will be made;

(II) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(III) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(IV) Characteristics of the comparison crop including the location and conditions under which it was or will be grown;

(v) If food-chain crops are to be grown, and cadmium is present in the land-treated waste, a description of how the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(g)2 will be complied with;

(vi) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(k)1(viii) and Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(k)3(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under subpart ~~(5)~~ (a)1(xiii) of this ~~Rule~~ paragraph;

(vii) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(l) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(m) will be complied with;

(ix) A waste management plan for Hazardous Waste Codes F020, F021, F022, F023, F026, and F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(n). This submission must address the following items as specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(n):

(I) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(II) The attenuative properties of underlying and surrounding soils or other materials;

(III) The mobilizing properties of other materials co-disposed with these wastes; and

(IV) The effectiveness of additional treatment, design, or monitoring techniques.

7. Specific Part B Information Requirements for Landfills [40 CFR 270.21]

Except as otherwise provided in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(1)(b) or (d), owners and operators of facilities that dispose of hazardous waste in landfills must provide the following additional information:

(i) A list of the hazardous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is designed and is or will be constructed, operated, and maintained to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(j), (14)(b), (14)(c), and (14)(d), addressing the following items:

(I) I. The liner system (except for an existing portion of a landfill), if the landfill must meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(b)1. If an exemption from the requirement for a liner is sought as provided by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(b)2, submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

II. The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(b)3. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(b)4, 5, or 6, submit appropriate information;

III. If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

IV. The construction quality assurance (CQA) plan if required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(j);

V. Proposed action leakage rate, with rationale, if required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(c), and response action plan, if required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(d);

(II) Control of run-on;

(III) Control of run-off;

(IV) Management of collection and holding facilities associated with run-on and run-off control systems; and

(V) Control of wind dispersal of particulate matter, where applicable;

(iii) A description of how each landfill, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(d)1, 2, and 3. This information must be included in the inspection plan submitted under subpart ~~(5)~~ (a)1(v) of this ~~Rule~~ paragraph;

(iv) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(d)1 and 2. This information should be included in the inspection plan submitted under subpart ~~(5)~~ (a)1(v) of this ~~Rule~~ paragraph;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(k)1, and a description of how each landfill will be maintained and monitored after closure in accordance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(k). This information should be included in the closure and post-closure plans submitted under subpart ~~(5)~~ (a)1(xiii) of this ~~Rule~~ paragraph;

(vi) If ignitable or reactive wastes will be landfilled, an explanation of how the standards of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(m) will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials, will be landfilled, an explanation of how Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(n) will be complied with;

(viii) If bulk or non-containerized liquid waste or wastes containing free liquids is to be landfilled prior to May 8, 1985, an explanation of how the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(o) will be complied with;

(ix) If containers of hazardous waste are to be landfilled, an explanation of how the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(p) or (14)(q), as applicable, will be complied with;

(x) A waste management plan for Hazardous Waste Codes F020, F021, F022, F023, F026, and F027 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(r). This submission must address the following items as specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(r):

(I) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(II) The attenuative properties of underlying and surrounding soils or other materials;

(III) The mobilizing properties of other materials co-disposed with these wastes; and

(IV) The effectiveness of additional treatment, design, or monitoring techniques.

8. Specific Part B Information Requirements for Boilers and Industrial Furnaces Burning Hazardous Waste [40 CFR 270.22]

When an owner or operator of a cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations in 40 CFR 63 Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of 40 CFR Subpart EEE the requirements of this ~~subparagraph~~ part do not apply. The requirements of this ~~subparagraph~~ part do apply, however, if the Commissioner determines certain provisions are necessary to ensure compliance with subpart (8)(c)5(i) and item (8)(c)5(ii)(III) of Rule ~~1200-01-11-.09~~ 0400-12-01-.09 if you elect to comply with subpart (12)(a)1(i)(I) of this rule to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; or if you are an area source and elect to comply with the subparagraphs (8)(f), (8)(g), and (8)(h) of Rule ~~1200-01-11-.09~~ 0400-12-01-.09 standards and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or the Commissioner determines certain provisions apply, on a case-by-case basis, for purposes of information collection in accordance with subparagraphs (2)(g) and ~~(2)~~(h) and subparts (8)(b)2(ii) and ~~(8)(b)~~2(iii) of this rule. Nevertheless, the Commissioner may apply the provisions of this part, on a case-by-case basis, for purposes of information collection in accordance with subparagraph (2)(g) and subpart (8)(b)2(ii) of this rule.

(i) Trial Burns

(I) General

Except as provided below, owners and operators that are subject to the standards to control organic emissions provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e), standards to control particulate matter provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(f), standards to control metals emissions provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(g), or standards to control hydrogen chloride or chlorine gas emissions provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(h) must conduct a trial burn to demonstrate conformance with those standards and must submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with subparagraph (1)(j) of this Rule:

I. A trial burn to demonstrate conformance with a particular emission standard may be waived under provisions of Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through ~~(8)~~(h) and items ~~(i)~~(II) through ~~(i)~~(V) of this ~~part~~ subpart; and

II. The owner or operator may submit data in lieu of a trial burn, as prescribed in item ~~(i)~~ (VI) of this ~~part~~ subpart.

(II) Waiver of trial burn for DRE

I. Boilers operated under special operating requirements. When seeking to be permitted under Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e)1(iv) and (8)(k) that automatically waive the DRE trial burn, the owner or operator of a boiler must submit documentation that the boiler operates under the special operating requirements provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(k).

II. Boilers and industrial furnaces burning low risk waste. When seeking to be permitted under the provisions for low risk waste provided by Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e)1(v) and (8)(j) that waive the DRE trial burn, the owner or operator must submit:

A. Documentation that the device is operated in conformance with the requirements of Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(j)1(i).

B. Results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02, except for those constituents that would reasonably not be expected to be in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained. The analysis must rely on appropriate analytical techniques.

C. Documentation of hazardous waste firing rates and calculations of reasonable, worst-case emission rates of each constituent identified in section ~~(i)(II)II~~ B of this ~~part~~ subitem using procedures provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(j)1(ii)(II).

D. Results of emissions dispersion modeling for emissions identified in section ~~(i)(II)II~~ C of this ~~part~~ subitem using modeling procedures prescribed by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(g)8. The Commissioner will review the emission modeling conducted by the applicant to determine conformance with these procedures. The Commissioner will either approve the modeling or determine that alternate or supplementary modeling is appropriate.

E. Documentation that the maximum annual average ground level concentration of each constituent identified in section ~~(i)(II)II~~ B of this ~~part~~ subitem quantified in conformance with section ~~(i)(II)II~~ D of this ~~part~~ subitem does not exceed the allowable ambient level established in Appendix IV or V of Rule ~~1200-01-11-.09~~ 0400-12-01-.09(30). The acceptable ambient concentration for emitted constituents for which a specific Reference Air Concentration has not been established in Appendix IV or Risk-Specific Dose has not been established in Appendix V is 0.1 micrograms per cubic meter, as noted in the footnote to Appendix IV.

(III) Waiver of trial burn for metals

When seeking to be permitted under the Tier I (or adjusted Tier I) metals feed rate screening limits provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(g)2 and 5 that control metals emissions without requiring a trial burn, the owner or operator must submit:

I. Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;

II. Documentation of the concentration of each metal controlled by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(g)2 or 5 in the hazardous waste, other fuels, and industrial furnace feedstocks, and calculations of the total feed rate of each metal;

III. Documentation of how the applicant will ensure that the Tier I feed rate screening limits provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(g)2 or 5 will not be exceeded during the averaging period provided by that subparagraph;

IV. Documentation to support the determination of the terrain-adjusted effective stack height, good engineering practice stack height, terrain type, and land use as provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(g)2(iii) through ~~2~~(v);

V. Documentation of compliance with the provisions of Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(g)2(vi), if applicable, for facilities with multiple stacks;

VI. Documentation that the facility does not fail the criteria provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(g)2(vii) for eligibility to comply with the screening limits; and

VII. Proposed sampling and metals analysis plan for the hazardous waste, other fuels, and industrial furnace feed stocks.

(IV) Waiver of trial burn for particulate matter

When seeking to be permitted under the low risk waste provisions of Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(j)2 which waives the particulate standard (and trial burn to demonstrate conformance with the particulate standard), applicants must submit documentation supporting conformance with subitem ~~(i)~~(II)II and item ~~(i)~~(III) of this ~~part~~ subpart.

(V) Waiver of trial burn for HCl and Cl_2

When seeking to be permitted under the Tier I (or adjusted Tier I) feed rate screening limits for total chloride and chlorine provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(h)2(i) and 5 that control emissions of hydrogen chloride (HCl) and chlorine gas (Cl_2) without requiring a trial burn, the owner or operator must submit:

I. Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;

II. Documentation of the levels of total chloride and chlorine in the hazardous waste, other fuels, and industrial furnace feedstocks, and calculations of the total feed rate of total chloride and chlorine;

III. Documentation of how the applicant will ensure that the Tier I (or adjusted Tier I) feed rate screening limits provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(h)2(i) or 5 will not be exceeded during the averaging period provided by that subparagraph;

IV. Documentation to support the determination of the terrain-adjusted effective stack height, good engineering practice stack height, terrain type, and land use as provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(h)2(iii);

V. Documentation of compliance with the provisions of Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(h)2(iv), if applicable, for facilities with multiple stacks;

VI. Documentation that the facility does not fail the criteria provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(h)2(iii) for eligibility to comply with the screening limits; and

VII. Proposed sampling and analysis plan for total chloride and chlorine for the hazardous waste, other fuels, and industrial furnace feedstocks.

(VI) Data in lieu of trial burn

The owner or operator may seek an exemption from the trial burn requirements to demonstrate conformance with Rules ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e) through ~~(8)~~(h) and subparagraph (1)(j) of this rule by providing the information required by subparagraph (1)(j) of this rule from previous compliance testing of the device in conformance with Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(d), or from compliance testing or trial or operational burns of similar boilers or industrial furnaces burning similar hazardous wastes under similar conditions. If data from a similar device is used to support a trial burn waiver, the design and operating information required by subparagraph (1)(j) of this rule must be provided for both the similar device and the device to which the data is to be applied, and a comparison of the design and operating information must be provided. The Commissioner shall approve a permit application without a trial burn if he finds that the hazardous wastes are sufficiently similar, the devices are sufficiently similar, the operating conditions are sufficiently similar, and the data from other compliance tests, trial burns, or operational burns are adequate to specify (under Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(c)) operating conditions that will ensure conformance with Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(c)3. In addition, the following information shall be submitted:

I. For a waiver from any trial burn:

A. A description and analysis of the hazardous waste to be burned compared with the hazardous waste for which data from compliance testing, or operational or trial burns are provided to support the contention that a trial burn is not needed;

B. The design and operating conditions of the boiler or industrial furnace to be used, compared with that for which comparative burn data are available; and

C. Such supplemental information as the Commissioner finds necessary to achieve the purposes of this item.

II. For a waiver of the DRE trial burn, the basis for selection of POHCs used in the other trial or operational burns which demonstrate compliance with the DRE performance standard in Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e)1. This analysis should specify the constituents in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02(5), that the applicant has identified in the hazardous waste for which a permit is sought, and any

differences from the POHCs in the hazardous waste for which burn data are provided.

(ii) Alternative HC limit for Industrial Furnaces with Organic Matter in Raw Materials

Owners and operators of industrial furnaces requesting an alternative HC limit under Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(e)6 shall submit the following information at a minimum:

(I) Documentation that the furnace is designed and operated to minimize HC emissions from fuels and raw materials;

(II) Documentation of the proposed baseline flue gas HC (and CO) concentration, including data on HC (and CO) levels during tests when the facility produced normal products under normal operating conditions from normal raw materials while burning normal fuels and when not burning hazardous waste;

(III) Test burn protocol to confirm the baseline HC (and CO) level including information on the type and flow rate of all feedstreams, point of introduction of all feedstreams, total organic carbon content (or other appropriate measure of organic content) of all nonfuel feedstreams, and operating conditions that affect combustion of fuel(s) and destruction of hydrocarbon emissions from nonfuel sources;

(IV) Trial burn plan to:

I. Demonstrate that flue gas HC (and CO) concentrations when burning hazardous waste do not exceed the baseline HC (and CO) level; and

II. Identify the types and concentrations of organic compounds listed in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02(5), that are emitted when burning hazardous waste in conformance with procedures prescribed by the Commissioner;

(V) Implementation plan to monitor over time changes in the operation of the facility that could reduce the baseline HC level and procedures to periodically confirm the baseline HC level; and

(VI) Such other information as the Commissioner finds necessary to achieve the purposes of this subpart.

(iii) Alternative Metals Implementation Approach

When seeking to be permitted under an alternative metals implementation approach under Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(g)6, the owner or operator must submit documentation specifying how the approach ensures compliance with the metals emissions standards of Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(g)3 or 4 and how the approach can be effectively implemented and monitored. Further, the owner or operator shall provide such other information that the Commissioner finds necessary to achieve the purposes of this subpart.

(iv) Automatic Waste Feed Cutoff System

Owners and operators shall submit information describing the automatic waste feed cutoff system, including any pre-alarm systems that may be used.

(v) Direct Transfer

Owners and operators that use direct transfer operations to feed hazardous waste from transport vehicles (containers, as defined in Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(l) directly to the boiler or industrial furnace shall submit information supporting conformance with the standards for direct transfer provided by Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(l).

(vi) Residues

Owners and operators that claim that their residues are excluded from regulation under the provisions of Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(m) must submit information adequate to demonstrate conformance with those provisions.

9. Specific Part B Information Requirements for Miscellaneous Units [40 CFR 270.23]

Except as otherwise provided in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(27)(a), owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units must provide the following additional information:

(i) A detailed description of the unit being used or proposed for use, including the following:

(I) Physical characteristics, materials of construction, and dimensions of the unit;

(II) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(27)(b) and (c); and

(III) For disposal units, a detailed description of the plans to comply with the post-closure requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(27)(d).

(ii) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(27)(b). If the applicant can demonstrate that he does not violate the environmental performance standards of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(27)(b) and the Commissioner agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(iii) Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of such exposures.

(iv) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

(v) Any additional information determined by the Commissioner to be necessary for evaluation of compliance of the unit with the environmental performance standards of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(27)(b).

10. Specific Part B information requirements for process vents [40 CFR 270.24]

Except as otherwise provided in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(1)(b), owners and operators of facilities that have process vents to which Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30) applies must provide the following additional information:

(i) For facilities that cannot install a closed-vent system and control device to comply with the provisions of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30) on the effective date that the facility becomes subject to the provisions of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 or Rule ~~1200-01-11-.05~~ 0400-12-01-.05(27), an implementation schedule as specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30)(d)1(ii).

(ii) Documentation of compliance with the process vent standards in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30)(c), including:

(I) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous waste management units on a facility plot plan).

(II) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(III) Information and data used to determine whether or not a process vent is subject to the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30(c).

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30)(c), and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30)(f)2(iii).

(iv) Documentation of compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30)(d), including:

(I) A list of all information references and sources used in preparing the documentation.

(II) Records, including the dates, of each compliance test required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30)(d)11.

(III) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (listed in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(b)) or other engineering texts acceptable to the Commissioner that present basic control device information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30)(f)2(iv)(III).

(IV) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is

or would be operating at the highest load or capacity level reasonably expected to occur.

(V) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30)(c)1 for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

11. Specific Part B Information Requirements for Equipment [40 CFR 270.25]

Except as otherwise provided in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(1)(b), owners and operators of facilities that have equipment to which Rule ~~1200-01-11-.06~~ 0400-12-01-.06(31) applies must provide the following additional information:

(i) For each piece of equipment to which Rule ~~1200-01-11-.06~~ 0400-12-01-.06(31) applies:

(I) Equipment identification number and hazardous waste management unit identification.

(II) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan).

(III) Type of equipment (e.g., a pump or pipeline valve).

(IV) Percent by weight total organics in the hazardous waste stream at the equipment.

(V) Hazardous waste state at the equipment (e.g., gas/vapor or liquid).

(VI) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").

(ii) For facilities that cannot install a closed-vent system and control device to comply with the provisions of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(31) on the effective date that the facility becomes subject to the provisions of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 or Rule ~~1200-01-11-.05~~ 0400-12-01-.05(28), an implementation schedule as specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30)(d)1(ii).

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30)(f)2(iii).

(iv) Documentation that demonstrates compliance with the equipment standards in Rules ~~1200-01-11-.06~~ 0400-12-01-.06(31)(c) to (31)(j). This documentation shall contain the records required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(31)(o). The Commissioner may request further documentation before deciding if compliance has been demonstrated.

(v) Documentation to demonstrate compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(31)(k) shall include the following information:

(I) A list of all information references and sources used in preparing the documentation.

(II) Records, including the dates, of each compliance test required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30)(d)10.

(III) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "ATPI Course 415: Control of Gaseous Emissions" (listed in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(b)) or other engineering texts acceptable to the Commissioner that present basic control device information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(30)(f)2(iv)(III).

(IV) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(V) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

12. Special Part B Information Requirements for Drip Pads [40 CFR 270.26]

Except as otherwise provided by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(1)(a) and (b), owners and operators of hazardous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads must provide the following additional information:

(i) A list of hazardous wastes placed or to be placed on each drip pad.

(ii) If an exemption is sought to Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6), as provided by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(a), detailed plans and an engineering report describing how the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(a)2(ii) will be met.

(iii) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(26)(d), including the as-built drawings and specifications. This submission must address the following items as specified in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(26)(b):

(I) The design characteristics of the drip pad;

(II) The liner system;

(III) The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;

(IV) Practices designed to maintain drip pads;

(V) The associated collection system;

(VI) Control of run-on to the drip pad;

(VII) Control of run-off from the drip pad;

(VIII) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

(IX) Procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned;

(X) Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;

(XI) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and non-pressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;

(XII) Provisions for ensuring that collection and holding units associated with the run-on and run-off control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;

(XIII) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals;

(XIV) A description of how each drip pad, including appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(26)(d). This information should be included in the inspection plan submitted under subpart ~~(5)~~ (a)1(v) of this ~~Rule~~ paragraph;

(XV) A certification signed by a qualified Professional Engineer, stating that the drip pad design meets the requirements of parts 1 through 6 of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(26)(d); and

(XVI) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(26)(f)1. For any waste not to be removed from the drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how Rule ~~1200-01-11-.06~~ 0400-12-01-.06(14)(k)1 and 2 will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under subpart ~~(5)~~ (a)1(xiii) of this ~~Rule~~ paragraph.

13. Specific Part B Information Requirements for Air Emission Controls for Tanks, Surface Impoundments, and Containers [40 CFR 270.27]

(i) Except as otherwise provided in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(1)(b), owners and operators of tanks, surface impoundments, or containers that use air emission controls in accordance with the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(32) shall provide the following additional information:

(I) Documentation for each floating roof cover installed on a tank subject to Rule ~~1200-01-11-.06~~ 0400-12-01-.06(32)(e)4(i) or (ii) that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the applicable design specifications as listed in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(32)(e)5(i) or 6(i).

(II) Identification of each container area subject to the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(32) and certification by the owner or operator that the requirements of this paragraph are met.

(III) Documentation for each enclosure used to control air pollutant emissions from tanks or containers in accordance with the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(32)(e)4(v) or .06(32)(g)5(i)(II) that includes records for he most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T--Criteria for and Verification of a Permanent or Temporary Total Enclosure" under 40 CFR 52.741, Appendix B.

(IV) Documentation for each floating membrane cover installed on a surface impoundment in accordance with the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(32)(f)3 that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(32)(f)3(i).

(V) Documentation for each closed-vent system and control device installed in accordance with the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(32)(h) that includes design and performance information as specified in subparts 10(iii) and (iv) of this subparagraph.

(VI) An emission monitoring plan for both Method 21 in 40 CFR Part 60, Appendix A and control device monitoring methods. This plan shall include the following information: monitoring point(s), monitoring methods for control devices, monitoring frequency, procedures for documenting exceedances, and procedures for mitigating noncompliances.

(VII) When an owner or operator of a facility subject to Rule ~~1200-01-11-.05~~ 0400-12-01-.05(29) cannot comply with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(32) by the date of permit issuance, the schedule of implementation required under Rule ~~1200-01-11-.05~~ 0400-12-01-.05(29)(c).

14. Part B Information Requirements for Post-Closure Permits [270.28]

For post-closure permits, the owner or operator is required to submit only the information specified in subparts (a)1(i), (iv), (v), (vi), (xi), (xiii), (xiv), (xvi), (xviii), (xix), subparagraphs (c) and (e), and part (a)2 of this paragraph, unless the Commissioner determines that additional information from subparagraph (a), parts (b)2, (b)3, (b)4, (b)6, or (b)7 of this paragraph is necessary. The owner or operator is required to submit the same information when an alternative authority is used in lieu of a post-closure permit as provided in part (1)(b)9 of this rule.

(c) Additional Information Requirements [40 CFR 270.14(c)]

The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as provided in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(a):

1. A summary of the ground-water monitoring data obtained during the interim status period under Rule ~~1200-01-11-.05~~ 0400-12-01-.05(6)(a) through (e), where applicable.

2. Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground-water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area).

3. On the topographic map required under subpart (a)1(xix) of this paragraph, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(f), the proposed location of ground-water monitoring wells as required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(h), and, to the extent possible, the information required in part 2 of this subparagraph.

4. A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

   (i) Delineates the extent of the plume on the topographic map required under subpart (a)1(xix) of this paragraph; and

   (ii) Identifies the concentration of each Appendix IX, of Rule ~~1200-01-11-.06~~ 0400-12-01-.06, constituent throughout the plume or identifies the maximum concentrations of each appendix IX constituent in the plume.

5. Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(h).

6. If the presence of hazardous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(i). This submission must address the following items specified under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(i):

   (i) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the ground water;

   (ii) A proposed ground-water monitoring system;

   (iii) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

   (iv) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground-water monitoring data.

7. If the presence of hazardous constituents has been detected in the ground water at the point of compliance at the time of the permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(j). Except as provided in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(i)8(v), the owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(k), unless the owner or operator obtains written authorization in advance from the

Commissioner to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(j), the owner or operator must address the following items:

(i) A description of the wastes previously handled at the facility;

(ii) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(iii) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with Rules ~~1200-01-11-.06~~ 0400-12-01-.06(6)(h) and (j);

(iv) Proposed concentration limits for each hazardous constituent, based on the criteria set forth in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(e)1, including a justification for establishing any alternate concentration limits;

(v) Detailed plans and an engineering report describing the proposed ground-water monitoring system, in accordance with the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(h); and

(vi) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground-water monitoring data.

8. If hazardous constituents have been measured in the ground water which exceed the concentration limits established under Table 1 of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(e), or if ground water monitoring conducted at the time of permit application under Rules ~~1200-01-11-.06~~ 0400-12-01-.06(6)(a) through (e) at the waste boundary indicates the presence of hazardous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(k). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the Commissioner that alternate concentration limits will protect human health and the environment after considering the criteria listed in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(e)2. An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(j) and part 6 of this subparagraph. To demonstrate compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(k), the owner or operator must address, at a minimum, the following items:

(i) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(ii) The concentration limit for each hazardous constituent found in the ground water as set forth in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(e);

(iii) Detailed plans and an engineering report describing the corrective action to be taken;

(iv) A description of how the ground-water monitoring program will demonstrate the adequacy of the corrective action; and

(v) The permit may contain a schedule for submittal of the information required in subparts 8(iii) and (iv) of this subparagraph provided the owner or operator obtains written authorization from the Commissioner prior to submittal of the complete permit application.

(d) Treatment Facilities

The following information is required for treatment facilities:

1. A description of the treatment technologies and sequences utilized by types of hazardous wastes handled, to include flow diagrams and mass balances where appropriate; and

2. A description of procedures, structures, or equipment used at the facility to monitor treatment processes.

(e) Information Requirements for Solid Waste Management Units [40 CFR 270.14(d)]

1. The following information is required for each solid waste management unit at a facility seeking a permit:

(i) The location of the unit on the topographic map required under subpart (a)1(xix) of this paragraph;

(ii) Designation of type of unit;

(iii) General dimensions and structural description (supply any available drawings);

(iv) When the unit was operated; and

(v) Specification of all wastes that have been managed at the unit, to the extent available.

2. The owner or operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of hazardous wastes or hazardous constituents from such unit or units.

3. The owner/operator must conduct and provide the results of sampling and analysis of groundwater, landsurface, and subsurface strata, surface water, or air, which may include the installation of wells, where the Commissioner ascertains it is necessary to complete a Facility Assessment that will determine if a more complete investigation is necessary.

(6) Permit Denial [40 CFR 270.29]

The Commissioner may, pursuant to the procedures in paragraph (7) of this rule, deny the permit application either in its entirety or as to the active life of a hazardous waste management facility or unit only.

(7) Processing the Permit [40 CFR 124]

(a) Preliminary Notices

Within 30 days after the date of receipt of a complete application as specified below, the Commissioner shall require the applicant/permittee to issue a preliminary public notice under subparagraph (e) of this paragraph for:

1. Each complete Part A permit application received from new facilities; and

2. Each Part B application received from facilities.

(b) Review of the Permit Application

1. The Commissioner shall review every permit application for completeness. Upon completing the review, the Commissioner shall notify the applicant in writing whether the application is complete. For new facilities, the Commissioner shall complete his review

and issue this notice within 45 days after receipt of the Part B permit application. If the application is incomplete, the Commissioner shall list the information necessary to make the application complete. When the application is for an existing facility, the Commissioner shall specify in the notice of deficiency a date for submitting the necessary information. The Commissioner shall notify the applicant that the application is complete upon receiving this information. After the application is completed, the Commissioner may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

2. If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under the Act.

3. When the Commissioner decides that a site visit is necessary for any reason in conjunction with the processing of an application, he shall notify the applicant and a date shall be scheduled.

(c) Draft Permits

1. Once an application is complete, the Commissioner shall tentatively decide whether the permit should be issued or denied.

2. If the Commissioner tentatively decides the permit should be denied, he or she shall prepare a notice of intent to deny. A notice of intent to deny the permit is a type of draft permit which follows the same procedures as any draft permit prepared under this subparagraph (see part 6 of this subparagraph). If the Commissioner finally decides (under subparagraph (h) of this paragraph) that the tentative decision to deny the permit was incorrect, the Commissioner shall withdraw the notice of intent to deny and proceed to prepare a draft permit as set forth in part 4 of this subparagraph.

3. If the Commissioner tentatively decides the permit should be issued, he shall prepare a draft permit as set forth in part 4 of this subparagraph.

4. A draft permit shall contain (either expressly or by reference) all applicable terms and conditions from subparagraphs (8)(a) through (f) of this rule.

5. (i) For new facilities, except as provided in subpart (ii) of this part, the Commissioner shall issue the notice of intent to deny or the draft permit within 45 days after notifying the applicant that his application was complete (see part (b)1 of this paragraph).

(ii) If the Commissioner finds it necessary to request additional information from an applicant after the application is deemed complete (see part (b)1 of this paragraph), the 45-day time limit shall be automatically extended a period of time equal to the time it takes for the applicant to submit the requested information (such time to be calculated from the postmarked date of the Commissioner's written request to the date the Department receives the information).

6. All draft permits shall be subject to the procedures of subparagraphs (d), (e), (f), (g), (h), (i), and (j) of this paragraph, unless otherwise specified in those subparagraphs. The Commissioner shall give notice of opportunity for a public hearing (subparagraph (g) of this paragraph), issue a final decision (subparagraph (i) of this paragraph) and respond to comments (subparagraph (j) of this paragraph).

(d) Fact Sheets

1. A fact sheet shall be prepared for every draft permit (or notice of intent to deny the permit) for:

(i) Disposal facilities or sites (including landfills, injection wells, surface impoundments, and land treatment facilities);

(ii) Incinerators;

(iii) Storage facilities and treatment facilities which handle or are proposed to handle (other than possibly in emergencies) hazardous wastes which are generated off-site by persons other than the owner or operator; and

(iv) Other facilities which the Commissioner finds are the subject of widespread public interest or raise major issues.

2. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit; to include, 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 and appropriate supporting references to the permit application;

(iv) Reasons why any requested waivers 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:

(I) The beginning and ending dates of the comment period under subparagraph (e) of this paragraph and the address where comments will be received;

(II) Procedures for requesting a public hearing; and

(III) Any other procedures by which the public may participate in the final decision; and

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

3. The Commissioner shall send this fact sheet to the applicant and on request, to any other person.

(e) Public Notices and Public Comments

1. Scope

(i) A person shall give all public notices, as prepared and required by these rules, including, but not limited to, the following:

(I) I. A Part A permit application as described in subparagraph (a) of this paragraph has been received;

II. A Part B permit application as described in subpart 4(iv) of this subparagraph has been received;

(II) A draft permit prepared under parts (c)2 or (c)3 of this paragraph;

(III) A public hearing scheduled under subparagraph (g) of this paragraph;

(IV) A draft permit, a permit, or a permit modification pursuant to this rule ~~0400-01-11-.07~~; or

(V) Interim status closures pursuant to Rule ~~1200-01-11-.05~~ 0400-12-01-.05(7)(c)4(iv).

(ii) A person shall provide proof of the completion of all notices required to be given by the Commissioner within 10 days following conclusion of the public notice procedures.

(iii) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under paragraph (9) of this rule. Written notice of that denial shall be given to the permittee.

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

(v) The Commissioner may prepare and public notice an intent to deny a permit prepared under part (c)2 of this paragraph.

2. Timing

(i) Public notice of the preparation of a notice of intent to deny a permit or of a draft permit, as required under part 1 of this subparagraph, shall allow at least 45 days for public comment.

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

3. Methods

Public notice of activities described in subpart 1(i) of this subparagraph shall be given by the following methods:

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

(I) The applicant;

(II) Any other agency which the Commissioner knows has issued or is required to issue an environmental permit for the same facility or activity;

(III) Any unit of local government having jurisdiction over the area where the facility is or is proposed to be located;

(IV) Each State agency having any authority under State law with respect to the construction or operation of such facility; and

(V) Persons on a mailing list developed by:

I. Including those who request in writing to be on the list;

II. Soliciting persons for "area lists" from participants in past permit proceedings in that area; and

III. Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in other publications deemed appropriate by the Commissioner;

(Note: The Commissioner may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Commissioner may delete from the list the name of any person who fails to respond to such a request.)

(ii) By one or more of the following as approved by the Commissioner:

(I) By publication of a notice in a daily or weekly local newspaper of general circulation;

(II) By broadcast over one or more local radio stations;

(III) By placement of signage at the entrance of the facility; and

(iii) By any other method deemed necessary or appropriate by the Commissioner to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation. Such additional notices shall be the financial responsibility of the Commissioner.

(iv) The Commissioner is financially responsible for radio station announcements in excess of two or newspaper notices in excess of one in each county or city where coverage is deemed necessary by the Commissioner.

4. Contents

(i) General Public Notices

Except for the preliminary public notices described in subparagraph (a) of this paragraph, all public notices issued under this part shall contain the following minimum information:

(I) Name and address of the office processing the permit action for which notice is being given;

(II) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(III) A brief description of the business conducted at the facility or activity described in the permit application;

(IV) A brief description of the comment procedures required by subparagraphs (f) and (g) of this paragraph and the time and place of any public hearing that will be held, including a statement of procedures to request a public hearing (unless a hearing has already been scheduled), and other procedures by which the public may participate in the final permit decision;

(V) Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of draft permits and fact sheets; and

(VI) Any additional information considered necessary or proper.

(ii) Public Notices for Public Hearing

In addition to the general public notice described in subpart (i) of this part, the public notice of a public hearing shall contain the following information:

(I) Reference to the dates of previous public notices relating to the permit action;

(II) Date, time, and place of the public hearing; and

(III) A brief description of the nature and purpose of the public hearing, including the applicable rules and procedures.

(iii) Preliminary Notices

The preliminary public notice described in subparagraph (a) of this paragraph shall contain the following information:

(I) The information from items (i)(I), (II), (III), (V), and (VI) ~~of subpart (i)~~ of this part; and

(II) A brief description of the permitting procedures that will be followed, focusing especially upon the opportunities for public participation in the process.

(iv) Public Notice Requirements at the Application Stage

(I) Applicability

The requirements of this subpart shall apply to all Part B applications seeking initial permits for hazardous waste management units over which the Department has permit issuance authority. The requirements of this subpart shall also apply to Part B applications seeking renewal of permits for such units under subparagraph (9)(a) of this rule. The requirements of this subpart do not apply to permit modifications under part (9)(c)5 of this rule or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(II) Notification at Application Submittal

I. The Commissioner shall provide public notice as set forth in item 3(i)(V) of this subparagraph, and notice to appropriate units of State and local government as set forth in items 3(i)(III) and (IV) of this subparagraph, that a Part B permit application has been submitted to the Department and is available for review.

II. The notice shall be published within a reasonable period of time after the application is received by the Commissioner. The notice must include:

A. The name and telephone number of the applicant's contact person;

B. The name and telephone number of the permitting agency's contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

C. An address to which people can write in order to be put on the facility mailing list;

D. The location where copies of the permit application and any supporting documents can be viewed and copied;

E. A brief description of the facility and proposed operations, including the address, and directions from a state highway or interstate, or a map (e.g., a sketched or copied street map if the location is remote or not easily accessible) of the facility location on the front page of the notice; and

F. The date that the application was submitted.

(III) Concurrent with the notice required under item (II) of this subpart, the Commissioner must place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the permitting agency's office.

(v) Information Repository

(I) Applicability

The requirements of this subpart apply to all applications seeking permits for hazardous waste management units over which the Department has permit issuance authority.

(II) The Commissioner may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Commissioner shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Commissioner determines, at any time after submittal of a permit application, that there is a need for a repository, then the Commissioner shall notify the facility that it must establish and maintain an information repository. (See part (8)(a)13 of this rule for similar provisions relating to the information repository during the life of a permit.)

(III) The information repository shall contain all documents, reports, data, and information deemed necessary by the Commissioner to fulfill the purposes for which the repository is established. The Commissioner shall have the discretion to limit the contents of the repository.

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

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

(VI) The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time

period specified by the Commissioner. The Commissioner may close the repository at his or her discretion, based on the factors in item (II) of this subpart.

5. Attachments

In addition to the general public notice described in subpart 4(i) of this subparagraph, all persons identified in items 3(i)(I), (II), (III), and (IV) of this subparagraph shall be mailed a copy of the fact sheet (if any) and the draft permit (if any).

(f) Public Comments and Requests for Public Hearings

During the public comment period provided under subpart (e)2(i) of this paragraph, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in subparagraph (j) of this paragraph.

(g) Public Hearings

1. (i) The Commissioner shall hold a public hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit(s).

(ii) The Commissioner may also hold a public hearing at his or her discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision.

(iii) The Commissioner shall hold a public hearing whenever he or she receives written notice of opposition to a draft permit and a request for a hearing, within 45 days of public notice under subpart (e)2(i) of this paragraph.

(iv) Whenever possible, the Commissioner shall schedule a hearing under this subparagraph at a location convenient to the nearest population center to the subject facility.

(v) Public notice of the hearing shall be given as specified in subparagraph (e) of this paragraph.

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

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

(h) Reopening of the Public Comment Period

1. If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit action, the Commissioner may (at his or her discretion or as directed by the Board) take one or more of the following actions:

(i) Prepare a new draft permit, appropriately modified, under subparagraph (c) of this paragraph;

(ii) Prepare a fact sheet or revised fact sheet under subparagraph (d) of this paragraph and reopen the comment period under subparagraph (e) of this paragraph; or

(iii) Reopen or extend the comment period under subparagraph (e) of this paragraph to give interested persons an opportunity to comment on the information or arguments submitted.

2. Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under subparagraph (e) of this paragraph shall define the scope of the reopening.

3. Public notice of any of the actions of part 1 of this subparagraph shall be issued under subparagraph (e) of this paragraph.

(i) Final Permit Decision

1. After the close of the public comment period under subparagraph (e) of this paragraph on a draft permit (including a notice of intent to deny a permit), the Commissioner as set forth in T.C.A. §68-212-108(a) shall issue a final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or unit under paragraph (6) of this rule). For new facilities, this final decision shall be issued within 60 days after the close of the comment period. The Commissioner shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. For the purposes of this subparagraph, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

2. A final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or unit under paragraph (6) of this rule) shall become effective 30 days after the date of the service of notice of the decision under part 1 of this subparagraph unless a different date is specified in the decision or review is requested on the permit under subparagraph (k) of this paragraph.

(j) Response to Comments

1. At the time that a final permit decision is issued under subparagraph (i) of this paragraph, the Commissioner shall issue a response to comments. This response shall:

(i) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(ii) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any public hearing.

2. The response to comments shall be made available to the public.

(k) Appeals

If, in his final permit decision under subparagraph (i) of this paragraph, the Commissioner denied the permit or issued it subject to conditions with which the permit applicant disagrees, the applicant may appeal the decision to the Board as set forth in T.C.A. §68-212-113(a)2 and (b). If the Commissioner fails to take any action on a permit application within 45 days after it was submitted to him/her or fails to meet the time limits imposed by parts (b)1, (c)5, and (i)1 of this paragraph, the permit applicant may appeal to the Board as set forth in T.C.A. §68-212-113(a)3 and (b).

(8) Terms of the Permit

(a) Conditions Applicable to all Permits [40 CFR 270.30]

The following conditions apply to all permits, and shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to this subparagraph must be included in the permit.

1. Duty to Comply

   The permittee must comply with all conditions of this permit, except that the permittee need not comply with the conditions of the permit to the extent and for the duration such noncompliance is authorized in an emergency permit (see subparagraph (1)(d) of this rule). Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. Duty to Reapply

   If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

3. Need to Halt or Reduce Activity Not a Defense

   It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to Mitigate

   In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

5. Proper Operation and Maintenance

   The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

6. Permit Actions

   This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any existing permit condition.

7. Property Rights

   This permit does not convey any property rights of any sort, or any exclusive privilege.

8. Duty to Provide Information

   The permittee shall furnish to the Commissioner, within a reasonable time, any relevant information which the Commissioner may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance

with this permit. The permittee shall also furnish to the Commissioner, upon request, copies of records required to be kept by this permit.

9. Inspection and Entry

The permittee shall allow the Commissioner, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(i) Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(iii) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit;

(iv) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location; and

(v) Make photographs for the purpose of documenting items of compliance or noncompliance at waste management units, or where appropriate to protect legitimate proprietary interests, make such photographs for him or her.

10. Monitoring and Records

(i) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(ii) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(d)2(ix), and records of all data used to complete the application for this permit, for a period of at least five (5) years from the date of the sample, measurement, report, certification, or application. The permittee shall maintain records from all ground-water monitoring wells and associated ground-water surface elevations, for the active life of the facility, and, for disposal facilities, for the post-closure care period as well. This period may be extended by request of the Commissioner at any time.

(iii) Records of monitoring information shall include:

(I) The date, exact place, and time of sampling or measurements;

(II) The individual(s) who performed the sampling or measurements;

(III) The date(s) analyses were performed;

(IV) The individual(s) who performed the analyses;

(V) The analytical techniques or methods used; and

(VI) The results of such analyses.

11. Signatory Requirement

All applications, reports, or information submitted to the Commissioner shall be signed and certified. (See subparagraph (2)(a) of this rule.)

12. Reporting Requirements

(i) Planned changes

The permittee shall give notice to the Commissioner as soon as possible of any planned physical alterations or additions to the permitted facility.

(ii) Anticipated noncompliance

The permittee shall give advance notice to the Commissioner as soon as possible of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee may not commence treatment, storage, or disposal of hazardous waste; and for a facility being modified, the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility except as provided in part (9)(c)5 of this rule, until:

(I) The permittee has submitted to the Commissioner by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

(II) I. The Commissioner has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

II. Within 15 days of the date of submission of the letter in item (I) of this subpart, the permittee has not received notice from the Commissioner of his or her intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of hazardous waste.

(iii) Transfers

This permit is not transferable to any person except after notice to the Commissioner. The Commissioner may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. (See subparagraph (9)(b) of this rule; in some cases, modification or revocation and reissuance is mandatory.)

(iv) Monitoring reports

Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(v) Compliance schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(vi) Twenty-four hour reporting

(I) The permittee shall report any noncompliance which may endanger health or the environment orally within 24 hours from the time the permittee becomes aware of the circumstances, including:

I. Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies.

II. Any information of a release or discharge of hazardous waste, or of a fire or explosion from the hazardous waste management facility, which could threaten the environment or human health outside the facility.

(II) The description of the occurrence and the cause shall include:

I. Name, address, and telephone number of the owner or operator;

II. Name, address, and telephone number of the facility;

III. Date, time, and type of incident;

IV. Name and quantity of material(s) involved;

V. The extent of injuries, if any;

VI. An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

VII. Estimated quantity and disposition of recovered material that resulted from the incident.

(III) A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Commissioner may waive the five day written notice requirement in favor of a written report within fifteen days.

(vii) Manifest discrepancy report

If a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within fifteen days, the permittee must submit a letter report, including a copy of the manifest, to the Commissioner. (See Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(c).)

(viii) Unmanifested waste report

Such report must be submitted to the Commissioner within 15 days of receipt of unmanifested waste. (See Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(g).)

(ix) Annual report

An annual report must be submitted covering facility activities during the previous calendar year. (See Rule ~~1200-01-11-.06~~ 0400-12-01-.06(5)(b).)

(x) Other noncompliance

The permittee shall report all instances of noncompliance not reported under subparts (iv), (v), and (vi) of this part, at the time monitoring reports are submitted. The reports shall contain the information listed in subpart (vi) of this part.

(xi) Other information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Commissioner, it shall promptly submit such facts or information.

13. Information Repository

The Commissioner may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in item (7)(e)4(v)(III) of this rule. The information repository will be governed by the provisions in items (7)(e)4(v)(III) through (VI) of this rule.

(b) Establishing permit conditions [40 CFR 270.32]

1. In addition to conditions required in all permits (subparagraph (a) of this paragraph), the Commissioner shall establish conditions, as required on a case-by-case basis, in permits under subparagraphs (c) (duration of permits), (d) (schedules of compliance), and (e) (monitoring).

2. (i) Each permit shall include permit conditions necessary to achieve compliance with the Act and regulations, including each of the applicable requirements specified in Rules ~~1200-01-11-.06~~ 0400-12-01-.06, .07, .09 and .10. In satisfying this provision, the Commissioner may incorporate applicable requirements of Rules ~~1200-01-11-.06~~ 0400-12-01-.06, .07, .09 and .10 directly into the permit or establish other permit conditions that are based on these rules.

(ii) Each permit shall include such terms and conditions as the Commissioner determines necessary to protect human health and the environment.

(iii) If, as the result of an assessment(s) or other information, the Commissioner determines that conditions are necessary in addition to those required under 40 CFR 63 Subpart EEE, Rule ~~1200-01-11-.06~~ 0400-12-01-.06 or Rule ~~1200-01-11-.09~~ 0400-12-01-.09 to ensure protection of human health and the environment, he shall include those terms and conditions in a RCRA permit for a hazardous waste combustion unit.

3. An applicable requirement is a State statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit. Subparagraph (7)(h) of this rule (reopening of the public comment period) provides a means for reopening permit proceedings at the discretion of the Commissioner when applicable new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in paragraph (9) of this rule.

4. New or reissued permits, and to the extent allowed under paragraph (9) of this rule, modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in this subparagraph and in subparagraph ~~(8)~~(e) of this ~~rule~~ paragraph.

5. Incorporation

All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

(c) Duration of Permits [40 CFR 270.50]

1. Permits shall be effective for a fixed term not to exceed ten (10) years or the expected operating life of new facilities or the expected remaining life of existing facilities, whichever is less.

2. The Commissioner may issue any permit for a duration that is less than the full allowable term under part 1 of this subparagraph.

3. Except as provided in subparagraph (9)(a) of this rule, the term of a permit shall not be extended by modification beyond the maximum duration specified in part 1 of this subparagraph.

4. Each permit for a land disposal facility shall be reviewed by the Commissioner five years after the date of permit issuance or reissuance and shall be modified as necessary, as provided in item (9)(c)3(xiii) of this rule.

(d) Schedules of Compliance [40 CFR 270.33]

1. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the Act and regulations.

(i) Time for compliance

Any schedules of compliance under this ~~section~~ subparagraph shall require compliance as soon as possible.

(ii) Interim dates

Except as provided in item 2(i)(II) of this subparagraph, 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 shall not exceed 1 year.

(II) If the time necessary for completion of any 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.

(iii) Reporting

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

2. Alternative schedules of compliance

A permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for treatment and storage HWM facilities, closing pursuant to applicable requirements; and, for disposal HWM facilities, closing and

conducting post-closure care pursuant to applicable requirements) rather than continue to operate and meet permit requirements as follows:

(i) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

(I) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

(II) The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

(ii) 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.

(iii) If the permittee is undecided whether to cease conducting regulated activities, the Commissioner 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) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under item ~~2(iii)~~(I) of this ~~subparagraph~~ subpart 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.

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

(e) Requirements for Recording and Reporting of Monitoring Results [40 CFR 270.31]

All permits shall specify:

1. Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

2. Required monitoring including type, intervals, and frequency 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 Rules ~~1200-01-11-.06~~ 0400-12-01-.06 and .09. Reporting shall be no less frequent than specified in the above regulations.

(f) (Reserved)

(g) Effect of a Permit [40 CFR 270.4]

1. (i) Compliance with a permit during its term constitutes compliance, for purposes of enforcement, with the Act, except for those requirements not included in the permit which:

~~(I)~~ (I) Become effective by statute;

~~(II)~~(II) Are promulgated under Rule ~~1200-01-11-.10~~ 0400-12-01-.10 restricting the placement of hazardous wastes in or on the land;

~~(III)~~(III) Are promulgated under Rule ~~1200-01-11-.06~~ 0400-12-01-.06 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of part (9)(c)5 of this rule Class 1 permit modifications; or

~~(IV)~~(IV) Are promulgated under Rules ~~1200-01-11-.05~~ 0400-12-01-.05(27), (28), or (29) limiting air emissions.

(ii) A permit may be modified, revoked and revised, or terminated during its term for cause as set forth in parts (9)(c)3, 4 and 6 and part (9)(d)3 of this rule, or the permit may be modified upon the request of the permittee as set forth in part (9)(c)5 of this rule.

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

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

(9) Continuation, Transfer, Modification, Revocation and Reissuance, and Termination of Permits

(a) Continuation of Expiring Permits [40 CFR 270.51]

When a permittee has made timely and sufficient application for a new permit, the existing permit does not expire until the Commissioner has made a final determination on issuance or denial and, in case the application is denied, or the terms of the new permit limited, until the last day for seeking review of the Commissioner's order or a later date fixed by order of the reviewing court.

(b) Transfer of Permits [40 CFR 270.40]

1. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under part 3 of this subparagraph or subparagraph (c) of this paragraph) to identify the new permittee and incorporate such other requirements (e.g., financial requirements) as may be necessary under the Act or this rule.

2. (i) For the purpose of this ~~Rule~~ Chapter, the "owner or operator" of a treatment, storage or disposal facility has the ultimate responsibility for the operation of the

facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A "change of ownership" occurs whenever this ultimate authority to control the activities and the policies of the facility is transferred to another individual, group, or legal entity.

(ii) A "change of ownership" also occurs whenever there is a change in the legal form under which the controlling entity is organized.

(iii) Transactions constituting a change of ownership include, but are not limited to, the following:

(I) Sale or donation of the facility's legal title;

(II) Lease of the entire facility's real and personal property;

(III) A sole proprietor becomes a member of a partnership or corporation, succeeding him as the new operator;

(IV) A partnership dissolves;

(V) One partnership is replaced by another through the removal, addition or substitution of a partner;

(VI) A general partnership becomes a limited partnership, or a limited partnership becomes general;

(VII) Two (2) or more corporations merge and the originally-permitted corporation does not survive;

(VIII) Corporations consolidate;

(IX) A non-profit corporation becomes a general corporation, or a for-profit corporation becomes non-profit;

(X) Transfers between levels of government; and

(XI) Corporate stock transfers or sales, when the controlling interest is transferred.

(iv) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

(I) Changes in the membership of a corporate board of directors or board of trustees;

(II) Two (2) or more corporations merge and the originally-permitted corporation survives;

(III) Changes in the membership of a non-profit corporation; and

(IV) Transfers between departments of the same level of government.

3. Changes in the ownership or operational control of a facility may be made, with prior written approval of the Commissioner, in accordance with the following procedures:

(i) The new owner or operator must submit a revised permit application no later than 90 days prior to the scheduled change by certified mail or other means that establish proof of delivery. A written agreement containing a specific date for

transfer of permit responsibility between the current and new permittees must also be submitted to the Commissioner.

(ii) The permittee must send a notice of the modification request including actual dates of the public comment period, to all persons on the facility mailing list maintained by the Commissioner and to the appropriate units of State and local government as specified in items (7)(e)3(i)(II) through (V) of this rule and must publish this notice in a local newspaper of general circulation. This notice must be mailed and published within 7 calendar days before or after the date of submission of the modification request, and the permittee must provide to the Commissioner evidence of the mailing and publication. The notice must include:

(I) Announcement of a 30-day comment period, in accordance with subpart (iv) of this part, and the name and address of a Department contact to whom comments must be sent;

(II) Name and telephone number of the permittee's contact person;

(III) Name and telephone number of a Department contact person;

(IV) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(V) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Department contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The public shall be provided 30 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the Department contact identified in the public notice.

(v) When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8) (Financial Requirements) until the new owner or operator has demonstrated that he or she is complying with the requirements of that rule. The new owner or operator must demonstrate compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8) requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the Commissioner by the new owner or operator of compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8), the Commissioner shall notify the old owner or operator that he or she no longer needs to comply with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8) as of the date of demonstration.

(vi) Within the 30 day comment period, any person may request the Commissioner to review, and the Commissioner may for cause reject, any request for change in the ownership or operational control of a facility. The Commissioner must inform the permittee by certified mail that the request has been rejected, explaining the reasons for the rejection. If the request has been rejected, the permittee must comply with the original permit conditions.

(vii) The permittee may elect to follow the procedures in subpart (c)5(ii) of this paragraph for Class 2 modifications instead of the procedures specified in this part. The permittee must inform the Commissioner of this decision in the modification request required in item (c)5(ii)(I) of this paragraph.

(c) Modification or Revocation and Reissuance of Permits [40 CFR 270.41 & 270.42]

1. General [40 CFR 270.41]

Permits may be modified or revoked and reissued only for the reasons shown in parts 3, 4, or 5 of this subparagraph and only according to the procedures set forth in part 2 of this subparagraph. This process may be initiated either by the Commissioner or at the request of the permittee. All such requests from the permittee shall be in writing and shall contain the reasons for the request.

2. Procedures [40 CFR 270.41]

(i) Except as provided in subpart (ii) of this part, when the Commissioner receives any information (for example, complaints, inspection findings, monitoring data, required reports, other information submitted by the permittee as required in the permit (see subparagraph (8)(a) of this rule)), or receives a request for modification or revocation and reissuance under this paragraph ~~(9) of this rule~~ or conducts a review of the permit file, he or she may determine whether one or more of the causes listed in parts 3 and 4 of this subparagraph for modification or revocation and reissuance or both exist. If cause exists, the Commissioner may modify or revoke and reissue the permit accordingly, subject to the limitations of part 6 of this subparagraph, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. If a permit is revoked and reissued, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is issued. If cause does not exist under this subparagraph, the Commissioner shall not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the Commissioner shall approve or deny the request according to the procedures of part 5 of this subparagraph. Otherwise, a draft permit must be prepared under subparagraph (7)(c) of this rule incorporating the proposed changes. This draft permit shall be processed as set forth in paragraph (7) of this rule. The Commissioner may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the Commissioner shall require the submission of a new application.

(ii) Owners and operators of permitted facilities in existence on the effective date of this rule that have previously filed a permit modification request with the U.S. EPA that fully complied with 40 CFR 270.42, shall be deemed to have satisfied the requirements of part 5 of this subparagraph. The Commissioner shall issue a modified State Permit to those facilities that have received a modified EPA Permit by the effective date of this rule. Further, the processing of permit modification requests submitted to EPA prior to the effective date of this rule shall be continued to be processed by the Commissioner as if they had been received and processed initially by the Commissioner.

3. Causes for Modification [40 CFR 270.41(a)]

The following are causes for modification, but not revocation and reissuance, of permits. However, the following may be causes for revocation and reissuance, as well as modification, when the permittee requests or agrees.

(i) There are changes to the permitted facility which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

(ii) The Commissioner has received information which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

(iii) The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued.

(iv) The Commissioner determines that good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

(v) Modification of a closure plan or post-closure plan is required under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(7)(c)2 or (h)2.

(vi) After the Commissioner receives the notification of expected closure under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(7)(d), when the Commissioner determines that existing permit conditions granting extension of the 90 or 180 day periods under that rule, modification of the 30-year post-closure period under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(7)(h)1, continuation of security requirements under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(7)(h)2, or permission to disturb the integrity of the containment system under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(7)(h)3 are unwarranted.

(vii) When the corrective action program specified in the permit under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(k) has not brought the regulated unit into compliance with the ground-water protection standard within a reasonable period of time.

(viii) To include a detection monitoring program meeting the requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(i), when the owner or operator has been conducting a compliance monitoring program under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(j) or a corrective action program under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(k) and the compliance period ends before the end of the post-closure care period for the unit.

(ix) When a permit requires a compliance monitoring program under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(j), but monitoring data collected prior to permit issuance indicate that the facility is exceeding the ground-water protection standard.

(x) To include conditions applicable to units at a facility that were not previously included in the facility's permit.

(xi) When a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

(xii) The permittee has filed a request under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8)(p)4 for a variance to the level of financial responsibility or the Commissioner demonstrates under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8)(p)5 that an upward adjustment of the level of financial responsibility is required.

(xiii) Notwithstanding any other provision in this subparagraph, when a permit for a land disposal facility is reviewed by the Commissioner under part (8)(c)4 of this

rule and modification of the permit is necessary to assure that the facility continues to comply with the currently applicable requirements in this rule Chapter.

4. Causes for Modification or Revocation and Reissuance [40 CFR 270.41(b)]

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

(i) Cause exists for termination under subparagraph (d) of this paragraph, and the Commissioner determines that modification or revocation and reissuance is appropriate.

(ii) The Commissioner has received notification (as required in the permit, see subpart (8)(a)12(iii) of this rule) of a proposed transfer of the permit.

5. Permit Modification at the Request of the Permittee [40 CFR 270.42]

(i) Class 1 Modifications

(I) Except as provided in item II of this subpart, the permittee may put into effect Class 1 modifications listed in Appendix I to Rule 0400-12-01-.07 in paragraph (10) of this rule under the following conditions:

I. The permittee must notify the Commissioner concerning the modification by certified mail or other means that establish proof of delivery within 7 calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by paragraph (4), paragraph (5) and subparagraphs (1)(e) and ~~(1)~~(f) of this rule.

II. The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the Commissioner in accordance with item (7)(e)3(i)(V) of this rule, and the appropriate units of State and local government, as specified in items (7)(e)3(i)(II) through (V) of this rule. This notification must be made within 90 calendar days after the change is put into effect. For the Class I modifications that require prior Commissioner approval, the notification must be made within 90 calendar days after the Commissioner approves the request.

III. Any person may request the Commissioner to review, and the Commissioner may for cause reject, any Class 1 modification. The Commissioner must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.

(II) Class 1 permit modifications identified in Appendix I to Rule 0400-12-01-.07 in paragraph (10) of this rule by a [1]1 may be made only with the prior written approval of the Commissioner.

(III) For a Class 1 permit modification, the permittee may elect to follow the procedures in subpart (ii) of this part for Class 2 modifications instead of

the Class 1 procedures. The permittee must inform the Commissioner of this decision in the modification request required in item (ii)(I) of this part.

(ii) Class 2 Modifications

(I) For Class 2 modifications, listed in Appendix I to Rule 0400-12-01-.07 in paragraph (10) of this rule, the permittee must submit a modification request to the Commissioner that:

I. Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

II. Identifies that the modification is a Class 2 modification;

III. Explains why the modification is needed; and

IV. Provides the applicable information required by paragraph (4), paragraph (5) and subparagraphs (1)(e) and ~~(1)~~(f) of this rule.

(II) The permittee must send a notice of the modification request including actual dates of the public comment period, to all persons on the facility mailing list maintained by the Commissioner and to the appropriate units of State and local government as specified in items (7)(e)3(i)(II) through (V) of this rule and must publish this notice in a local newspaper of general circulation. This notice must be mailed and published within 7 days before or after the date of submission of the modification request, and the permittee must provide to the Commissioner evidence of the mailing and publication. The notice must include:

I. Announcement of a 60-day comment period, in accordance with item (V) of this subpart, and the name and address of a Department contact to whom comments must be sent;

II. Announcement of the date, time, and place for a public meeting held in accordance with item (IV) of this subpart;

III. Name and telephone number of the permittee's contact person;

IV. Name and telephone number of a Department contact person;

V. Location where copies of the modification request and any supporting documents can be viewed and copied; and

VI. The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Department contact person."

(III) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(IV) The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in item ~~(ii)~~(II) of this subpart and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(V) The public shall be provided 60 days to comment on the modification request. The comment period will begin on the date the permittee

publishes the notice in the local newspaper. Comments should be submitted to the Department contact identified in the public notice.

(VI) I. No later than 90 days after receipt of the notification request, the Commissioner must:

A. Approve the modification request, with or without changes, and modify the permit accordingly;

B. Deny the request;

C. Determine that the modification request must follow the procedures in subpart (iii) of this part for Class 3 modifications for the following reasons:

(A) There is significant public concern about the proposed modification; or

(B) The complex nature of the change requires the more extensive procedures of Class 3;

D. Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days; or

E. Notify the permittee that he or she will decide on the request within the next 30 days.

II. If the Commissioner notifies the permittee of a 30-day extension for a decision, the Commissioner must, no later than 120 days after receipt of the modification request:

A. Approve the modification request, with or without changes, and modify the permit accordingly;

B. Deny the request;

C. Determine that the modification request must follow the procedures in subpart (iii) of this part for Class 3 modifications for the following reasons:

(A) There is significant public concern about the proposed modification; or

(B) The complex nature of the change requires the more extensive procedures of Class 3; or

D. Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days.

III. If the Commissioner fails to make one of the decisions specified in subitem ~~(ii)(VI)~~ II of this ~~part~~ item by the 120th day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to 180 days, without formal Department action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of Rule 0400-12-01-.05. If the Commissioner approves, with or without changes, or denies the

modification request during the term of the temporary or automatic authorization provided for in subitem (ii)(VI) I, II or III of this ~~part~~ item, such action cancels the temporary or automatic authorization.

IV. A. In the case of an automatic authorization under subitem ~~(ii)(VI)~~ III of this ~~part~~ item, or a temporary authorization under section ~~(ii)(VI)~~ I D or II D of this ~~part~~ item, if the Commissioner has not made a final approval or denial of the modification request by the date 50 days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

(A) The permittee has been authorized temporarily to conduct the activities described in the permit modification request, and

(B) Unless the Commissioner acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.

B. If the owner/operator fails to notify the public by the date specified in section A of this subitem, the effective date of the permanent authorization will be deferred until 50 days after the owner/operator notifies the public.

V. Except as provided in subitem ~~(ii)(VI)~~ VII of this ~~part~~ item, if the Commissioner does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under subparagraph (c) of this paragraph. The activities authorized under this subitem must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of Rule ~~1200-01-11-.05~~ 0400-12-01-.05.

VI. In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the Commissioner must consider all written comments submitted to the Department during the public comment period and must respond in writing to all significant comments in his or her decision.

VII. With the written consent of the permittee, the Commissioner may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

(VII) The Commissioner may deny or change the terms of a Class 2 permit modification request under subitems ~~(ii)~~(VI)I through III of this ~~part~~ subpart for the following reasons:

I. The modification request is incomplete;

II. The requested modification does not comply with the appropriate requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 or other applicable requirements; or

III. The conditions of the modification fail to protect human health and the environment.

(VIII) The permittee may perform any construction associated with a Class 2 permit modification request beginning 60 days after the submission of the request unless the Commissioner establishes a later date for commencing construction and informs the permittee in writing before day 60.

(IX) Public Notice shall be provided as follows:

I. In the event no adverse public comment is received concerning the proposed permit modification, the permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the Commissioner, and the appropriate units of State and local government as specified in ~~Rules 1200-01-11-.07~~ items (7)(e)3(i)(II) through (V) of this rule. This notification must be made within 7 days of notification of approval of the modification.

II. In the event there is public comment concerning the proposed modification, the Commissioner shall direct the permittee to publish a notice as specified in ~~Rules 1200-01-11-.07~~ part (7)(e)3 and subpart (7)(e)4(i) of this rule.

(iii) Class 3 Modifications

(I) For Class 3 modifications listed in Appendix I to Rule 0400-12-01-.07 in paragraph (10) of this rule, the permittee must submit a modification request to the Commissioner that:

I. Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

II. Identifies that the modification is a Class 3 modification;

III. Explains why the modification is needed; and

IV. Provides the applicable information required by paragraph (4), paragraph (5) and subparagraphs (1)(e), ~~(1)~~(f) and ~~(1)~~(j) of this rule.

(II) The permittee must send a notice of the modification request, including the actual dates of the public comment period, to all persons on the facility mailing list maintained by the Commissioner and to the appropriate units of State and local government as specified in items (7)(e)3(i)(II) through (V) of this rule and must publish this notice in a local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the Commissioner evidence of the mailing and publication. The notice must include:

I. Announcement of a 60-day comment period, and a name and address of a Department contact to whom comments must be sent;

II. Announcement of the date, time, and place for a public meeting on the modification request, in accordance with item (IV) of this subpart;

III. Name and telephone number of the permittee's contact person;

IV. Name and telephone number of a Department contact person;

V. Location where copies of the modification request and any supporting documents can be viewed and copied; and

VI. The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Department contact person."

(III) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(IV) The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in item (II) of this subpart and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(V) The public shall be provided at least 60 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the Department contact identified in the notice.

(VI) After the conclusion of the 60-day comment period, the Commissioner must grant or deny the permit modification request according to the permit modification procedures of paragraph (7) of this rule, with the exception of subparagraph (a). In addition, the Commissioner must consider and respond to all significant written comments received during the 60-day comment period.

(VII) Public Notice shall be provided by the permittee in accordance with ~~Rule 1200-01-11-.07~~ subparagraph (7)(e) of this rule for the draft permit modification and the final permit modification.

(iv) Other Modifications

(I) In the case of modifications not explicitly listed in Appendix I to Rule 0400-12-01-.07 in paragraph (10) of this rule, the permittee may submit a Class 3 modification request to the Department, or he or she may request a determination by the Commissioner that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she must provide the Department with the necessary information to support the requested classification.

(II) The Commissioner shall make the determination described in item (I) of this subpart as promptly as practicable. In determining the appropriate

class for a specific modification, the Commissioner shall consider the similarity of the modification to other modifications codified in Appendix I to Rule 0400-12-01-.07 in paragraph (10) of this rule and the following criteria:

I. Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the Commissioner may require prior approval.

II. Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to:

A. Common variations in the types and quantities of the wastes managed under the facility permit,

B. Technological advancements, and

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

III. Class 3 modifications substantially alter the facility or its operation.

(v) Temporary Authorizations

(I) Upon request of the permittee, the Commissioner may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations must have a term of not more than 180 days.

(II) I. The permittee may request a temporary authorization for:

A. Any Class 2 modification meeting the criteria in subitem (III)II of this subpart, and

B. Any Class 3 modification that meets the criteria in section (III)II A or B of this subpart; or that meets the criteria in sections (III)II C through E of this subpart and provides improved management or treatment of a hazardous waste already listed in the facility permit.

II. The temporary authorization request must include:

A. A description of the activities to be conducted under the temporary authorization;

B. An explanation of why the temporary authorization is necessary; and

C. Sufficient information to ensure compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06 standards.

III. The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list

maintained by the Commissioner and to appropriate units of State and local governments as specified in items (7)(e)3(i)(II) through (V) of this rule. This notification must be made within seven days of submission of the authorization request.

(III) The Commissioner shall approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the Commissioner must find:

I. The authorized activities are in compliance with the standards of Rule ~~1200-01-11-.06~~ 0400-12-01-.06.

II. The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

A. To facilitate timely implementation of closure or corrective action activities;

B. To allow treatment or storage in tanks or containers, or in containment buildings in accordance with Rule ~~1200-01-11-.10~~ 0400-12-01-.10;

C. To prevent disruption of ongoing waste management activities;

D. To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

E. To facilitate other changes to protect human health and the environment.

(IV) A temporary authorization may be reissued for one additional term of up to 180 days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:

I. The reissued temporary authorization constitutes the Commissioner's decision on a Class 2 permit modification in accordance with section (ii)(VI)I D or II D of this part, or

II. The Commissioner determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of subpart (iii) of this part are conducted.

(vi) Public notice and appeals of permit modification decisions

(I) The Commissioner shall notify persons on the facility mailing list and appropriate units of State and local government within 10 days of the Commissioner's decision to grant or deny a Class 2 or 3 permit modification request. The Commissioner shall also notify such persons within 10 days after an automatic authorization for a Class 2 modification goes into effect under subitem (ii)(VI)III or V of this part.

(II) The Commissioner's decision to grant or deny a Class 2 or 3 permit modification request under this ~~section~~ subparagraph may be appealed under the permit appeal procedures of subparagraph (7)(k) of this rule.

(III) An automatic authorization that goes into effect under subitem (ii)(VI)III or V of this part may be appealed under the permit appeal procedures of subparagraph (7)(k) of this rule; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the appeal has been granted pursuant to subparagraph (7)(k) of this rule, notwithstanding the provisions of subparagraph (7)(i) of this rule.

(vii) Newly Regulated Wastes and Units

(I) The permittee is authorized to continue to manage wastes listed or identified as hazardous under Rule ~~1200-01-11-.02~~ 0400-12-01-.02, or to continue to manage hazardous waste in units newly regulated as hazardous waste management units, if:

I. The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;

II. The permittee submits a Class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements;

III. The permittee is in compliance with the applicable standards of Rules ~~1200-01-11-.05~~ 0400-12-01-.05 and .04;

IV. The permittee also submits a complete Class 2 or 3 modification request within 180 days of the effective date of the rule listing or identifying the waste, or subjecting the unit to ~~Rule~~ Chapter ~~1200-01-11~~ 0400-12-01 management standards;

V. In the case of land disposal units, the permittee certifies that each such unit is in compliance with all applicable requirements of Rule ~~1200-01-11-.05~~ 0400-12-01-.05 for groundwater monitoring and financial responsibility on the date 12 months after the effective date of the rule identifying or listing the waste as hazardous, or regulating the unit as a hazardous waste management unit. If the owner or operator fails to certify compliance with all these requirements, he or she will lose authority to operate under this part.

(II) New wastes or units added to a facility's permit under this ~~subsection~~ subpart do not constitute expansions for the purpose of the 25 percent capacity expansion limit for Class 2 modifications.

(viii) Military Hazardous Waste Munitions Treatment and Disposal

The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site waste, if:

(I) The facility was in existence as a hazardous waste facility, and the facility was already permitted to handle the waste military munitions, on the date when the waste military munitions became subject to hazardous waste regulatory requirements;

(II) On or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a

Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and

(III) The permittee submits a complete Class 2 modification request within 180 days of the date when the waste military munitions became subject to hazardous waste regulatory requirements.

(ix) Permit Modification List

The Commissioner must maintain a list of all approved permit modifications and must publish a notice once a year in a State-wide newspaper that an updated list is available for review.

(x) Combustion facility changes to meet 40 CFR part 63 MACT standards. The following procedures apply to hazardous waste combustion facility permit modifications requested under Appendix I to Rule 0400-12-01-.07 of paragraph (10) of this rule.

(I) Facility owners or operators must have complied with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210 that were in effect prior to October 11, 2000, (See 40 CFR Part 63 §§63.1200-63.1499 revised as of July 1, 2000) in order to request a permit modification under this part for the purpose of technology changes needed to meet the standards under 40 CFR 63.1203, 63.1204, and 63.1205.

(II) Facility owners or operators must comply with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210(b) and 63.1212(a) before a permit modification can be requested under this part for the purpose of technology changes needed to meet the 40 CFR 63.1215, 63.1216, 63.1217, 63.1218, 63.1219, 63.1220, and 63.1221 standards promulgated on October 12, 2005.

(III) If the Commissioner does not approve or deny the request within 90 days of receiving it, the request shall be deemed approved. The Commissioner may, at his or her discretion, extend this 90 day deadline one time for up to 30 days by notifying the facility owner or operator.

(xi) Waiver of RCRA permit conditions in support of transition to the 40 CFR 63 MACT standards.

(I) You may request to have specific RCRA operating and emissions limits waived by submitting a Class 1 permit modification request under part (10)(I)10 ~~of~~ (Appendix I to Rule ~~1200-01-11-.07~~ 0400-12-01-.07)~~(9)(c)5~~. You must:

I. Identify the specific RCRA permit operating and emissions limits which you are requesting to waive;

II. Provide an explanation of why the changes are necessary in order to minimize or eliminate conflicts between the RCRA permit and MACT compliance; and

III. Discuss how the revised provisions will be sufficiently protective.

IV. The Commissioner shall approve or deny the request within 30 days of receipt of the request. The Commissioner may, at his or her discretion, extend this 30 day deadline one time for up to 30 days by notifying the facility owner or operator.

(II) To request this modification in conjunction with MACT performance testing where permit limits may only be waived during actual test events and pretesting, as defined under 40 CFR 63.1207(h)(2)(i) and (ii), for an aggregate time not to exceed 720 hours of operation (renewable at the discretion of the Commissioner) you must:

I. Submit your modification request to the Commissioner at the same time you submit your test plans to the Commissioner; and

II. The Commissioner may elect to approve or deny the request continent upon approval of the test plans.

(xii) (Reserved) ~~Performance Track member facilities~~

~~The following procedures apply to Performance Track member facilities that request a permit modification under part (e)1 of Appendix I in paragraph (10) of this rule.~~

~~(I) Performance Track member facilities must have complied with the requirements of subpart (2)(f)2(v) of Rule 1200-01-11-.06 in order to request a permit modification under this subparagraph.~~

~~(II) The Performance Track member facility should consider the application approved if the Regional Administrator does not: deny the application, in writing; or notify the Performance Track member facility, in writing, of an extension to the 60-day deadline within 60 days of receiving the request. In these situations, the Performance Track member facility must adhere to the revised inspection schedule outlined in its application and maintain a copy of the application in the facility's operating record.~~

6. Facility Siting [40 CFR 270.41(c)]

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

(d) Termination of Permits

1. General

Permits may be terminated only for the reasons shown in part 3 of this subparagraph and only according to the procedures set forth in part 2 of this subparagraph. This process may be initiated either by the Commissioner or at the request of the permittee. All such requests from the permittee shall be in writing and shall contain the reasons for the request.

2. Procedures

(i) When the Commissioner receives a request from the permittee or other information (e.g., complaints, inspection findings, monitoring data, reports) indicating that termination of the permit may be in order, he or she may determine whether or not one or more of the causes listed in part 3 of this subparagraph exist.

(ii) If the Commissioner determines cause exists, he or she may proceed to terminate the permit.

(iii) If the Commissioner tentatively decides to terminate a permit, he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared and processed under paragraph (7) of this rule.

(iv) No notice of intent to terminate shall be issued under subpart (iii) of this part until the permittee has been given such notice as is required by T.C.A. § 4-5-320.

3. Causes for Termination [40 CFR 270.43]

The following are causes for terminating a permit during its term or for denying a permit renewal application:

(i) Noncompliance by the permittee with any condition of the permit;

(ii) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(iii) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

(iv) The request of the permittee, providing he has complied with all closure and post-closure requirements in the permit conditions.

(10) APPENDIX I to Rule 0400-12-01-.07 [40 CFR 270.42 APPENDIX I]

Appendix I to Rule ~~1200-01-11-.07~~ 0400-12-01-.07~~(9)(c)~~5 [2]
Classification of Permit Modification
[40 CFR 270.42 Appendix I]

Modifications			Class
(a)	General Permit Provisions		
	1.	Administrative and informational changes	1
	2.	Correction of typographical errors	1
	3.	Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
	4.	Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
		(i) To provide for more frequent monitoring, reporting, sampling, or maintenance.	1
		(ii) Other changes	2
	5.	Schedule of compliance:	
		(i) Changes in interim compliance dates, with prior approval of the Commissioner.	[1]1
		(ii) Extension of final compliance date.	3
	6.	Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Commissioner.	[1]1
	7.	Changes in ownership or operational control of a facility, unless the procedures of part (9)(b)3 of this rule are approved by the Commissioner and followed.	2

8.	Changes to remove permit conditions that are no longer applicable (i.e., because the standards upon which they are based are no longer applicable to the facility).	11
(b)	General Facility Standards	
1.	Changes to waste sampling or analysis methods:	
(i)	To conform with agency guidance or regulations.	1
(ii)	To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods.	11
(iii)	To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes.	11
(iv)	Other changes.	2
2.	Changes to analytical quality assurance/control plan:	
(i)	To conform with agency guidance or regulations.	1
(ii)	Other changes.	2
3.	Changes in procedures for maintaining the operating record.	1
4.	Changes in frequency or content of inspection schedules.	2
5.	Changes in the training plan:	
(i)	That affect the type or decrease the amount of training given to employees.	2
(ii)	Other changes.	1
6.	Contingency plan:	
(i)	Changes in emergency procedures (i.e., spill or release response procedures).	2
(ii)	Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed.	1
(iii)	Removal of equipment from emergency equipment list.	2
(iv)	Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan.	1
7.	Construction quality assurance plan:	
(i)	Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications.	1
(ii)	Other changes	2
	(Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification.)	
(c)	Ground-Water Protection	
1.	Changes to wells:	
(i)	Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground-water monitoring system.	2
(ii)	Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.	1

2.	Changes in ground-water sampling or analysis procedures or monitoring schedule, with prior approval of the Commissioner.		11
3.	Changes in statistical procedure for determining whether a statistically significant change in ground-water quality between upgradient and downgradient wells has occurred, with prior approval of the Commissioner.		11
4.	Changes in point of compliance.		2
5.	Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):		
	(i)	As specified in the groundwater protection standard.	3
	(ii)	As specified in the detection monitoring program.	2
6.	Changes to a detection monitoring program as required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(i)8 unless otherwise specified in this appendix.		2
7.	Compliance monitoring program:		
	(i)	Addition of compliance monitoring program as required by subpart (6)(i)7(iv) and subparagraph (6)(j) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06.	3
	(ii)	Changes to a compliance monitoring program as required by part (6)(j)10 of Rule ~~1200-01-11-.06~~ 0400-12-01-.06, unless otherwise specified in this appendix.	2
8.	Corrective action program:		
	(i)	Addition of a corrective action program as required by subpart (6)(j)8(ii) and subparagraph (6)(k) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06~~(6)~~.	3
	(ii)	Changes to a corrective action program as required by Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(k)8, unless otherwise specified in this appendix.	2
(d)	Closure		
1.	Changes to the closure plan:		
	(i)	Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Commissioner.	11
	(ii)	Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the Commissioner.	11
	(iii)	Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Commissioner.	11
	(iv)	Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Commissioner.	11
	(v)	Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix.	2
	(vi)	Extension of the closure period to allow a landfill, surface impoundment or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under Rules ~~1200-01-11-.06~~ 0400-12-01-.06(7)(d)4 and 5.	2
2.	Creation of a new landfill unit as part of closure.		3
3.	Addition of the following new units to be used temporarily for closure activities:		
	(i)	Surface impoundments.	3
	(ii)	Incinerators.	3

	(iii)	Waste piles that do not comply with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(a)3.	3
	(iv)	Waste piles that comply with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(a)3.	2
	(v)	Tanks or containers (other than specified below).	2
	(vi)	Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Commissioner.	11
	(vii)	Staging piles	2
(e)	Post-Closure		
	1.	Changes in name, address, or phone number of contact in post-closure plan.	1
	2.	Extension of post-closure care period.	2
	3.	Reduction in the post-closure care period.	3
	4.	Changes to the expected year of final closure, where other permit conditions are not changed.	1
	5.	Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure.	2
(f)	Containers		
	1.	Modification or addition of container units:	
		(i) Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in (f)1(iii) and (f)4(i) below.	3
		(ii) Resulting in up to 25% increase in the facility's container storage capacity, except as provided in (f)1(iii) and (f)4(i) below.	2
		(iii) Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards with prior approval of the Commissioner. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	11
	2.	(i) Modification of a container unit without increasing the capacity of the unit.	2
		(ii) Addition of a roof to a container unit without alteration of the containment system.	1
	3.	Storage of different wastes in containers, except as provided in (f)4 below:	
		(i) That require additional or different management practices from those authorized in the permit.	3
		(ii) That do not require additional or different management practices from those authorized in the permit.	2
	(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management of newly listed or identified wastes.)		
	4.	Storage or treatment of different wastes in containers:	
		(i) That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards. This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	11

		(ii)	That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1
(g)	Tanks			
	1.	(i)	Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in (g)1(iii), (g)1(iv), and (g)1(v) below.	3
		(ii)	Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in (g)1(iv) and (g)1(v) below.	2
		(iii)	Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation.	2
		(iv)	After prior approval of the Commissioner, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation.	11
		(v)	Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards with prior approval of the Commissioner. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	11
	2.		Modification of a tank unit or secondary containment system without increasing the capacity of the unit.	2
	3.		Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided: -- The capacity difference is no more than 1500 gallons, -- The facility's permitted tank capacity is not increased, and -- The replacement tank meets the same conditions in the permit.	1
	4.		Modification of a tank management practice.	2
	5.		Management of different wastes in tanks:	
		(i)	That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in (g)5(iii) below.	3
		(ii)	That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in (g)5(iv).	2
		(iii)	That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards. The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	11
		(iv)	That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1

(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management of newly listed or identified wastes.)

(h) Surface Impoundments

1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity. 3

2. Replacement of a surface impoundment unit. 3

3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system. 2

4. Modification of a surface impoundment management practice. 2

5. Treatment, storage, or disposal of different wastes in surface impoundments:

(i) That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit. 3

(ii) That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 2

(iii) That are wastes restricted from land disposal that meet the applicable treatment standards, provided that the unit meets the minimum technological requirements stated in Rule ~~1200-01-11-.10~~ 0400-12-01-.10(1)(e). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028). 1

(iv) That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in Rule ~~1200-01-11-.10~~ 0400-12-01-.10(1)(e), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

6. Modifications of unconstructed units to comply with Rules ~~1200-01-11-.06~~ 0400-12-01-.06(11)(b)3, (11)(c), (11)(d) and (11)(g)4. 11

7. Changes in response action plan:

(i) Increase in action leakage rate 3

(ii) Change in a specific response reducing its frequency or effectiveness. 3

(iii) Other changes 2

(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management of newly listed or identified wastes.)

(i) Enclosed Waste Piles

For all waste piles except those complying with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(a)3, modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(12)(a)3.

1. Modification or addition of waste pile units:

(i) Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity. 3

(ii) Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity. 2

2. Modification of waste pile unit without increasing the capacity of the unit. 2

3.	Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit.	1
4.	Modification of a waste pile management practice.	2
5.	Storage or treatment of different wastes in waste piles:	
(i)	That require additional or different management practices or different design of the unit.	3
(ii)	That do not require additional or different management practices or different design of the unit.	2
6.	Conversion of an enclosed waste pile to a containment building unit.	2

(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management of newly listed or identified wastes.)

(j) Landfills and Unenclosed Waste Piles

1.	Modification or addition of landfill units that result in increasing the facility's disposal capacity.	3
2.	Replacement of a landfill.	3
3.	Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system.	3
4.	Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system.	2
5.	Modification of a landfill management practice.	2
6.	Landfill different wastes:	
(i)	That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.	3
(ii)	That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.	2
(iii)	That are wastes restricted from land disposal that meet the applicable treatment standards, provided that the landfill unit meets the minimum technological requirements stated in Rule ~~1200-01-11-.10~~ 0400-12-01-.10(1)(e). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1
(iv)	That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in Rule ~~1200-01-11-.10~~ 0400-12-01-.10(1)(e), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1
7.	Modifications of unconstructed units to comply with Rules ~~1200-01-11-.06~~ 0400-12-01-.06(12)(b)3, (12)(c),(12)(d), (12)(e)3, (14)(b)3, (14)(c), (14)(d)3, and (14)(e).	1
8.	Changes in response action plan	
(i)	Increase in action leakage rate	3
(ii)	Change in a specific response reducing its frequency or effectiveness	3
(iii)	Other changes	2

(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management of newly listed or identified wastes.)

(k)	Land Treatment	
1.	Lateral expansion of or other modification of a land treatment unit to increase areal extent.	3
2.	Modification of run-on control system.	2
3.	Modify run-off control system.	3
4.	Other modifications of land treatment unit component specifications or standards required in permit.	2
5.	Management of different wastes in land treatment units:	
	(i) That require a change in permit operating conditions or unit design specifications.	3
	(ii) That do not require a change in permit operating conditions or unit design specifications.	2
	(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management of newly listed or identified wastes.)	
6.	Modification of a land treatment unit management practice to:	
	(i) Increase rate or change method of waste application.	3
	(ii) Decrease rate of waste application.	1
7.	Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions.	2
8.	Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops.	3
9.	Modification of operating practice due to detection of releases from the land treatment unit pursuant to Rule ~~1200-01-11-.06~~ 0400-12-01-.06(13)(i)7(ii).	3
10.	Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements.	3
11.	Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements.	2
12.	Changes in background values for hazardous constituents in soil and soil-pore liquid.	2
13.	Changes in sampling, analysis, or statistical procedure.	2
14.	Changes in land treatment demonstration program prior to or during the demonstration.	2
15.	Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Commissioner's prior approval has been received.	11
16.	Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Commissioner.	11
17.	Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration.	3

18.	Changes in vegetative cover requirements for closure.	2
(l)	Incinerators, Boilers, and Industrial Furnaces	
1.	Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feed stream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Commissioner will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
2.	Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Commissioner will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	2
3.	Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/Cl_2, metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The Commissioner will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
4.	Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The Commissioner may require a new trial burn to demonstrate compliance with the regulatory performance standards.	2
5.	Operating requirements.	
	(i) Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The Commissioner will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
	(ii) Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls.	3
	(iii) Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit.	2
6.	Burning different wastes:	
	(i) If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The Commissioner will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
	(ii) If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit.	2
(Note: See subpart (9)(c)5(vii) of this rule for modification procedures to be used for the management		

of newly listed or identified wastes.)

7. Shakedown and trial burn:

(i) Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn. 2

(ii) Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Commissioner. 11

(iii) Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Commissioner. 11

(iv) Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Commissioner. 11

8. Substitution of an alternative type of nonhazardous waste fuel that is not specified in the permit. 1

9. Technology changes needed to meet standards under 40 CFR part 63 (Subpart EEE-National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of Rule ~~1200-01-11-.07~~ 0400-12-01-.07(9)(c)5(x) are followed. 11

10. Changes to RCRA permit provisions needed to support transition to 40 CFR 63 (Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of Rule ~~1200-01-11-.07~~ 0400-12-01-.07(9)(c)5(xi) are followed.

(m) Containment Buildings

1. Modification or addition of containment building units:

(i) Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity. 3

(ii) Resulting in up to 25% increase in the facility's containment building storage or treatment capacity. 2

2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit. 2

3. Replacement of a containment building with a containment building that meets the same design standards provided:

(i) The unit capacity is not increased. 1

(ii) The replacement containment building meets the same conditions in the permit. 1

4. Modification of a containment building management practice. 2

5. Storage or treatment of different wastes in containment buildings:

(i) That require additional or different management practices. 3

(ii) That do not require additional or different management practices. 2

(n) Corrective Action

1. Approval of a corrective action management unit pursuant to Rule ~~1200-01-11-.06~~ 0400-12-01-.06(22)(c). 3

2. Approval of a temporary unit or time extension for a temporary unit pursuant to Rule ~~1200-~~ 2

	~~01-11-.06~~ 0400-12-01-.06(22)(d).	
3.	Approval of a staging pile or staging pile operating term extension pursuant to Rule ~~1200-01-11-.06~~ 0400-12-01-.06(22)(e).	2
(o)	Burden Reduction	
1.	(Reserved) ~~Approval of reduced inspection frequency for Performance Track member facilities for:~~	
	~~(i) Tanks systems pursuant to Rule 1200-01-11-.06(10)(f).~~	~~1~~
	~~(ii) Containers pursuant to Rule 1200-01-11-.06(9)(e).~~	~~1~~
	~~(iii) Containment buildings pursuant to Rule 1200-01-11-.06(33)(b)3(iv).~~	~~1~~
	~~(iv) Areas subject to spills pursuant to Rule 1200-01-11-.06(2)(f)2(iv).~~	~~1~~
2.	Development of one contingency plan based on Integrated Contingency Plan Guidance pursuant to Rule ~~1200-01-11-.06~~ 0400-12-01-.06(4)(c)2.	1
3.	Changes to recordkeeping and reporting requirements pursuant to Rules ~~1200-01-11-.06~~ 0400-12-01-.06(4)(g)9, (15)(d)1(ii), (31)(l)2(i), (31)(l)4, (31)(m)1(ii), (10)(g)6, (6)(k)7, and (7)(d)5(v).	1
4.	Changes to inspection frequency for tank systems pursuant to Rule ~~1200-01-11-.06~~ 0400-12-01-.06(10)(f)2.	1
5.	Changes to detection and compliance monitoring program pursuant to Rules ~~1200-01-11-.06~~ 0400-12-01-.06(6)(i)4, (i)7(ii) and 7(iii), (j)6 and (j)7.	1

FOOTNOTE: [1]Class 1 Modifications requiring Agency prior approval.

FOOTNOTE: [2]Appendix 1 is not limited to Permit Modification only but includes also modification of all documentation submitted to the Department.

(11) Remedial Action Plans (RAPs) [40 CFR 270 Subpart H]

(Note: Why is this subpart written in a special format? [40 CFR 270.79]

This paragraph is written in a special format to make it easier to understand the regulatory requirements. Like other regulations, this establishes enforceable legal requirements. For this Paragraph, "I" and "you" refer to the owner/operator.)

(a) General Information

1. What is a RAP? [40 CFR 270.80]

(i) A RAP is a special form of Hazardous Waste permit that you, as an owner or operator, may obtain, instead of a permit issued under paragraphs (1), (2) and (4) through (9) of this rule, to authorize you to treat, store, or dispose of hazardous remediation waste (as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a)) at a remediation waste management site. A RAP may only be issued for the area of contamination where the remediation wastes to be managed under the RAP originated, or areas in close proximity to the contaminated area, except as allowed in limited circumstances under part (f)1 of this paragraph.

(ii) The requirements in paragraphs (1), (2) and (4) through (9) of this rule do not apply to RAPs unless those requirements for traditional Hazardous Waste permits are specifically required under parts (a)1 through (f)1 of this paragraph. The definitions in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a) apply to RAPs.

(iii) Notwithstanding any other provision of this rule, any document that meets the requirements in this part constitutes a Hazardous waste permit under TCA §68-212-108.

(iv) A RAP may be:

(I) A stand-alone document that includes only the information and conditions required by this paragraph; or

(II) Part (or parts) of another document that includes information and/or conditions for other activities at the remediation waste management site, in addition to the information and conditions required by this paragraph.

(v) If you are treating, storing, or disposing of hazardous remediation wastes as part of a cleanup compelled by Federal or State cleanup authorities, your RAP does not affect your obligations under those authorities in any way.

(vi) If you receive a RAP at a facility operating under interim status, the RAP does not terminate your interim status.

2.— 5. (RESERVED) [40 CFR 270.81—270.84]

6. When do I need a RAP? [40 CFR 270.85]

(i) Whenever you treat, store, or dispose of hazardous remediation wastes in a manner that requires a Hazardous Waste permit under subparagraph (1)(b) of this rule, you must either obtain:

(I) A Hazardous Waste permit according to paragraphs (1), (2) and (4) through (9) of this rule; or

(II) A RAP according to this paragraph.

(ii) Treatment units that use combustion of hazardous remediation wastes at a remediation waste management site are not eligible for RAPs under this paragraph.

(iii) You may obtain a RAP for managing hazardous remediation waste at an already permitted facility. You must have these RAPs approved as a modification to your existing permit according to the requirements of subparagraph (9)(c) of this rule instead of the requirements in this paragraph. When you submit an application for such a modification, however, the information requirements in subitems (9)(c)5(i)(I)I, (9)(c)5(ii)(I)(IV), and (9)(c)5(iii)(I)IV of this rule do not apply; instead, you must submit the information required under part (b)16 of this paragraph. When your permit is modified the RAP becomes part of the permit. Therefore when your permit (including the RAP portion) is modified, revoked and reissued, terminated or when it expires, it will be modified according to the applicable requirements in subparagraph (9)(b) and (c) of this rule, revoked and reissued according to the applicable requirements in parts (9)(c)1 through 4, 6 and subparagraph (9)(d) of this rule, terminated according to the applicable requirements in subparagraph (9)(d) of this rule, and expire according to the applicable requirements in subparagraphs (8)(c) and (9)(a) of this rule.

7. — 10. (RESERVED)

11. Does my RAP grant me any rights or relieve me of any obligations? [40 CFR 270.90]

The provisions of subparagraph (8)(g) of this rule apply to RAPs.

(Note: The provisions of subparagraph (8)(g)1 of this rule provide you assurance that, as long as you comply with your RAP, the Commissioner will consider you in compliance with Hazardous Waste Regulations, and will not take enforcement actions against you. However, you should be aware of four exceptions to this provision that are listed in subparagraph (8)(g) of this rule.)

(b) Applying for a RAP

1. How do I apply for a RAP? [40 CFR 270.95]

To apply for a RAP, you must complete an application, sign it, and submit it to the Director according to the requirements in this paragraph.

2. — 5. (RESERVED)

6. Who must obtain a RAP? [40 CFR 270.100]

When a facility or remediation waste management site is owned by one person, but the treatment, storage or disposal activities are operated by another person, it is the operator's duty to obtain a RAP, except that the owner must also sign the RAP application.

7. — 10. (RESERVED)

11. Who must sign the application and any required reports for a RAP? [40 CFR 270.105]

Both the owner and the operator must sign the RAP application and any required reports according to parts (2)(a)7, 8, and 9 of this rule. In the application, both the owner and the operator must also make the certification required under subpart (2)(a)10(i) of this rule. However, the owner may choose the alternative certification under subpart (2)(a)10(ii) of this rule if the operator certifies under subpart (2)(a)10(i) of this rule.

12. — 15. (RESERVED)

16. What must I include in my application for a RAP? [40 CFR 270.110]

You must include the following information in your application for a RAP:

(i) The name, address, and Installation Identification Number of the remediation waste management site;

(ii) The name, address, and telephone number of the owner and operator;

(iii) The latitude and longitude of the site;

(iv) The United States Geological Survey (USGS) or county map showing the location of the remediation waste management site;

(v) A scaled drawing of the remediation waste management site showing:

(I) The remediation waste management site boundaries;

(II) Any significant physical structures; and

(III) The boundary of all areas on-site where remediation waste is to be treated, stored or disposed;

(vi) A specification of the hazardous remediation waste to be treated, stored or disposed of at the facility or remediation waste management site. This must include information on:

(I) Constituent concentrations and other properties of the hazardous remediation wastes that may affect how such materials should be treated and/or otherwise managed;

(II) An estimate of the quantity of these wastes; and

(III) A description of the processes you will use to treat, store, or dispose of this waste including technologies, handling systems, design and operating parameters you will use to treat hazardous remediation wastes before disposing of them according to the LDR standards of Rule ~~1200-01-11-.10~~ 0400-12-01-.10, as applicable;

(vii) Enough information to demonstrate that operations that follow the provisions in your RAP application will ensure compliance with applicable requirements of Rules ~~1200-01-11-.06~~ 0400-12-01-.06, .09, and .10;

(viii) Such information as may be necessary to enable the Commissioner to carry out his duties under other State laws as is required for traditional Hazardous Waste permits under subpart (5)(a)1(xx) of this rule;

(ix) Any other information the Commissioner decides is necessary for demonstrating compliance with this paragraph or for determining any additional RAP conditions that are necessary to protect human health and the environment.

17. — 20. (RESERVED)

21. What if I want to keep this information confidential? [40 CFR 270.115]

Rule ~~1200-01-11-.01~~ 0400-12-01-.01(7) (Proprietary Information) allows you to claim as confidential any or all of the information you submit to the Director under this paragraph. You must assert any such claim at the time that you submit your RAP application or other submissions by stamping the words "confidential business information" on each page containing such information. If you do assert a claim at the time you submit the information, the Commissioner will treat the information according to the procedures in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(7) (Proprietary Information). If you do not assert a claim at the time you submit the information, the Commissioner may make the information available to the public without further notice to you. The Commissioner will deny any requests for confidentiality of your name and/or address.

22. — 25. (RESERVED)

26. To whom must I submit my RAP application? [40 CFR 270.120]

You must submit your application for a RAP to the Director for approval.

27. — 30. (RESERVED)

31. If I submit my RAP application as part of another document, what must I do? [40 CFR 270.125]

If you submit your application for a RAP as a part of another document, you must clearly identify the components of that document that constitute your RAP application.

(c) Getting a RAP Approved

1. What is the process for approving or denying my application for a RAP? [40 CFR 270.130]

(i) If the Commissioner tentatively finds that your RAP application includes all of the information required by part (b)16 of this paragraph and that your proposed remediation waste management activities meet the regulatory standards, the Commissioner will make a tentative decision to approve your RAP application. The Commissioner will then prepare a draft RAP and provide an opportunity for public comment before making a final decision on your RAP application, according to this paragraph.

(ii) If the Commissioner tentatively finds that your RAP application does not include all of the information required by part (b)16 of this paragraph or that your proposed remediation waste management activities do not meet the regulatory standards, the Commissioner may request additional information from you or ask you to correct deficiencies in your application. If you fail or refuse to provide any additional information the Commissioner requests, or to correct any deficiencies in your RAP application, the Commissioner may make a tentative decision to deny your RAP application. After making this tentative decision, the Commissioner will prepare a notice of intent to deny your RAP application ("notice of intent to deny") and provide an opportunity for public comment before making a final decision on your RAP application, according to the requirements in this paragraph. The Commissioner may deny the RAP application either in its entirety or in part.

2. — 5. (RESERVED)

6. What must the Commissioner include in a draft RAP? [40 CFR 270.135]

If the Commissioner prepares a draft RAP, it must include the:

(i) Information required under subparts (b)16(i) through (vi) of this paragraph;

(ii) The following terms and conditions:

(I) Terms and conditions necessary to ensure that the operating requirements specified in your RAP comply with applicable requirements of Rules ~~1200-01-11-.06~~ 0400-12-01-.06, .09, and .10 (including any recordkeeping and reporting requirements). In satisfying this provision, the Commissioner may incorporate, expressly or by reference, applicable requirements of Rules ~~1200-01-11-.06~~ 0400-12-01-.06, .09, and .10 into the RAP or establish site-specific conditions as required or allowed by Rules ~~1200-01-11-.06~~ 0400-12-01-.06, .09, and .10;

(II) Terms and conditions in subparagraph (8)(a) of this rule;

(III) Terms and conditions for modifying, revoking and reissuing, and terminating your RAP, as provided in part (d)1 of this paragraph; and

(IV) Any additional terms or conditions that the Commissioner determines are necessary to protect human health and the environment, including any terms and conditions necessary to respond to spills and leaks during use of any units permitted under the RAP; and

(iii) If the draft RAP is part of another document, as described in item (a)1(iv)(II) of this paragraph, the Commissioner must clearly identify the components of that document that constitute the draft RAP.

7. — 10. (RESERVED)

11. What else must the Commissioner prepare in addition to the draft RAP or notice of intent to deny? [40 CFR 270.140]

Once the Commissioner has prepared the draft RAP or notice of intent to deny, he must then:

(i) Prepare a statement of basis that briefly describes the derivation of the conditions of the draft RAP and the reasons for them, or the rationale for the notice of intent to deny;

(ii) Compile an administrative record, including:

(I) The RAP application, and any supporting data furnished by the applicant;

(II) The draft RAP or notice of intent to deny;

(III) The statement of basis and all documents cited therein (material readily available at the Department or published material that is generally available need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis); and

(IV) Any other documents that support the decision to approve or deny the RAP; and

(iii) Make information contained in the administrative record available for review by the public upon request.

12. — 15. (RESERVED)

16. What are the procedures for public comment on the draft RAP or notice of intent to deny? [40 CFR 270.145]

(i) The Commissioner must:

(I) Send notice to you of his intention to approve or deny your RAP application, and send you a copy of the statement of basis;

(II) Require you to publish a notice, as provided for in ~~Rule 1200-01-11-.07~~ subparagraph (7)(e) of this rule and as prepared by him, except for denials, of his tentative decision regarding your RAP application in a local newspaper of general circulation;

(III) Require you to broadcast his tentative decision regarding your RAP application over a local radio station;

(IV) Require you to provide proof of the completion of all notice requirements to him within ten (10) days following conclusion of the public notice procedures; and

(V) Send a notice of his intention to approve or deny your RAP application to each unit of local government having jurisdiction over the area in which your site is located, and to each State agency having any authority under State law with respect to any construction or operations at the site.

(ii) The notice required by subpart (i) of this part must provide an opportunity for the public to submit written comments on the draft RAP or notice of intent to deny within at least 45 days.

(iii) The notice required by subpart (i) of this part must include:

(I) The name and address of the office processing the RAP application;

(II) The name and address of the RAP applicant, and if different, the remediation waste management site or activity the RAP will regulate;

(III) A brief description of the activity the RAP will regulate;

(IV) The name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft RAP or notice of intent to deny, statement of basis, and the RAP application;

(V) A brief description of the comment procedures in this part, and any other procedures by which the public may participate in the RAP decision;

(VI) If a hearing is scheduled, the date, time, location and purpose of the hearing;

(VII) If a hearing is not scheduled, a statement of procedures to request a hearing;

(VIII) The location of the administrative record, and times when it will be open for public inspection; and

(IX) Any additional information the Commissioner considers necessary or proper.

(iv) If, within the comment period, the Commissioner receives written notice of opposition to his intention to approve or deny your RAP application and a request for a hearing, the Commissioner must hold an informal public hearing to discuss issues relating to the approval or denial of your RAP application. The Commissioner may also determine on his own initiative that an informal hearing is appropriate. The hearing must include an opportunity for any person to present written or oral comments. Whenever possible, the Commissioner must schedule this hearing at a location convenient to the nearest population center to the remediation waste management site and give notice according to the requirements in subpart (i) of this part. This notice must, at a minimum, include the information required by subpart (iii) of this part and:

(I) Reference to the date of any previous public notices relating to the RAP application;

(II) The date, time and place of the hearing; and

(III) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

17. — 20. (RESERVED)

21. How will the Commissioner make a final decision on my RAP application? [40 CFR 270.150]

(i) The Commissioner must consider and respond to any significant comments raised during the public comment period, or during any hearing on the draft RAP or notice of intent to deny, and revise your draft RAP based on those comments, as appropriate.

(ii) If the Commissioner determines that your RAP includes the information and terms and conditions required in part ~~(c)~~6 of this ~~paragraph~~ subparagraph, then he will issue a final decision approving your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been approved.

(iii) If the Commissioner determines that your RAP does not include the information required in part ~~(c)~~6 of this ~~paragraph~~ subparagraph, then he will issue a final decision denying your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been denied.

(iv) If the Commissioner's final decision is that the tentative decision to deny the RAP application was incorrect, he will withdraw the notice of intent to deny and proceed to prepare a draft RAP, according to the requirements in this paragraph.

(v) When the Commissioner issues his final RAP decision, he must refer to the procedures for appealing the decision under part ~~(c)~~26 of this ~~paragraph~~ subparagraph.

(vi) Before issuing the final RAP decision, the Commissioner must compile an administrative record. Material readily available at the issuing Department office or published materials which are generally available and which are included in the Department record need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the response to comments. The Department record for the final RAP must include information in the Department record for the draft RAP (see subpart ~~(c)~~11(ii) of this ~~paragraph~~ subparagraph) and:

(I) All comments received during the public comment period;

(II) Tapes or transcripts of any hearings;

(III) Any written materials submitted at these hearings;

(IV) The responses to comments;

(V) Any new material placed in the record since the draft RAP was issued;

(VI) Any other documents supporting the RAP; and

(VII) A copy of the final RAP.

(vii) The Commissioner must make information contained in the Department record available for review by the public upon request.

22 — 25. (RESERVED)

26. May the decision to approve or deny my RAP application be administratively appealed? [40 CFR 270.155]

(i) Any commenter on the draft RAP or notice of intent to deny, or any participant in any public hearing(s) on the draft RAP, may appeal the Commissioner's decision to approve or deny your RAP application to the Board under subparagraph (7)(k) of this rule. Any person who did not file comments, or did not participate in any public hearing(s) on the draft RAP, may petition for administrative review only to the extent of the changes from the draft to the final RAP decision. Appeals of RAPs may be made to the same extent as for final permit decisions under subparagraph (7)(i) of this rule (or a decision under paragraph (6) of this rule to deny a permit for the active life of a hazardous waste management facility or unit). Instead of the notice required under subparagraphs (7)(e) and ~~(7)~~(k) of this

rule, the Commissioner will give public notice of any grant of review of RAPs by the Board through the same means used to provide notice under part ~~(c)~~16 of this ~~paragraph~~ subparagraph. The notice will include:

(I) The briefing schedule for the appeal as provided by the Board;

(II) A statement that any interested person may file an amicus brief with the Board; and

(III) The information specified in subpart ~~(c)~~16(iii) of this ~~paragraph~~ subparagraph, as appropriate.

(ii) This appeal is a prerequisite to seeking judicial review of these Department actions.

27. — 30. (RESERVED)

31. When does my RAP become effective? [40 CFR 270.160]

Your RAP becomes effective 30 days after the Commissioner notifies you and all commenters that your RAP is approved unless:

(i) The Commissioner specifies a later effective date in his decision;

(ii) You or another person has appealed your RAP under part ~~(c)~~25 of this ~~paragraph~~ subparagraph (if your RAP is appealed, and the request for review is granted under part (c)25 of this paragraph, conditions of your RAP are stayed according to subparagraph (7)(c) of this rule); or

(iii) No commenters requested a change in the draft RAP, in which case the RAP becomes effective immediately when it is issued.

32. — 35. (RESERVED

36. When may I begin physical construction of new units permitted under the RAP? [40 CFR 270.165]

You must not begin physical construction of new units permitted under the RAP for treating, storing or disposing of hazardous remediation waste before receiving a finally effective RAP.

37. — 40. (RESERVED)

(d) How May my RAP be Modified, Revoked and Reissued, or Terminated?

1. After my RAP is issued, how may it be modified, revoked and reissued, or terminated? [40 CFR 270.170]

In your RAP, the Commissioner must specify, either directly or by reference, procedures for future modifications, revocations and reissuance, or terminations of your RAP. These procedures must provide adequate opportunities for public review and comment on any modification, revocation and reissuance, or termination that would significantly change your management of your remediation waste, or that otherwise merits public review and comment. If your RAP has been incorporated into a traditional Hazardous Waste permit, as allowed under subpart (a)6(iii) of this paragraph, then the RAP will be modified according to the applicable requirements in subparagraph (9)(b) of this rule, revoked and reissued according to the applicable requirements in subparagraphs (9)(c) and (d) of this rule, or terminated according to the applicable requirements of subparagraph (9)(d) of this rule.

2. — 5. (RESERVED)

6. For what reasons may the Commissioner choose to modify my final RAP? [40 CFR 270.175]

(i) The Commissioner may modify your final RAP on his own initiative only if one or more of the following reasons listed in this part exist(s). If one or more of these reasons do not exist, then the Commissioner will not modify your final RAP, except at your request. Reasons for modification are:

(I) You made material and substantial alterations or additions to the activity that justify applying different conditions;

(II) The Commissioner finds new information that was not available at the time of RAP issuance and would have justified applying different RAP conditions at the time of issuance;

(III) The standards or regulations on which the RAP was based have changed because of new or amended statutes, standards or regulations, or by judicial decision after the RAP was issued;

(IV) If your RAP includes any schedules of compliance, the Commissioner may find reasons to modify your compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which you as the owner/operator have little or no control and for which there is no reasonably available remedy;

(V) You are not in compliance with conditions of your RAP;

(VI) You failed in the application or during the RAP issuance process to disclose fully all relevant facts, or you misrepresented any relevant facts at the time;

(VII) The Commissioner has determined that the activity authorized by your RAP endangers human health or the environment and can only be remedied by modifying; or

(VIII) You have notified the Commissioner (as required in the RAP under subpart (8)(a)12(iii) of this rule) of a proposed transfer of a RAP.

(ii) Notwithstanding any other provision in this part, when the Commissioner reviews a RAP for a land disposal facility under part ~~(d)~~26 of this ~~paragraph~~ subparagraph, he may modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in Rules ~~1200-01-11-.01~~ 0400-12-01-.01 through .07 and .09.

(iii) The Commissioner will not reevaluate the suitability of the facility location at the time of RAP modification unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

7. — 10. (RESERVED)

11. For what reasons may the Commissioner choose to revoke and reissue my final RAP? [40 CFR 270.180]

(i) The Commissioner may revoke and reissue your final RAP on his own initiative only if one or more reasons for revocation and reissuance exist(s). If one or more

reasons do not exist, then the Commissioner will not modify or revoke and reissue your final RAP, except at your request. Reasons for modification or revocation and reissuance are the same as the reasons listed for RAP modifications in item 6(i)(V) through (VIII) of this subparagraph if the Commissioner determines that revocation and reissuance of your RAP is appropriate.

(ii) The Commissioner will not reevaluate the suitability of the facility location at the time of RAP revocation and reissuance, unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

12. — 15. (RESERVED)

16. For what reasons may the Commissioner choose to terminate my final RAP, or deny my renewal application? [40 CFR 270.185]

The Commissioner may terminate your final RAP on his own initiative, or deny your renewal application for the same reasons as those listed for RAP modifications in item 6(i)(V) through (VII) of this subparagraph if the Commissioner determines that termination of your RAP or denial of your RAP renewal application is appropriate.

17. — 20. (RESERVED)

21. May the decision to approve or deny a modification, revocation and reissuance, or termination of my RAP be administratively appealed? [40 CFR 270.190]

(i) Any commenter on the modification, revocation and reissuance or termination, or any person who participated in any hearing(s) on these actions, may appeal the Commissioner's decision to approve a modification, revocation and reissuance, or termination of your RAP, according to part (c)26 of this paragraph. Any person who did not file comments or did not participate in any public hearing(s) on the modification, revocation and reissuance or termination, may petition for administrative review only of the changes from the draft to the final RAP decision.

(ii) Any commenter on the modification, revocation and reissuance or termination, or any person who participated in any hearing(s) on these actions, may informally appeal the Commissioner's decision to deny a request for modification, revocation and reissuance, or termination to the Board. Any person who did not file comments, or did not participate in any public hearing(s) on the modification, revocation and reissuance or termination may petition for administrative review only of the changes from the draft to the final RAP decision.

(iii) The process for informal appeals of RAPs is as follows:

(I) The person appealing the decision must send a letter to the Board. The letter must briefly set forth the relevant facts.

(II) The Board has 60 days after receiving the letter to act on it.

(III) If the Board does not take action on the letter within 60 days after receiving it, the appeal shall be considered denied.

(iv) This informal appeal is a prerequisite to seeking judicial review of these Department actions.

22. — 25. (RESERVED)

26. When will my RAP expire? [40 CFR 270.195]

RAPs must be issued for a fixed term, not to exceed 10 years, although they may be renewed upon approval by the Commissioner in fixed increments of no more than ten years. In addition, the Commissioner must review any RAP for hazardous waste land disposal five years after the date of issuance or reissuance and you or the Commissioner must follow the requirements for modifying your RAP as necessary to assure that you continue to comply with currently applicable requirements in Hazardous Waste Rules §68-212-107 and §68-212-108.

27. — 30. (RESERVED)

31. How may I renew my RAP if it is expiring? [40 CFR 270.200]

If you wish to renew your expiring RAP, you must follow the process for application for and issuance of RAPs in this paragraph.

32. — 35. (RESERVED)

36. What happens if I have applied correctly for a RAP renewal but have not received approval by the time my old RAP expires? [40 CFR 270.205]

If you have submitted a timely and complete application for a RAP renewal, but the Commissioner, through no fault of yours, has not issued a new RAP with an effective date on or before the expiration date of your previous RAP, your previous RAP conditions continue in force until the effective date of your new RAP or RAP denial.

37. — 40. (RESERVED)

(e) Operating Under Your RAP

1. What records must I maintain concerning my RAP? [40 CFR 270.210]

You are required to keep records of:

(i) All data used to complete RAP applications and any supplemental information that you submit for a period of at least 3 years from the date the application is signed; and

(ii) Any operating and/or other records the Commissioner requires you to maintain as a condition of your RAP.

2. — 5. (RESERVED)

6. How are time periods in the requirements in this paragraph and my RAP computed? [40 CFR 270.215]

(i) Any time period scheduled to begin on the occurrence of an act or event must begin on the day after the act or event. (For example, if your RAP specifies that you must close a staging pile within 180 days after the operating term for that staging pile expires, and the operating term expires on June 1, then June 2 counts as day one of your 180 days, and you would have to complete closure by November 28.)

(ii) Any time period scheduled to begin before the occurrence of an act or event must be computed so that the period ends on the day before the act or event. (For example, if you are transferring ownership or operational control of your site, and wish to transfer your RAP, the new owner or operator must submit a revised RAP application no later than 90 days before the scheduled change. Therefore, if you plan to change ownership on January 1, the new owner/operator must

submit the revised RAP application no later than October 3, so that the 90th day would be December 31.)

(iii) If the final day of any time period falls on a weekend or legal holiday, the time period must be extended to the next working day. (For example, if you wish to appeal the Commissioner's decision to modify your RAP, then you must petition the Board within 30 days after the Commissioner has issued the final RAP decision. If the 30th day falls on Sunday, then you may submit your appeal by the Monday after. If the 30th day falls on July 4th, then you may submit your appeal by July 5th.)

(iv) Whenever a party or interested person has the right to or is required to act within a prescribed period after the service of notice or other paper upon him by mail, 3 days must be added to the prescribed term. (For example, if you wish to appeal the Commissioner's decision to modify your RAP, then you must petition the Environmental Appeals Board within 30 days after the Commissioner has issued the final RAP decision. However, if the Commissioner notifies you of his decision by mail, then you may have 33 days to petition the Board.)

7. — 10. (RESERVED)

11. How may I transfer my RAP to a new owner or operator? [40 CFR 270.220]

(i) If you wish to transfer your RAP to a new owner or operator, you must follow the requirements specified in your RAP for RAP modification to identify the new owner or operator, and incorporate any other necessary requirements. These modifications do not constitute "significant" modifications for purposes of part (d)1 of this paragraph. The new owner/operator must submit a revised RAP application no later than 90 days before the scheduled change along with a written agreement containing a specific date for transfer of RAP responsibility between you and the new permittees.

(ii) When a transfer of ownership or operational control occurs, you as the old owner or operator must comply with the applicable requirements in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8), (Financial Requirements), until the new owner or operator has demonstrated that he is complying with the requirements in that paragraph. The new owner or operator must demonstrate compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8) within six months of the date of the change in ownership or operational control of the facility or remediation waste management site. When the new owner/operator demonstrates compliance with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8) to the Commissioner, the Commissioner will notify you that you no longer need to comply with Rule ~~1200-01-11-.06~~ 0400-12-01-.06(8), as of the date of demonstration.

12. — 15. (RESERVED)

16. (Reserved) [40 CFR 270.225]

17. — 20. (RESERVED)

(f) Obtaining a RAP for an Off-Site Location

1. May I perform remediation waste management activities under a RAP at a location removed from the area where the remediation wastes originated? [40 CFR 270.230]

(i) You may request a RAP for remediation waste management activities at a location removed from the area where the remediation wastes originated if you believe such a location would be more protective than the contaminated area or areas in close proximity.

(ii) If the Commissioner determines that an alternative location, removed from the area where the remediation waste originated, is more protective than managing remediation waste at the area of contamination or areas in close proximity, then the Commissioner may approve a RAP for this alternative location.

(iii) You must request the RAP, and the Commissioner will approve or deny the RAP, according to the procedures and requirements in this paragraph.

(iv) A RAP for an alternative location must also meet the following requirements, which the Commissioner must include in the RAP for such locations:

(I) The RAP for the alternative location must be issued to the person responsible for the cleanup from which the remediation wastes originated;

(II) The RAP is subject to the expanded public participation requirements in subparagraph (8)(b), (d), and (e) of this rule;

(III) The RAP is subject to the public notice requirements in part (7)(e)3 of this rule;

(IV) The site permitted in the RAP may not be located within 61 meters or 200 feet of a fault which has had displacement in the Holocene time (you must demonstrate compliance with this standard through the requirements in subpart (5)(a)1(xi) of this rule) (See definitions of terms in Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(i)1);

(Note: Sites located in political jurisdictions other than those listed in Appendix VI of Rule ~~1200-01-11-.06~~ 0400-12-01-.06, are assumed to be in compliance with this requirement.

(v) These alternative locations are remediation waste management sites, and retain the following benefits of remediation waste management sites:

(I) Exclusion from facility-wide corrective action under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(l); and

(II) Application of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(1)(b)9 in lieu of paragraphs (2), (3) and (4) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06.

(12) Integration with Maximum Achievable Control Technology (MACT) Standards [40 CFR 270 Subpart I]

(a) Options for incinerators, cement kilns, lightweight aggregate kilns, solid fuel boilers, liquid fuel boilers and hydrochloric acid production furnaces to minimize emissions from startup, shutdown, and malfunction events [40 CFR 270.235]

1. Facilities with existing permits

(i) Revisions to permit conditions after documenting compliance with MACT

The owner or operator of a RCRA-permitted incinerator, cement kiln, lightweight aggregate kiln, sold fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace may request that the Commissioner address permit conditions that minimize emissions from startup, shutdown, and malfunction events under any of the following options when requesting removal of permit conditions that are no longer applicable according to part (15)(a)2 of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 and part (8)(a)(2) of Rule ~~1200-01-11-.09~~ 0400-12-01-.09:

(I) Retain relevant permit conditions

Under this option, the Commissioner will:

I. Retain permit conditions that address releases during startup, shutdown, and malfunction events, including releases from emergency safety vents, as these events are defined in the facility's startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) and

II. Limit applicability of those permit conditions only to when the facility is operating under its startup, shutdown, and malfunction plan.

(II) Revise relevant permit conditions

I. Under this option, the Commissioner will:

A. Identify a subset of relevant existing permit requirements, or develop alternative permit requirements, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history.

B. Retain or add these permit requirements to the permit to apply only when the facility is operating under its startup, shutdown, and malfunction plan.

II. Changes that may significantly increase emissions

A. You must notify the Commissioner in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the Commissioner of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

B. The Commissioner may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

(A) Upon permit renewal; or

(B) If warranted by modifying the permit under part (9)(c)3 or part (9)(c)5 of this rule.

(III) Remove permit conditions

Under this option:

I. The owner or operator must document that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the Commissioner under 40 CFR 63.1206(c)(2)(ii)(B) and

II. The Commissioner will remove permit conditions that are no longer applicable according to part (15)(a)2 of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 and part (8)(a)2 of Rule ~~1200-01-11-.09~~ 0400-12-01-.09.

(ii) Addressing permit conditions upon permit reissuance

The owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that has conducted a comprehensive performance test and submitted to the Commissioner a Notification of Compliance documenting compliance with the standards of 40 CFR 63 Subpart EEE may request in the application to reissue the permit for the combustion unit that the Commissioner control emissions from startup, shutdown, and malfunction events under any of the following options:

(I) RCRA Option A

I. Under this option, the Commissioner will:

A. Include, in the permit, conditions that ensure compliance with parts 1 and 3 of subparagraph (15)(f) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 or subpart (8)(c)5(i) and item (8)(c)5(ii)(III) of ~~part (8) (c) 5 of~~ Rule ~~1200-01-11-.09~~ 0400-12-01-.09 to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, including releases from emergency safety vents; and

B. Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan; or

(II) RCRA Option B

I. Under this option, the Commissioner will:

A. Include, in the permit conditions, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design and operating history; and

B. Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

II. Changes that may significantly increase emissions

A. You must notify the Commissioner in writing of changes to startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase

emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the Commissioner of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

B. The Commissioner may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

(A) Upon permit renewal, or if warranted;

(B) By modifying the permit under part (9)(c)3 or part (9)(c)5 of this rule.

(III) CAA Option

Under this option:

I. The owner or operator must document that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the Commissioner under 40 CFR 63.1206(c)(2)(ii)(B); and

II. The Commissioner will omit from the permit conditions that are not applicable under part (15)(a)2 of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 and part (8)(a)2 of Rule ~~1200-01-11-.09~~ 0400-12-01-.09.

2. Interim status facilities

(i) Interim status operations

In compliance with subparagraph (15)(a) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05 and part (8)(a)2 of Rule ~~1200-01-11-.09~~ 0400-12-01-.09, the owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is operating under the interim status standards of Rule ~~1200-01-11-.05~~ 0400-12-01-.05 or ~~1200-01-11-.09~~ 0400-12-01-.09 may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the Commissioner a Notification of Compliance documenting compliance with the standards of 40 CFR 63 Subpart EEE:

(II) RCRA Option

Under this option, the owner or operator continues to comply with the interim status emission standards and operating requirements of Rule ~~1200-01-11-.05~~ 0400-12-01-.05 or Rule ~~1200-01-11-.09~~ 0400-12-01-.09 relevant to control of emission from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events; or

(III) CAA Option

Under this option, the owner or operator is exempt from the interim status standards of Rule ~~1200-01-11-.05~~ 0400-12-01-.05 or Rule ~~1200-01-11-.09~~ 0400-12-01-.09 relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the Director that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the Commissioner under 40 CFR 63.1206(c)(2)(ii)(B).

(ii) Operations under a subsequent RCRA permit

When an owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is operating under the interim status standards of Rule ~~1200-01-11-.05~~ 0400-12-01-.05 or Rule ~~1200-01-11-.09~~ 0400-12-01-.09 submits a RCRA permit application, the owner or operator may request that the Commissioner control emissions from startup, shutdown, and malfunction events under any of the options provided by item 1(ii)(I), ~~item 1 (ii)~~ (II), or ~~item 1 (ii)~~ (III) of this subparagraph.

3. New units

Hazardous waste incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace units that become subject to RCRA permit requirements after October 12, 2005 must control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options:

(i) Comply with the requirements specified in 40 CFR 63.1206(c)(2); or

(ii) Request to include in the RCRA permit, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan and design. The Commissioner will specify that these permit conditions apply only when the facility is operating under its startup, shutdown, and malfunction plan.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

~~1200-01-11-.08~~ 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters.

(1) General

(a) Purpose

The purpose of this rule is to establish a system and schedule whereby certain fees shall be levied and collected by the Commissioner. Expenditures of such fees collected shall be restricted to operation of the hazardous waste management program established pursuant to the Act. Any unencumbered and any unexpended balance shall be maintained in the Tennessee Environmental Protection Fund (the "Fund").

(b) Applicability

The requirements of this rule apply as specified to the following persons:

1. All transporters having a hazardous waste transporter permit issued under the Act and all new or existing transporters subject to the transporter permit requirements of Rule ~~1200-01-11-.04~~ 0400-12-01-.04(2);

2. Owners and operators of all hazardous waste storage, treatment, and disposal facilities who are subject to the facility permit requirements of Rule ~~1200-01-11-.07~~ 0400-12-01-.07, except for those subject solely to the permit-by-rule requirements of Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(c);

3. All generators of hazardous wastes;

4. Persons requesting that the Solid Waste Disposal Control Board review an action of the Commissioner;

5. All transporters, marketers, processors/re-refiners of used oil, or burners of off-specification used oil;

6. Persons carrying out closure activities, post-closure activities and/or corrective action activities, under permits or other enforceable documents;

7. Persons responsible for spills or accidental discharges (of hazardous waste or other material which, when spilled or discharged, becomes a hazardous waste) requiring investigation and/or remediation of soil, groundwater, or surface water and/or sediment;

8. All hazardous waste transfer facilities; and

9. All universal waste destination facilities.

(c) Payment of Fees

Any person required to pay a fee under this rule shall submit the fee by check or money order or other method approved by the Commissioner in the specified amount, made payable to the Treasurer, State of Tennessee for deposit in the Tennessee Environmental Protection Fund. Submission of the fee shall be accompanied with appropriate supporting documentation as directed by the department and may include electronic forms, printable pages available through the internet, or manually prepared paper copies, or a combination of any of the above.

(d) No permit or other authorization shall be issued or renewed by the Division of Solid Waste Management pursuant to ~~Rule~~ Chapter ~~1200-01-11~~ 0400-12-01 or ~~1200-01-14~~ 0400-12-02 until all fees and/or penalties owed by the applicant to the Division are paid in full, unless a time schedule for payments has been approved and all payments are current or contested fees or penalties are under appeal.

(2) Installation Identification Number Application Fee

Any person who applies to the Department for an Installation Identification Number on the Notification Forms provided by the Department shall submit as part of the request a fee of 150 dollars. Generators updating their facility notification file by adding a new hazardous waste stream shall submit a fee of 100 dollars with the new hazardous waste stream form.

(3) Permit Application Fees

(a) Transporters

Any person who applies for a permit or modification to a permit to transport hazardous wastes in Tennessee must submit as part of said application an application fee of 200 dollars.

(b) Treatment, Storage, and Disposal Facilities (TSDF) including facilities conducting corrective action and post-closure under permits, orders, or other enforceable documents.

1. Part A application

Any person who applies for a permit for a hazardous waste storage, treatment, or disposal facility must submit, as part of his Part A application and prior to application review, an application fee for each new or revised application as set forth below:

600 dollars for an existing facility; or

2,800 dollars for a new facility.

2. Part B application

Any person who applies for a permit, or permit renewal, for a hazardous waste storage, treatment, or disposal facility must submit, as part of his Part B application and prior to application review, an application fee for each new or revised application as set forth below:

(i) Part B application for an on-site hazardous waste facility:

15,000 dollars for a storage facility;

15,000 dollars for a treatment facility;

30,000 dollars for a disposal facility; and

30,000 dollars for a landfill site.

(ii) Part B application for a commercial hazardous waste facility:

37,500 dollars for a storage facility;

37,500 dollars for a treatment facility;

75,000 dollars for a disposal facility; and

75,000 dollars for a landfill site.

(iii) Part B application for a post-closure unit pursuant to a permit, order or other enforceable document:

30,000 dollars for a unit not previously permitted under a hazardous waste operating permit; and

15,000 dollars for a unit which previously operated under a hazardous waste operating permit.

(iv) Part B application for corrective action:

15,000 dollars for a facility, as defined under Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a), implementing corrective action under Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(l) not already included in subparts (i), (ii) or (iii) of this part.

(c) Special Case: Modification of Existing Facility Permit

Any person who applies for modification or reissuance (following revocation) of his existing facility permit, order, or other enforceable document [refer to Rule ~~1200-01-11-.07~~ 0400-12-01-.07(9)] must submit, as part of his Part B application and prior to modification review, an application fee as set forth below:

1. For owners or operators applying for a Class 1 permit modification, the fee shall be 600 dollars;

2. For owners or operators applying for a Class [1]1 permit modification with changes other than, or in addition to, changes in part 1 above, the fee shall be 4,200 dollars; the Class [1]1 permit modification fee for Maximum Achievable Control Technology (MACT) modifications shall be 8,000 dollars.

3. For owners or operators applying for a change in ownership or operational control of a facility pursuant to Rule ~~1200-01-11-.09~~ 0400-12-01-.09(9)(b)3, the fee shall be 3,800 dollars.

4. For owners or operators applying for a Class 2 permit modification, the fee shall be:

9,700 dollars for modification of a container or tank storage and/or treatment unit, thermal treatment unit, or drip pad, storage and/or treatment unit;

12,500 dollars for modification of a disposal unit, waste pile storage unit, containment building storage and/or treatment unit, surface impoundment storage and/or treatment unit, or other miscellaneous unit; and

15,000 dollars for modification of a post-closure unit.

5. For owners or operators applying for a Class 3 permit modification, the fee shall be:

15,000 dollars for modification of a container or tank storage and/or treatment unit, thermal treatment unit, or drip pad, storage, and/or treatment unit;

15,000 dollars for modification of any permit to include the final remedy for Solid Waste Management Units under corrective action requiring remediation and/or maintenance activities;

30,000 dollars for modification of a disposal unit, waste pile storage unit, containment building storage and/or treatment unit, surface

impoundment storage and/or treatment unit, or other miscellaneous unit; and

20,000 dollars for modification of a post-closure unit.

(d) Closure and Post-Closure Plans

Any person required to submit a closure plan or post-closure plan [refer to Rule ~~1200-01-11-.05~~ 0400-12-01-.05(7) and -.06(7)] for a hazardous waste facility must submit, as part of the closure or post-closure plan, and prior to plan review, an application fee, unless the above plan was reviewed as part of a permit application package, as set forth below:

2,800 dollars for a closure plan; and

2,800 dollars for a post-closure plan.

(e) Modification of Approved Closure and Post-Closure Plan

Any person who submits a modification to an approved closure plan or post-closure plan must submit, as part of the modification and prior to modification review, a modification fee, unless the above plan was reviewed as part of a permit application package, as set forth below:

300 dollars for Class 1 Modification;

850 dollars for Class [1]1 Modification;

1,100 dollars for Class 2 Modification; and

1,700 dollars for Class 3 Modification.

(f) Emergency Permit

Any person who applies for an emergency permit (refer to Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(d)) must submit, as part of the emergency permit application, an application fee of 2,400 dollars.

(g) Research, Demonstration, and Development Permit

Any person who applies for a research, demonstration, and development permit (refer to Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(g)) must submit, as part of the research, demonstration, and development permit application, an application fee of 2,800 dollars. An additional fee of 2,800 dollars is assessed for each renewal pursuant to Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(g)4.

(h) Temporary Authorization

Any person who applies for a temporary authorization pursuant to Rule ~~1200-01-11-.07~~ 0400-12-01-.07(9)(c)5(v) must submit as part of the temporary authorization request, an application fee of 3,000 dollars. An additional fee of 300 dollars is assessed for the renewal pursuant to Rule ~~1200-01-11-.07~~ 0400-12-01-.07(9)(c)5(v)(IV).

(i) Schedule for Timely Action on Permit Applications/Permit Modifications

1. The following documents, when submitted separately, must be reviewed and the applicant notified within the following time frames:

(i)	Hydrogeologic Report (Assessment Plan, Sampling and Analysis Plans, Groundwater Annual Reports, and Groundwater Monitoring Plan)	180 days

(ii)	Closure Plan	180 days
(iii)	Post-Closure Plan	180 days
(iv)	Review of Part A Application for Completeness	45 days
(v)	Initial Review of Part B Application and Class 3 Permit Modifications	180 days
(vi)	Initial Review of Class 1 and $^{1}1$ Modification	60 days

2. Applications, closure plans, post-closure plans, and modifications shall be acted upon (issued or denied) by the Department within the time frames required by Rule ~~1200-01-11-.07~~ 0400-12-01-.07 beginning with the end of the public comment period(s) specified in each public notice.

3. The above timely action periods shall be stayed if:

   (i) The applicant requests that review be suspended;

   (ii) The department issues a written notice of deficiency and until the applicant adequately addresses said deficiency;

   (iii) Priorities set by the Environmental Protection Agency (EPA) require a delay;

   (iv) The review process has been halted due to pending judicial and/or administrative actions;

   (v) Applicable regulations change;

   (vi) The Department requests a delay in the review process to which the applicant agrees; or

   (vii) Multiple (5 or more) Class 1 or $^{1}1$ modifications from a single applicant are received.

4. Should the Department not comply with the timely review periods specified in part 1 of this subparagraph, the application fee shall be refunded. The Board shall be provided a quarterly update on the timeliness of permit processing.

(4) Annual Maintenance Fees

(a) Transporters

1. Each person having a hazardous waste transporter permit issued under the Act must submit to the Commissioner, by December 31 of each year, an annual permit maintenance and renewal fee of 350 dollars.

2. Each person operating a hazardous waste transfer facility shall submit to the Commissioner by December 31 of each year an annual facility maintenance fee of 850 dollars.

3. Each person transporting used oil and that is required to submit an annual report under Rule ~~1200-01-11-.11~~ 0400-12-01-.11 shall submit to the Commissioner an annual maintenance fee of 200 dollars within 30 days of the effective date of this rule and by March 1 of each year thereafter.

4. Each person operating a used oil transfer facility under Rule ~~1200-01-11-.11~~ 0400-12-01-.11 shall submit to the Commissioner an annual facility maintenance fee of 1,000 dollars within 30 days of the effective date of this rule and by March 1 of each year thereafter.

(b) Treatment, Storage, and Disposal Facilities (TSDF) including facilities conducting corrective action and post-closure.

The owner or operator of each hazardous waste treatment, storage, or disposal facility in Tennessee having either a permit issued under the Act or interim status as provided under Rule ~~1200-01-11-.07~~ 0400-12-01-.07(3) must submit to the Commissioner, by March 1 of each year, an annual permit maintenance fee as provided in this subparagraph; provided however, that for the year 2010, persons who paid the annual permit maintenance fee in effect on March 1, 2010 shall be credited for the amount so paid, making only the balance due within 30 days of the effective date of this rule.

1. General

(i) An annual fee shall be assessed consisting of a base amount plus an additional charge calculated on the facility's total constructed design capacity during the previous calendar year.

(ii) The owner or operator of each treatment, storage, or disposal facility shall be assessed an annual fee each year until all closure, post-closure, and corrective action activities are complete and the facility is closed in accordance with the appropriate standards of Rules ~~1200-01-11-.05~~ 0400-12-01-.05 or ~~1200-01-11-.06~~ 0400-12-01-.06, as applicable.

(iii) For purposes of this subparagraph, a facility that receives hazardous wastes from off-site, other than from contiguous properties, is determined to be an off-site facility for the calendar year in which the off-site hazardous waste is received.

2. Storage Operations

(i) The owner or operator of each facility shall be assessed a base amount plus an additional charge calculated on the total constructed design capacity in gallons (gal.) of the facility's hazardous waste storage operations as set forth below, except as provided for in subpart (iii) of this part:

(I) For facilities which receive only hazardous waste which are generated on-site, a base amount of 4,700 dollars plus an additional:

Constructed Design Capacity	Amount
1 - 5,000 gal.	$1,450
5,001 - 10,000 gal	2,150
10,001 - 50,000 gal.	4,250
50,001 - 100,000 gal.	5,000
100,001 - 500,000 gal.	5,700
500,001 - 1,000,000 gal.	6,400
over 1,000,000 gal.	7,100

(II) For facilities which receive hazardous wastes from off-site generators, a base amount of 9,350 dollars plus an additional:

Constructed Design Capacity	Amount
1 - 5,000 gal.	$ 2,850

5,001 - 10,000 gal.	4,250
10,001 - 50,000 gal.	8,550
50,001 - 100,000 gal.	9,950
100,001 - 500,000 gal.	11,400
500,001 - 1,000,000 gal.	12,800
over 1,000,000 gal.	14,250

(ii) Only the incremental constructed design capacity fee and not the base fee in Item (i)(I) of this part shall apply to facilities with only one on-site storage unit with a capacity less than 10,000 gallons which receives waste only from on-site.

3. Treatment Operations

(i) The owner or operator of each facility shall be assessed a base amount plus an additional charge calculated on the total constructed design capacity in gallons per day (gpd) of the facility's hazardous waste treatment operations as set forth below:

(I) For facilities which receive only hazardous wastes which are generated on-site, a base amount of 7,000 dollars plus an additional:

Constructed Design Capacity	Amount
1 - 5,000 gpd	$2,850
5,001 - 10,000 gpd	3,550
10,001 - 50,000 gpd	4,250
50,001 - 100,000 gpd	5,000
100,001 - 500,000 gpd	5,700
500,001 - 1,000,000 gpd	6,400
over 1,000,000 gpd	7,100

(II) For facilities which receive hazardous waste from off-site generators, a base amount of 11,700 dollars plus an additional:

Constructed Design Capacity	Amount
1 - 5,000 gpd	$ 5,700
5,001 - 10,000 gpd	7,100
10,001 - 50,000 gpd	8,550
50,001 - 100,000 gpd	9,950
100,001 - 500,000 gpd	11,400
500,001 - 1,000,000 gpd	12,800
over 1,000,000 gpd	14,250

(ii) Facilities paying a base amount for Treatment Operations shall not be assessed a separate base amount for Storage Operations located on contiguous property.

(iii) The combined Annual Maintenance Fees for Treatment and Storage for on-site facilities shall not exceed 16,000 dollars per facility, and for off-site facilities this fee shall not exceed 32,000 dollars.

4. Disposal Operations

These fees are applicable only to facilities which require a permit under Rule ~~1200-01-11-.07~~ 0400-12-01-.07 of the rules governing hazardous waste management for the State of Tennessee. The owner or operator of each facility shall be assessed an annual fee as set forth below:

(i) For non-commercial facilities, a base fee of 8,000 dollars plus an additional:

700 dollars per each acre-foot of remaining design capacity of landfill operations (to include waste piles and surface impoundments used for disposal and subject to closure as landfills);

700 dollars per each acre of remaining design capacity of land application operations; and

1.50 dollars per gallon per day (gpd) for the permitted injection capacity of injection well operations;

(Note: This fee shall not exceed $22,500 in accordance with T.C.A. §68-203-103(h)(19).)

(ii) For commercial facilities, a base fee of 30,000 dollars plus an additional:

1,400 dollars per each acre-foot of remaining design capacity of landfill operations (to include waste piles and surface impoundments used for disposal and subject to closure as landfills);

1,400 dollars per each acre of remaining design capacity of land application operations; and

1.50 dollars per gallon per day (gpd) for the permitted injection capacity of injection well operations.

(Note: This fee shall not exceed $75,000 in accordance with T.C.A. §68-203-103(h)(15).)

5. Post-Closure Activity

These fees are applicable to facilities that require a permit, order, or other enforceable document under Rule ~~1200-01-11-.07~~ 0400-12-01-.07 of the rules governing hazardous waste management for the State of Tennessee. The owner or operator shall be assessed an annual fee set forth below:

(i) For facilities conducting post-closure activities a base fee of 3,600 dollars for each permit, order, or other enforceable document plus an additional:

1,200 dollars for each remediation system conducting active remediation for contaminated media.

6. Corrective Action Activity

These fees are applicable to facilities that require corrective action for Solid Waste Management Units (SWMUs) under Rule ~~1200-01-11-.07~~ 0400-12-01-.07(5)(e) and Rule ~~1200-01-11-.06~~ 0400-12-01-.06(6)(l). The owner or operator shall be assessed an annual fee set forth below:

(i) For facilities conducting corrective action activities under the authority listed above, a base fee of 6,000 dollars plus an additional fee for review of the following types of corrective action at the facility during the past year.

2,400 dollars for Confirmatory Sampling
4,800 dollars for RCRA Facility Investigation
3,600 dollars for Corrective Measures Study
2,400 dollars for Interim Measures

(Note: This fee does not apply to facilities that are reimbursing the State, pursuant to the Department of Defense/State Memorandum of Agreement, costs incurred by the State for corrective action activities at those facilities.)

(c) Universal Waste

The owner or operator of a universal waste destination facility, as defined in Rule ~~1200-01-11-.12~~ 0400-12-01-.12, shall submit to the Commissioner an annual maintenance fee of 2,000 dollars within 30 days of the effective date of this rule and by March 1 of each year thereafter.

(d) Used Oil Processors and Re-refiners

The owner or operator of a facility that processes and/or re-refines used oil, as defined in Rule ~~1200-01-11-.11~~ 0400-12-01-.11, shall submit to the Commissioner an annual maintenance fee of 2,000 dollars within 30 days of the effective date of this rule and by March 1 of each year thereafter. This fee does not apply to used oil generators who solely process their own used oil generated at the same facility where processing is performed.

(5) Generator Fees

(a) Annual Generator Fees

(Note: Rules ~~1200-01-11-.02~~ 0400-12-01-.02(1)(d)3(ii) and ~~1200-01-11-.02~~ 0400-12-01-.02(1)(e)3 and 4 are applicable in determining generator status for fee purposes.)

1. Except as provided in subparagraph (b) of this paragraph, the Annual Generator Fee for Small Quantity Generators shall consist of a base amount of 1,200 dollars plus an off-site shipping fee determined in accordance with subparagraphs (c) and (d) of this paragraph.

   (i) For the purpose of this subparagraph Small Quantity Generator shall mean:

      (I) Any generator who generates greater than 100 kilograms, but less than 1000 kilograms of hazardous waste in any calendar month of the previous calendar year; or

      (II) Any Conditionally Exempt Small Quantity Generator who accumulates at any time more than 1000 kilograms of non-acute hazardous waste in the previous calendar year.

2. Except as provided in subparagraph (b) of this paragraph, the Annual Generator Fee for Large Quantity Generators shall consist of a base amount of 2,000 dollars plus an off-site shipping fee determined in accordance with subparagraphs (c) and (d) of this paragraph.

   (i) For the purpose of this subparagraph Large Quantity Generator shall mean:

      (I) Any generator who generates 1000 kilograms or more of hazardous waste in any calendar month of the previous calendar year; or

      (II) Any generator who generates 1 kilogram or more of acute hazardous waste, or 100 kilograms or more of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of an acute hazardous waste, in any calendar month of the previous calendar year; or

(b) Exclusions from Base Fee Assessment

1. Hazardous wastes generated from remediation or corrective actions required by the Tennessee Hazardous Waste Management Act of 1977 and 1983; the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); and the Comprehensive

Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) shall not be subject to the fee calculations in parts (a)1 or (a)2 of this paragraph.

2. A Conditionally Exempt Small Quantity Generator does not owe this fee if neither part (a)1 nor (a)2 of this paragraph is applicable.

(Note: The fee exclusions in this subparagraph also apply to department approved remediation or corrective actions under the administration of the Tennessee Petroleum Underground Storage Tank Act and Tennessee Drycleaner's Environmental Response Act.)

(c) Off-site Shipping Fee

1. Hazardous waste with a thermal heating value greater than 5000 BTU per pound that are subject to energy recovery as defined by handling codes for treatment methods T50 and T80 through T93 are assessed an off-site shipping fee of $0.0012 per pound.

2. Hazardous wastewaters, defined as containing less than 1 percent total organic carbon and less than 1 percent total suspended solids, shall be assessed an off-site shipping fee of $0.0047 per pound.

3. Except for those hazardous wastes excluded from off-site shipment fees as provided in subparagraphs (d) of this paragraph, all remaining waste not claimed in part 1 or 2 above shall be assessed an off-site shipping fee of $0.0088 per pound.

4. The off-site shipping fee for any single generator shall not exceed $29,200 in any calendar year.

(d) Exclusions from Off-site Shipping Fees

1. Hazardous wastes that are recycled/recovered as defined by handling codes for treatment methods T30, T54, and T63, lead smelting, precious metals recovery, and/or high temperature metals recovery are exempt from off-site shipping fees.

2. Hazardous wastes generated from remediation or corrective actions required by the Tennessee Hazardous Waste Management Act of 1977 and 1983; the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) shall not be subject to off-site shipping fees.

(Note: The fee exclusion in part 2 of this subparagraph also applies to department approved remediation or corrective actions under the administration of the Tennessee Petroleum Underground Storage Tank Act and Tennessee Drycleaner's Environmental Response Act.)

3. A Conditionally Exempt Small Quantity Generator does not owe this fee, if neither part (a)1 nor (a)2 of this paragraph is applicable.

4. Universal Wastes identified in Rule ~~1200-01-11-.12~~ 0400-12-01-.12, and spent lead-acid batteries managed under Rule ~~1200-01-11-.09~~ 0400-12-01-.09(7), are exempt from off-site shipping fees.

(e) Director's Option, case-by-case

The Director may include other handling codes for waste treatment methods in part (c)1 or part (d)1 of this paragraph on a case-by-case basis, based upon application by a generator.

(f) Date for Payment of Fees

These generator fees shall be paid no later than March 1 of each year for hazardous waste activities conducted the previous calendar year; provided however, that for the year 2010, persons who paid the generator fee in effect on March 1, 2010 shall be credited for the amount so paid, making only the balance due within 30 days of the effective date of this rule.

(6) Construction Inspection Fee

Prior to the beginning of any construction, at any unit, a permittee shall pay a Construction Inspection Fee for each item to be constructed based upon the class of modification of the item using Appendix I, Classification of Permit Modification, in Rule ~~1200-01-11-.07~~ 0400-12-01-.07(10), as follows:

	Class 3*	Class 2	Class [1]1	Class 1
Storage Unit	$2,700	$2,000	$1,300	$300
Treatment Unit	$5,350	$4,000	$2,700	$550
Disposal Unit	$5,350	$4,000	$2,700	$550
Post Closure Unit	$5,350	$4,000	$2,700	$550

*Also applies to newly permitted units not as yet constructed.

(7) Mixed Wastes Treatment Plan Review Fee

Any person who requests approval by the Department of a mixed waste treatment plan is assessed a mixed waste treatment plan review fee that is equal to all cost associated with the Department's review of the initial mixed waste treatment plan, any update to the mixed waste treatment plan, and/or any revision(s) to the mixed waste treatment plan. Costs shall include, but not be limited to mileage, lab expense, the current hourly rate and benefits for the Department's employees actively involved in review activities, including preparation for and attendance at meetings, the current Department overhead rate, and costs billed by Department contractor(s). Costs shall not include Part A and Part B permit review expenses that are recovered through other applicable fees. The Department shall provide a person subject to this rule with quarterly statements reflecting review cost posted during the previous quarter. All review costs reflected on a person's quarterly statement shall be paid to the Department within thirty (30) days of their receipt of the invoice.

(8) Hazardous Waste Tipping Fee

(a) Fee Amount per Pounds Received

In addition to all other fees imposed by this ~~Rule~~ Chapter, Tennessee facilities with a hazardous waste treatment, storage, or disposal permit are assessed a hazardous waste tipping fee based on the amount of hazardous waste received from off-site as set forth below:

Pounds Received	Fee Amount
1 – 100,000 pounds	$ 1,200
100,001 – 500,000 pounds	$ 4,700
500,001 – 1,000,000 pounds	$ 8,200
1,000,001 – 5,000,000 pounds	$ 11,700
5,000,001 – 10,000,000 pounds	$ 17,550
10,000,001 – 20,000,000 pounds	$ 23,350
over 20,000,000 pounds	$ 29,200

(b) Recycle/Recovery Exemption

Hazardous wastes that are received for recycle/recovery as defined by handling codes for treatment methods T30, T54, and T63, lead smelting, precious metals recovery, and/or high temperature metals recovery are exempt from the hazardous waste tipping fees.

(c) Universal Waste Exemptions

Universal Wastes identified in Rule ~~1200-01-11-.12~~ 0400-12-01-.12, and spent lead-acid batteries managed under Rule ~~1200-01-11-.09~~ 0400-12-01-.09(7), are exempt from the hazardous waste tipping fees.

(d) Date for Payment of Fees

These hazardous waste tipping fees shall be paid no later than March 1 of each year for hazardous waste activities conducted the previous calendar year beginning with the effective date of these rules; provided however, that for the year 2010, persons who paid the hazardous waste tipping fee in effect on March 1, 2010 shall be credited for the amount so paid, making only the balance due within 30 days of the effective date of this rule.

(9) Special Review Fees

Any person who submits any of the documents listed below is assessed a review fee as follows:

11,700	dollars for a Trial Burn Plan for each type of unit;
11,700	dollars for a Risk Burn Plan for each type of unit;
5,000	dollars for a Certificate of Compliance Plan for each type of unit;
11,700	dollars for a Facility Risk Assessment and/or Risk Evaluation Plan associated with a land based unit;
11,700	dollars for a Facility Risk Assessment and/or Risk Evaluation Plan associated with a combustion unit;
11,700	dollars for the initial Dispersion Model and Direct Human Health Risk Assessment;
5,850	dollars for Periodic Modeling and Direct Human Health Risk Assessment;
3,000	dollars for each variance or waiver request regardless of whether the variance or waiver request is approved or denied;
650	dollars for each variance or waiver renewal request regardless of whether the variance or waiver request is approved or denied;
500	dollars for a contained-in determination;
50	dollars per hour for the staff time required to research and prepare a written response from the Division to a request of an official regulatory interpretation, including, but not limited to, waste determinations, recycling, exclusions, exemptions, etc.

(10) Initial Spill and/or Accidental Discharge Investigation Fee

250	dollars for each accidental spill or accidental discharge (of hazardous waste or other material, which when spilled or discharged becomes a hazardous waste) where Division staff responds by a site visit or inspection to confirm an adequate response but not requiring Division oversight of the investigation and/or remediation of soil, groundwater, or surface water and/or sediment;
500	dollars for each accidental spill or accidental discharge (of hazardous waste or other material, which when spilled or discharged becomes a hazardous waste) requiring investigation and/or remediation of soil, groundwater, or surface water

and/or sediment, provided such investigation/remediation is overseen by the Division of Solid Waste Management (this oversight requires ten [10] hours or less of staff time);

1,000 dollars for each accidental spill or accidental discharge (of hazardous waste or other material, which, when spilled or discharged, becomes a hazardous waste) requiring investigation and/or remediation of soil, groundwater, or surface water and/or sediment, provided such investigation/remediation is overseen by the Division of Solid Waste Management (this oversight requires over ten [10] hours but under twenty-four [24] hours of staff time); and

2,000 dollars for each spill or accidental discharge (of hazardous waste, or other material which, when spilled or discharged, becomes a hazardous waste) requiring investigation and/or remediation of soil, groundwater, or surface water and/or sediment, provided such investigation/remediation is overseen by the Division of Solid Waste Management (the oversight requires twenty-four [24] hours or more of staff time).

(11) Chromium Exclusion Review Fee

2,500 dollars for each chromium waste stream applicable to the exclusion in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(d)2(v).

Authority: T.C.A. §§ 68-212-101 et seq., 68-203-101 et seq., and 4-5-201 et seq.

~~1200-01-11-.09~~ 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

(1) (RESERVED) [40 CFR 266 Subpart A]

(2) (RESERVED) [40 CFR 266 Subpart B]

(3) Recyclable Materials Used in a Manner Constituting Disposal [40 CFR 266 Subpart C]

(a) Applicability [40 CFR 266.20]

1. The regulations of this paragraph apply to recyclable materials that are applied to or placed on the land:

(i) Without mixing with any other substance(s); or

(ii) After mixing or combination with any other substance(s). These materials will be referred to throughout this subpart as "materials used in a manner that constitutes disposal."

2. Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products meet the applicable treatment standards in Rule ~~1200-01-11-.10~~ 0400-12-01-.10(3) (or applicable prohibition levels in Rule ~~1200-01-11-.10~~ 0400-12-01-.10(2)(c), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain.

3. Anti-skid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in part 2 of this subparagraph and remain subject to regulation.

4. Fertilizers that contain recyclable materials are not subject to regulation provided that:

(i) They are zinc fertilizers excluded from the definition of solid waste according to subpart (1)(d)1(xxiii) of Rule ~~1200-01-11-.02~~ 0400-12-01-.02; or

(ii) They meet the applicable treatment standards in paragraph (3) of Rule ~~1200-01-11-.10~~ 0400-12-01-.10 for each hazardous waste that they contain.

(b) Standards Applicable to Generators and Transporters of Materials Used in a Manner That Constitute Disposal [40 CFR 266.21]

Generators and transporters of materials that are used in a manner that constitutes disposal are subject to the applicable requirements of Rule ~~1200-01-11-.03~~ 0400-12-01-.03 (including the notification requirement under paragraph (2) of that rule) and Rule ~~1200-01-11-.04~~ 0400-12-01-.04.

(c) Standards Applicable to Storers of Materials That Are to be Used in a Manner That Constitutes Disposal Who Are Not the Ultimate Users [40 CFR 266.22]

Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated under all applicable provisions of Rule ~~1200-01-11-.05~~ 0400-12-01-.05(1) through (12), Rule ~~1200-01-11-.06~~ 0400-12-01-.06(1) through (12), Rule ~~1200-01-11-.07~~ 0400-12-01-.07, and the notification requirement under Rule ~~1200-01-11-.03~~ 0400-12-01-.03(2).

(d) Standards Applicable to Users of Materials That Are Used in a Manner That Constitutes Disposal [40 CFR 266.23]

1. Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of Rules ~~1200-01-11-.05~~ 0400-12-01-.05(1) through (14), Rule ~~1200-01-11-.06~~ 0400-12-01-.06(1) through (14), Rules ~~1200-01-11-.07~~ 0400-12-01-.07 and .10, and the notification requirement under Rule ~~1200-01-11-.03~~ 0400-12-01-.03(2). (These requirements do not apply to products which contain these recyclable materials under the provisions of part (a)2 of this paragraph.)

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

(4) (RESERVED) [40 CFR 266 Subpart D]

(5) (RESERVED) [40 CFR 266 Subpart E]

(6) Recyclable Materials Utilized for Precious Metal Recovery [40 CFR 266 Subpart F]

(a) Applicability and Requirements [40 CFR 266.70]

1. The regulations of this paragraph apply to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

2. Persons who generate, transport, or store recyclable materials that are regulated under this paragraph are subject to the following requirements:

(i) Notification requirements under Rule 0400-12-01-.03(2);

(ii) Paragraph (3) of Rule ~~1200-01-11-.03~~ 0400-12-01-.03 (for generators), Rules ~~1200-01-11-.04~~ 0400-12-01-.04(3)(a) and (b) (for transporters), and Rules ~~1200-01-11-.05~~ 0400-12-01-.05(5)(b) and (c) (for persons who store); and

(iii) (Reserved) [40 CFR 266.70(b)(3)]

3. Persons who store recycled materials that are regulated under this paragraph must keep the following records to document that they are not accumulating these materials speculatively (as defined in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(a)3):

(i) Records showing the volume of these materials stored at the beginning of the calendar year;

(ii) The amount of these materials generated or received during the calendar year; and

(iii) The amount of materials remaining at the end of the calendar year.

4. Recyclable materials that are regulated under this paragraph that are accumulated speculatively (as defined in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(a)3) are subject to all applicable provisions of Rules ~~1200-01-11-.03~~ 0400-12-01-.03 through .07.

(7) Spent Lead-Acid Batteries Being Reclaimed [40 CFR 266 Subpart G]

(a) Applicability and Requirements [40 CFR 266.80]

1. Are spent lead-acid batteries exempt from hazardous waste management requirements? If you generate, collect, transport, store, or regenerate lead-acid batteries for reclamation

purposes, you may be exempt from certain hazardous waste management requirements. Use the following table to determine which requirements apply to you. Alternatively, you may choose to manage your spent lead-acid batteries under the "Universal Waste" rule in Rule ~~1200-01-11-.12~~ 0400-12-01-.12.

If your batteries * * *	And if you * * *	Then you * * *	And you * * *
~~(1)~~(i) Will be reclaimed through regeneration (such as by electrolyte replacement).		are exempt from Rules ~~1200-01-11-.03~~ 0400-12-01-.03 (except for .03(1)(b)) through .07, .09, and .10 including the notification requirement of Rule ~~1200-01-11-.03~~ 0400-12-01-.03(2).	are subject to Rules ~~1200-01-11-.02~~ 0400-12-01-.02 and .03(1)(b).
~~(2)~~(ii) Will be reclaimed other than through regeneration.	generate, collect, and/or transport these batteries.	are exempt from Rules ~~1200-01-11-.03~~ 0400-12-01-.03 (except for .03(1)(b)) through .07 and .09, including the notification requirement of Rule ~~1200-01-11-.03~~ 0400-12-01-.03(2).	are subject to Rules ~~1200-01-11-.02~~ 0400-12-01-.02 and .03(1)(b),and applicable provisions under Rule ~~1200-01-11-.10~~ 0400-12-01-.10.
~~(3)~~(iii) Will be reclaimed other than through regeneration.	store these batteries but you aren't the reclaimer.	are exempt from Rules ~~1200-01-11-.03~~ 0400-12-01-.03 (except for .03(1)(b)) through .07 and .09, including the notification requirement of Rule ~~1200-01-11-.03~~ 0400-12-01-.03(2).	are subject to Rules ~~1200-01-11-.02~~ 0400-12-01-.02, .03(1)(b),and applicable provisions under Rule ~~1200-01-11-.10~~ 0400-12-01-.10.
~~(4)~~(iv) Will be reclaimed other than through regeneration.	store these batteries before you reclaim them.	must comply with part 2 of this subparagraph and as appropriate other regulator provisions described in part 2 of this subparagraph.	are subject to Rules ~~1200-01-11-.02~~ 0400-12-01-.02, .03(1)(b),and applicable provisions under Rule ~~1200-01-11-.10~~ 0400-12-01-.10.
~~(5)~~(v) Will be reclaimed other than through regeneration.	don't store these batteries before you reclaim them.	are exempt from Rules ~~1200-01-11-.03~~ 0400-12-01-.03 (except for .03(1)(b)) through .07 and .09, including the notification requirement of Rule ~~1200-01-11-.03~~ 0400-12-01-.03(2).	are subject to Rules ~~1200-01-11-.02~~ 0400-12-01-.02, .03(1)(b),and applicable provisions under Rule ~~1200-01-11-.10~~ 0400-12-01-.10.
(vi) Will be reclaimed through regeneration or any other means.	Export these batteries for reclamation in a foreign country.	are exempt from Rules 0400-12-01-.04 through .07, .09 and .10, including the	are subject to Rules 0400-12-01-.02 and .03(1)(b), and either must comply with 40

		notification requirement of Rule 0400-12-01-.03(2). You are also exempt from 0400-12-01-.03 (except for .03(1)(b)), and except for the applicable requirements in either (I) 40 CFR Part 262, Subpart H; or (II) subparagraph (7)(d) of Rule 0400-12-01-.03 "Notification of Intent to Export", subparts (7)(g)1(i) through (iv) and (vi) and part (7)(g)2 of Rule 0400-12-01-.03 "Annual Reports", and subparagraph (7)(h) of Rule 0400-12-01-.03 "Recordkeeping".	CFR Part 262, Subpart H (if shipping to one of the OECD countries specified in subpart (7)(i)1(i) of Rule 0400-12-01-.03, or must: (I) Comply with the requirements applicable to a primary exporter in subparagraph (7)(d), subparts (7)(g)1(i) through (iv) and (vi), part (7)(g)2, and subparagraph (7)(h) of Rule 0400-12-01-.03; and (II) Export these batteries only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in paragraph (7) of Rule 0400-12-01-.03; and (III) Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.
(vii) Will be reclaimed through regeneration or any other means.	Transport these batteries in the U.S. to export them for reclamation in a foreign country.	are exempt from Rules 0400-12-01-.03 through .07 and .09, including the notification requirements of Rule 0400-12-01-.03(2).	must comply with applicable requirements in 40 CFR Part 262, Subpart H (if shipping to one of the OECD countries specified in subpart (7)(i)1(i) of Rule 0400-12-01-.03, or must comply with the following: (I) you may not accept a shipment if you know the shipment does not conform to the EPA Acknowledgement of Consent; (II) you must ensure that a copy of the EPA acknowledgement of Consent accompanies the shipment; and

			(III) you must ensure that the shipment is delivered to the facility designated by the person initiating the shipment.

2. If I store spent lead-acid batteries before I reclaim them but not through regeneration, which requirements apply? The requirements of this part ~~2 of this subparagraph~~ apply to you if you store spent lead-acid batteries before you reclaim them, but you don't reclaim them through regeneration. The requirements are slightly different depending on your Hazardous Waste permit status.

   (i) For Interim Status Facilities, you must comply with:

      (I) Notification requirements under Rule ~~1200-01-11-.03~~ 0400-12-01-.03(2).

      (II) All applicable provisions in paragraph (1) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05.

      (III) All applicable provisions in paragraph (2) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05, except Rule ~~1200-01-11-.05~~ 0400-12-01-.05(2)(d) (waste analysis).

      (IV) All applicable provisions in paragraphs (3) and (4) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05.

      (V) All applicable provisions in paragraph (5) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05, except .05(5)(b) and (c) (dealing with the use of the manifest and manifest discrepancies).

      (VI) All applicable provisions in paragraphs (6) through (12) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05.

      (VII) All applicable provisions in Rule ~~1200-01-11-.07~~ 0400-12-01-.07.

   (ii) For Permitted Facilities.

      (I) Notification requirements under Rule ~~1200-01-11-.03~~ 0400-12-01-.03(2).

      (II) All applicable provisions in paragraph (1) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06.

      (III) All applicable provisions in paragraph (2) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 but not Rule ~~1200-01-11-.06~~ 0400-12-01-.06(2)(d) (waste analysis).

      (IV) All applicable provisions in paragraph (3) and (4) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06.

      (V) All applicable provisions in paragraph (5) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06 but not Rules ~~1200-01-11-.06~~ 0400-12-01-.06(5)(b) or (c) (dealing with the use of the manifest and manifest discrepancies).

      (VI) All applicable provisions in paragraphs (6) through (12) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06.

      (VII) All applicable provisions in Rule ~~1200-01-11-.07~~ 0400-12-01-.07.

(8) Hazardous Waste Burned in Boilers and Industrial Furnaces [40 CFR 266 Subpart H]

(a) Applicability [40 CFR 266.100]

Owners and operators of existing facilities referenced in this paragraph who have submitted information to the EPA as required by the Federal regulations prior to February 14, 1992, the effective date of this Regulation, shall not be required to resubmit that information to the Department unless specifically required to do so by the Department.

1. The regulations of this paragraph apply to hazardous waste burned or processed in a boiler or industrial furnace (as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a)) irrespective of the purpose of burning or processing, except as provided by parts 2, 3, 4, 7, and 8 of this subparagraph. In this paragraph, the term "burn" means burning for energy recovery or destruction, or processing for materials recovery or as an ingredient. The emissions standards of subparagraphs (e), (f), (g), and (h) of this paragraph apply to facilities operating under interim status or under a permit as specified in subparagraphs (c) and (d) of this paragraph.

2. Integration of the MACT standards

(i) Except as provided by subparts ~~2~~(ii), ~~2~~(iii), and ~~2~~(iv) of this ~~subparagraph~~ part, the standards of this rule do not apply to a new hazardous waste boiler or industrial furnace unit that becomes subject to RCRA permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing hazardous waste boiler or industrial furnace unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR 63 Subpart EEE by conducting a comprehensive performance test and submitting to the Commissioner a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with the requirements of 40 CFR 63 Subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this rule will continue to be in effect until they are removed from the permit or the permit is terminated or revoked unless the permit expressly provides otherwise.

(ii) The following standards continue to apply:

(I) If you elect to comply with item (12)(a)1(i)(I) of Rule ~~1200-01-11-.07~~ 0400-12-01-.07 to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, subpart (c)5(i) of this paragraph requiring operations in accordance with the operating requirements specified in the permit at all times that hazardous waste is in the unit, and item (c)5(ii)(III) of this subparagraph requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;

(II) The closure requirements of subpart ~~(8)~~(c)5(xi) and part ~~(8)~~(d)12 of this ~~rule~~ paragraph;

(III) The standards for direct transfer of subparagraph ~~(8)(1)~~ (I) of this ~~rule~~ paragraph;

(IV) The standards for regulation of residues of subparagraph ~~(8)~~(m) of this ~~rule~~ paragraph; and

(V) The applicable requirements of paragraphs (1) through (8), (28), and (29) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05 and paragraphs (1) through (8),

(31), and (32) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06.

(iii) If you own or operate a boiler or hydrochloric acid production furnace that is an area source under 40 CFR 63.2 and you elect not to comply with the emission standards under 40 CFR 63.1216, 63.1217, and 63.1218 for particulate matter, semivolatile and low volatile metals, and total chlorine, you also remain subject to:

(I) Subparagraph (f) of this paragraph--Standards to control particulate matter;

(II) Subparagraph (g) of this paragraph--Standards to control metals emissions, except for mercury; and

(III) Subparagraph (h) of this paragraph--Standards to control hydrogen chloride and chlorine gas.

(iv) The particulate matter standard of subparagraph (f) of this paragraph remains in effect for boilers that elect to comply with the alternative to the particulate matter standard under 40 CFR 63.1216(e) and 63.1217(e).

3. The following hazardous wastes and facilities are not subject to regulation under this paragraph:

(i) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(3). Such used oil is subject to regulation under Rule ~~1200-01-11-.11~~ 0400-12-01-.11;

(ii) Gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery;

(iii) Hazardous wastes that are exempt from regulation under Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(d) and Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(f)1(iii)(III) and (IV), and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under Rules ~~1200-01-11-.02~~ 0400-12-01-.02(1)(e); and

(iv) Coke ovens, if the only hazardous waste burned is Hazardous Waste Code K087, decanter tank tar sludge from coking operations.

4. Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces, but not including cement kilns, aggregate kilns, or halogen acid furnaces burning hazardous waste) that process hazardous waste solely for metal recovery are conditionally exempt from regulation under this paragraph, except for subparagraphs (b) and (m) of this paragraph.

(i) To be exempt from subparagraphs (c) through (l) of this paragraph, an owner or operator of a metal recovery furnace or mercury recovery furnace must comply with the following requirements, except that an owner or operator of a lead or a nickel-chromium recovery furnace, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing, must comply with the requirements of subpart (iii) of this part, and owners or operators of lead recovery furnaces that are subject to regulation under the Secondary Lead Smelting NESHAP must comply with the requirements of part 8 of this subparagraph:

(I) Provide a one-time written notice to the Commissioner indicating the

following:

I. The owner or operator claims exemption under this subpart;

II. The hazardous waste is burned solely for metal recovery consistent with the provisions of subpart 4(ii) of this subparagraph;

III. The hazardous waste contains recoverable levels of metals; and

IV. The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this subpart;

(II) Sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of this subpart by using appropriate methods; and

(III) Maintain at the facility for at least three years records to document compliance with the provisions of this subpart including limits on levels of toxic organic constituents and Btu value of the waste, and levels of recoverable metals in the hazardous waste compared to normal nonhazardous waste feedstocks.

(ii) A hazardous waste meeting either of the following criteria is not processed solely for metal recovery:

(I) The hazardous waste has a total concentration of organic compounds listed in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02 exceeding 500 ppm by weight, as-fired, and so is considered to be burned for destruction. The concentration of organic compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 500 ppm limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by item 4(i)(III) of this ~~subparagraph~~ part; or

(II) The hazardous waste has a heating value of 5,000 Btu/lb or more, as-fired, and so is considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by item 4(i)(III) of this ~~subparagraph~~ part.

(iii) To be exempt from subparagraphs (c) through (l) of this paragraph, an owner or operator of a lead or nickel-chromium or mercury recovery furnace (except for owners or operators of lead recovery furnaces subject to regulation under the Secondary Lead Smelting NESHAP) or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing, must provide a one-time written notice to the Commissioner identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste under this subpart or subpart 4(i) of this ~~subparagraph~~ part. The owner or operator must comply with the requirements of subpart 4(i) of this ~~subparagraph~~ part for those wastes claimed to be exempt under that subpart and must comply with the requirements below for those wastes claimed to be exempt under this subpart.

(I) The hazardous wastes listed in Appendices XI, XII, and XIII of this rule,

and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of subpart 4(i) of this ~~subparagraph~~ part, provided that:

I. A waste listed in Appendix XI of this rule must contain recoverable levels of lead, a waste listed in Appendix XII of this rule must contain recoverable levels of nickel or chromium, a waste listed in Appendix XIII of this rule must contain recoverable levels of mercury and contain less than 500 ppm of Rule ~~1200-01-11-.02~~ 0400-12-01-.02, Appendix VIII organic constituents, and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recoverable levels of metal; and

II. The waste does not exhibit the Toxicity Characteristic of Rule ~~1200-01-11-.02~~ 0400-12-01-.02(3)(e) for an organic constituent; and

III. The waste is not a hazardous waste listed in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(4) because it is listed for an organic constituent as identified in Appendix VII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02; and

IV. The owner or operator certifies in the one-time notice that hazardous waste is burned under the provisions of this subpart ~~4(iii) of this subparagraph~~ and that sampling and analysis will be conducted or other information will be obtained as necessary to ensure continued compliance with these requirements. Sampling and analysis shall be conducted according to item 4(i)(II) of this ~~subparagraph~~ part and records to document compliance with this subpart ~~4(iii) of this subparagraph~~ shall be kept for at least three years.

(II) The Commissioner may decide on a case-by-case basis that the toxic organic constituents in a material listed in Appendix XI, XII, or XIII of this rule that contains a total concentration of more than 500 ppm toxic organic compounds listed in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02, may pose a hazard to human health and the environment when burned in a metal recovery furnace exempt from the requirements of this paragraph. In that situation, after adequate notice and opportunity for comment, the metal recovery furnace will become subject to the requirements of this paragraph when burning that material. In making the hazard determination, the Commissioner will consider the following factors:

I. The concentration and toxicity of organic constituents in the material;

II. The level of destruction of toxic organic constituents provided by the furnace; and

III. Whether the acceptable ambient levels established in Appendices IV or V of this rule may be exceeded for any toxic organic compound that may be emitted based on dispersion modeling to predict the maximum annual average off-site ground level concentration.

5. The standards for direct transfer operations under subparagraph (I) of this paragraph apply only to facilities subject to the permit standards of subparagraph (c) of this

paragraph or the interim status standards of subparagraph (d) of this paragraph.

6. The management standards for residues under subparagraph (m) of this paragraph apply to any boiler or industrial furnace burning hazardous waste.

7. Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces) that process hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, palladium, iridium, osmium, rhodium, or ruthenium, or any combination of these are conditionally exempt from regulation under this paragraph, except for subparagraph (m) of this paragraph. To be exempt from subparagraph (b) through (l) of this paragraph, an owner or operator must:

   (i) Provide a one-time written notice to the Commissioner indicating the following:

      (I) The owner or operator claims exemption under this part;

      (II) The hazardous waste is burned for legitimate recovery of precious metal; and

      (III) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this part; and

   (ii) Sample and analyze the hazardous waste as necessary to document that the waste contains economically significant amounts of metals and that the treatment recovers economically significant amounts of precious metal; and

   (iii) Maintain at the facility for at least three years records to document that all hazardous wastes burned are burned for recovery of economically significant amounts of precious metal.

8. Starting June 23, 1997, owners or operators of lead recovery furnaces that process hazardous waste for recovery of lead and that are subject to regulation under the Secondary Lead Smelting NESHAP, are conditionally exempt from regulation under this part, except for subparagraph (b) of this paragraph. To be exempt, an owner or operator must provide a one-time notice to the Commissioner identifying each hazardous waste burned and specifying that the owner or operator claims an exemption under this part. The notice also must state that the waste burned has a total concentration of nonmetal compounds listed in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02 of less than 500 ppm by weight, as fired and as provided in item 4(ii)(l) of this subparagraph, or is listed in Appendix XI to this rule.

(b) Management Prior to Burning [40 CFR 266.101]

1. Generators

   Generators of hazardous waste that is burned in a boiler or industrial furnace are subject to Rule ~~1200-01-11-.03~~ 0400-12-01-.03.

2. Transporters

   Transporters of hazardous waste that is burned in a boiler or industrial furnace are subject to Rule ~~1200-01-11-.04~~ 0400-12-01-.04.

3. Storage and Treatment Facilities

   (i) Owners and operators of facilities that store or treat hazardous waste that is burned in a boiler or industrial furnace are subject to the applicable provisions of Rules ~~1200-01-11-.05~~ 0400-12-01-.05, .06, and .07, except as provided by

subpart 3(ii) of this ~~subparagraph~~ part. These standards apply to storage and treatment by the burner as well as to storage and treatment facilities operated by intermediaries (processors, blenders, distributors, etc.) between the generator and the burner.

(ii) Owners and operators of facilities that burn, in an onsite boiler or industrial furnace exempt from regulation under the small quantity burner provisions of subparagraph (i) of this paragraph, hazardous waste that they generate are exempt from the regulations of Rules ~~1200-01-11-.05~~ 0400-12-01-.05, .06, and .07 applicable to storage units for those storage units that store mixtures of hazardous waste and the primary fuel to the boiler or industrial furnace in tanks that feed the fuel mixture directly to the burner. Storage of hazardous waste prior to mixing with the primary fuel is subject to regulation as prescribed in subpart 3(i) of this ~~subparagraph~~ part.

(c) Permit Standards for Burners [40 CFR 266.102]

1. Applicability

(i) General

Owners and operators of boilers and industrial furnaces burning hazardous waste and not operating under interim status must comply with the requirements of this subparagraph, Rule ~~1200-01-11-.07~~ 0400-12-01-.07(5)(b)8 and Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(j), unless exempt under the small quantity burner exemption of subparagraph (i) of this paragraph.

(ii) Applicability of Rule ~~1200-01-11-.07~~ 0400-12-01-.07 Standards

Owners and operators of boilers and industrial furnaces that burn hazardous waste are subject to the following provisions of Rule ~~1200-01-11-.06~~ 0400-12-01-.06, except as provided otherwise by this paragraph:

(I) In paragraph (1) (General), Rule ~~1200-01-11-.06~~ 0400-12-01-.06;

(II) In paragraph (2) (General facility standards), Rules ~~1200-01-11-.06~~ 0400-12-01-.06(2)(b) through (i);

(III) In paragraph (3) (Preparedness and prevention), Rules ~~1200-01-11-.06~~ 0400-12-01-.06(3)(b) through (h);

(IV) In paragraph (4) (Contingency plan and emergency procedures), Rules ~~1200-01-11-.06~~ 0400-12-01-.06(4)(b) through (g);

(V) In paragraph (5) (Manifest system, recordkeeping, and reporting), the applicable provisions of Rules ~~1200-01-11-.06~~ 0400-12-01-.06(5)(b) through (h);

(VI) In paragraph (6) (Releases from Solid Waste Management Units), Rules ~~1200-01-11-.06~~ 0400-12-01-.06(6)(a) through (l);

(VII) In paragraph (7) (Closure and post-closure), Rules ~~1200-01-11-.06~~ 0400-12-01-.06(7)(b) through (f);

(VIII) In paragraph (8) (Financial requirements), Rules ~~1200-01-11-.06~~ 0400-12-01-.06(8)(b), (c), (d), and (n) through (r), except that States and the Federal government are exempt from the requirements of paragraph (8); and

(IX) In paragraph (31) (Air emission standards for equipment leaks), except Rule ~~1200-01-11-.06~~ 0400-12-01-.06(31)(a)1.

2. Hazardous Waste Analysis

(i) The owner or operator must provide an analysis of the hazardous waste that quantifies the concentration of any constituent identified in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02 that may reasonably be expected to be in the waste. Such constituents must be identified and quantified if present, at levels detectable by using appropriate analytical procedures. The Appendix VIII, Rule ~~1200-01-11-.02~~ 0400-12-01-.02 constituents excluded from this analysis must be identified and the basis for their exclusion explained. This analysis will be used to provide all information required by this paragraph and Rule ~~1200-01-11-.07~~ 0400-12-01-.07(5)(b)8 and Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(j) and to enable the permit writer to prescribe such permit conditions as necessary to protect human health and the environment. Such analysis must be included as a portion of the Part B permit application, or, for facilities operating under the interim status standards of this paragraph, as a portion of the trial burn plan that may be submitted before the Part B application under provisions of Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(j)6 as well as any other analysis required by the permit authority in preparing the permit. Owners and operators of boilers and industrial furnaces not operating under the interim status standards must provide the information required by Rules ~~1200-01-11-.07~~ 0400-12-01-.07(5)(b)8 or Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(j)3 in the Part B application to the greatest extent possible.

(ii) Throughout normal operation, the owner or operator must conduct sampling and analysis as necessary to ensure that the hazardous waste, other fuels, and industrial furnace feedstocks fired into the boiler or industrial furnace are within the physical and chemical composition limits specified in the permit.

3. Emissions Standards

Owners and operators must comply with emissions standards provided by subparagraphs (e) through (h) of this paragraph.

4. Permits

(i) The owner or operator may burn only hazardous wastes specified in the facility permit and only under the operating conditions specified under part 5 of this subparagraph, except in approved trial burns under the conditions specified in Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(j).

(ii) Hazardous wastes not specified in the permit may not be burned until operating conditions have been specified under a new permit or permit modification, as applicable. Operating requirements for new wastes may be based on either trial burn results or alternative data included with Part B of a permit application under Rule ~~1200-01-11-.07~~ 0400-12-01-.07(5)(b)8.

(iii) Boilers and industrial furnaces operating under the interim status standards of subparagraph (d) of this paragraph are permitted under procedures provided by Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(j)7.

(iv) A permit for a new boiler or industrial furnace (those boilers and industrial furnaces not operating under the interim status standards) must establish appropriate conditions for each of the applicable requirements of this subparagraph, including but not limited to allowable hazardous waste firing rates and operating conditions necessary to meet the requirements of part 5 of this subparagraph, in order to comply with the following standards:

(I) For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the device to a point of operational readiness to conduct a trial burn, not to exceed a duration of 720 hours operating time when burning hazardous waste, the operating requirements must be those most likely to ensure compliance with the emission standards of subparagraphs (e) through (h) of this paragraph, based on the Commissioner's engineering judgment. If the applicant is seeking a waiver from a trial burn to demonstrate conformance with a particular emission standard, the operating requirements during this initial period of operation shall include those specified by the applicable provisions of subparagraph (e), (f), (g), or (h) of this paragraph. The Commissioner may extend the duration of this period 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 must be sufficient to demonstrate compliance with the emissions standards of subparagraphs (e) through (h) of this paragraph and must 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, submission of the trial burn results by the applicant, review of the trial burn results and modification of the facility permit by the Commissioner to reflect the trial burn results, the operating requirements must be those most likely to ensure compliance with the emission standards subparagraphs (e) through (h) of this paragraph based on the Commissioner's engineering judgment.

(IV) For the remaining duration of the permit, the operating requirements must be those demonstrated in a trial burn or by alternative data specified in Rule ~~1200-01-11-.07~~ 0400-12-01-.07(5)(b)8, as sufficient to ensure compliance with the emissions standards of subparagraphs (e) through (h) of this paragraph.

5. Operating Requirements

(i) General

A boiler or industrial furnace burning hazardous waste must be operated in accordance with the operating requirements specified in the permit at all times where there is hazardous waste in the unit.

(ii) Requirements to ensure compliance with the organic emissions standards

(I) DRE Standard

Operating conditions will be specified either on a case-by-case basis for each hazardous waste burned as those demonstrated (in a trial burn or by alternative data as specified in Rule ~~1200-01-11-.07~~ 0400-12-01-.07(5)(b)8) to be sufficient to comply with the destruction and removal efficiency (DRE) performance standard of part (e)1 of this paragraph or as those special operating requirements provided by subpart (e)1(iv) of this paragraph for the waiver of the DRE trial burn. When the DRE trial burn is not waived under subpart (e)1(iv) of this paragraph, each set of operating requirements will specify the composition of the hazardous waste (including acceptable variations in the physical and chemical properties of the hazardous waste which will not affect compliance with

the DRE performance standard) to which the operating requirements apply. For each such hazardous waste, the permit will specify acceptable operating limits including, but not limited to, the following conditions as appropriate:

I. Feed rate of hazardous waste and other fuels measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

II. Minimum and maximum device production rate when producing normal product expressed in appropriate units, measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

III. Appropriate controls of the hazardous waste firing system;

IV. Allowable variation in boiler and industrial furnace system design or operating procedures;

V. Minimum combustion gas temperature measured at a location indicative of combustion chamber temperature, measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

VI. An appropriate indicator of combustion gas velocity, measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part, unless documentation is provided under Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(j) demonstrating adequate combustion gas residence time; and

VII. Such other operating requirements as are necessary to ensure that the DRE performance standard of subparagraph (e) of this paragraph is met.

(II) Carbon monoxide and hydrocarbon standards. The permit must incorporate a carbon monoxide (CO) limit and, as appropriate, a hydrocarbon (HC) limit as provided by parts (e)2, 3, 4, 5, and 6 of this paragraph. The permit limits will be specified as follows:

I. When complying with the CO standard of subpart (e)2(i) of this paragraph, the permit limit is 100 ppmv;

II. When complying with the alternative CO standard under part (e)3 of this paragraph, the permit limit for CO is based on the trial burn and is established as the average over all valid runs of the highest hourly rolling average CO level of each run, and the permit limit for HC is 20 ppmv (as defined in subpart (e)3(i) of this paragraph), except as provided in part (e)6 of this paragraph.

III. When complying with the alternative HC limit for industrial furnaces under part (e)6 of this paragraph, the permit limit for HC and CO is the baseline level when hazardous waste is not burned as specified by that part.

(III) Start-up and shut-down. During start-up and shut-down of the boiler or industrial furnace, hazardous waste (except waste fed solely as an ingredient under the Tier I (or adjusted Tier I) feed rate screening limits for metals and chloride/chlorine, and except low risk waste exempt from the trial burn requirements under subpart (e)1(v) and subparagraphs (f), (g), and (h) of this paragraph) must not be fed into the device unless the device is operating within the conditions of operation specified in the

permit.

(iii) Requirements to Ensure Conformance with the Particulate Standard

(I) Except as provided in items ~~5(iii)~~(II) and (III) of this ~~subparagraph~~ subpart, the permit shall specify the following operating requirements to ensure conformance with the particulate standard specified in subparagraph (f) of this paragraph:

I. Total ash feed rate to the device from hazardous waste, other fuels, and industrial furnace feedstocks, measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

II. Maximum device production rate when producing normal product expressed in appropriate units, and measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

III. Appropriate controls on operation and maintenance of the hazardous waste firing system and any air pollution control system;

IV. Allowable variation in boiler and industrial furnace system design including any air pollution control system or operating procedures; and

V. Such other operating requirements as are necessary to ensure that the particulate standard in part (f)1 of this paragraph is met.

(II) Permit conditions to ensure conformance with the particulate matter standard shall not be provided for facilities exempt from the particulate matter standard under part (f)2 of this paragraph;

(III) For cement kilns and light-weight aggregate kilns, permit conditions to ensure compliance with the particulate standard shall not limit the ash content of hazardous waste or other feed materials.

(iv) Requirements to Ensure Conformance with the Metals Emissions Standard

(I) For conformance with the Tier I (or adjusted Tier I) metals feed rate screening limits of parts (g)2 or 5 of this paragraph, the permit shall specify the following operating requirements:

I. Total feed rate of each metal in hazardous waste, other fuels, and industrial furnace feedstocks measured and specified under provisions of subpart ~~5~~(vi) of this ~~subparagraph~~ part;

II. Total feed rate of hazardous waste measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

III. A sampling and metals analysis program for the hazardous waste, other fuels, and industrial furnace feedstocks;

(II) For conformance with the Tier II metals emission rate screening limits under part (g)3 of this paragraph and the Tier III metals controls under part (g)4 of this paragraph the permit shall specify the following operating requirements:

I. Maximum emission rate for each metal specified as the average emission rate during the trial burn;

II. Feed rate of total hazardous waste and pumpable hazardous waste, each measured and specified as prescribed in item ~~5~~(vi)(I) of this ~~subparagraph~~ part;

III. Feed rate of each metal in the following feedstreams, measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part:

A. Total feed streams;

B. Total hazardous waste feed; and

C. Total pumpable hazardous waste feed;

IV. Total feed rate of chlorine and chloride in total feed streams measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

V. Maximum combustion gas temperature measured at a location indicative of combustion chamber temperature, and measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

VI. Maximum flue gas temperature at the inlet to the particulate matter air pollution control system measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

VII. Maximum device production rate when producing normal product expressed in appropriate units and measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

VIII. Appropriate controls on operation and maintenance of the hazardous waste firing system and any air pollution control system;

IX. Allowable variation in boiler and industrial furnace system design including any air pollution control system or operating procedures; and

X. Such other operating requirements as are necessary to ensure that the metals standards under parts (g)3 or (g)4 of this paragraph are met.

(III) For conformance with an alternative implementation approach approved by the Commissioner under part (g)6 of this paragraph, the permit will specify the following operating requirements:

I. Maximum emission rate for each metal specified as the average emission rate during the trial burn;

II. Feed rate of total hazardous waste and pumpable hazardous waste, each measured and specified as prescribed in item ~~5~~(vi)(I) of this ~~subparagraph~~ part;

III. Feed rate of each metal in the following feedstreams, measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part:

A. Total hazardous waste feed; and

B. Total pumpable hazardous waste feed;

IV. Total feed rate of chlorine and chloride in total feed streams measured and specified prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

V. Maximum combustion gas temperature measured at a location indicative of combustion chamber temperature, and measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

VI. Maximum flue gas temperature at the inlet to the particulate matter air pollution control system measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

VII. Maximum device production rate when producing normal product expressed in appropriate units and measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

VIII. Appropriate controls on operation and maintenance of the hazardous waste firing system and any air pollution control system;

IX. Allowable variation in boiler and industrial furnace system design including any air pollution control system or operating procedures; and

X. Such other operating requirements as are necessary to ensure that the metals standards under parts (g)3 or (g)4 of this subparagraph are met.

(v) Requirements to Ensure Conformance with the Hydrogen Chloride and Chlorine Gas Standards

(I) For conformance with the Tier I total chloride and chlorine feed rate screening limits of subpart (h)2(i) of this paragraph, the permit will specify the following operating requirements:

I. Feed rate of total chloride and chlorine in hazardous waste, other fuels, and industrial furnace feedstocks measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

II. Feed rate of total hazardous waste measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

III. A sampling and analysis program for total chloride and chlorine for the hazardous waste, other fuels, and industrial furnace feedstocks;

(II) For conformance with the Tier II HCl and Cl_2 emission rate screening limits under subpart (h)2(ii) of this paragraph and the Tier III HCl and Cl_2 controls under part (h)3 of this paragraph, the permit will specify the following operating requirements:

I. Maximum emission rate for HCl and for Cl_2 specified as the average emission rate during the trial burn;

II. Feed rate of total hazardous waste measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

III. Total feed rate of chlorine and chloride in total feed streams, measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

IV. Maximum device production rate when producing normal product expressed in appropriate units, measured and specified as prescribed in subpart ~~5~~(vi) of this ~~subparagraph~~ part;

V. Appropriate controls on operation and maintenance of the hazardous waste firing system and any air pollution control system;

VI. Allowable variation in boiler and industrial furnace system design including any air pollution control system or operating procedures; and

VII. Such other operating requirements as are necessary to ensure that the HCl and Cl_2 standards under subpart (h)2(ii) or part (h)3 of this paragraph are met.

(vi) Measuring Parameters and Establishing Limits Based on Trial Burn Data

(I) General Requirements

As specified in subpart ~~5~~(ii) through ~~5~~(v) of this ~~subparagraph~~ part, each operating parameter shall be measured, and permit limits on the parameter shall be established, according to either of the following procedures:

I. Instantaneous Limits

A parameter may be measured and recorded on an instantaneous basis (i.e., the value that occurs at any time) and the permit limit specified as the time-weighted average during all valid runs of the trial burn; or

II. Hourly Rolling Average

A. The limit for a parameter may be established and continuously monitored on an hourly rolling average basis defined as follows:

(A) A continuous monitor is one which continuously samples the regulated parameter without interruption, and evaluates the detector response at least once each 15 seconds, and computes and records the average value at least every 60 seconds.

(B) An hourly rolling average is the arithmetic mean of the 60 most recent 1-minute average values recorded by the continuous monitoring system.

B. The permit limit for the parameter shall be established based on trial burn data as the average over all valid test runs of the highest hourly rolling average value for each

run.

(II) Rolling Average Limits for Carcinogenic Metals and Lead

Feed rate limits for the carcinogenic metals (i.e., arsenic, beryllium, cadmium and chromium) and lead may be established either on an hourly rolling average basis as prescribed by item ~~5(vi)~~(I) of this ~~subparagraph~~ subpart or on (up to) a 24 hour rolling average basis. If the owner or operator elects to use an average period from 2 to 24 hours:

I. The feed rate of each metal shall be limited at any time to ten times the feed rate that would be allowed on an hourly rolling average basis;

II. The continuous monitor shall meet the following specifications:

A. A continuous monitor is one which continuously samples the regulated parameter without interruption, and evaluates the detector response at least once each 15 seconds, and computes and records the average value at least every 60 seconds.

B. The rolling average for the selected averaging period is defined as the arithmetic mean of one hour block averages for the averaging period. A one hour block average is the arithmetic mean of the one minute averages recorded during the 60-minute period beginning at one minute after the beginning of the preceding clock hour; and

III. The permit limit for the feed rate of each metal shall be established based on trial burn data as the average over all valid test runs of the highest hourly rolling average feed rate for each run.

(III) Feed Rate Limits for Metals, Total Chloride and Chlorine, and Ash

Feed rate limits for metals, total chlorine and chloride, and ash are established and monitored by knowing the concentration of the substance (i.e., metals, chloride/chlorine, and ash) in each feedstream and the flow rate of the feedstream. To monitor the feed rate of these substances, the flow rate of each feedstream must be monitored under the continuous monitoring requirements of items ~~5(vi)~~(I) and (II) of this ~~subparagraph~~ subpart.

(IV) Conduct of Trial Burn Testing

I. If compliance with all applicable emissions standards of subparagraphs ~~(8)~~(e) through ~~(8)~~(h) of this ~~rule~~ paragraph is not demonstrated simultaneously during a set of test runs, the operating conditions of additional test runs required to demonstrate compliance with remaining emissions standards must be as close as possible to the original operating conditions.

II. Prior to obtaining test data for purposes of demonstrating compliance with the emissions standards of subparagraphs ~~(8)~~(e) through ~~(8)~~(h) of this paragraph or establishing limits on operating parameters under this ~~section~~ subparagraph, the facility must operate under trial burn conditions for a sufficient

period to reach steady-state operations. The Commissioner may determine, however, that industrial furnaces that recycle collected particulate matter back into the furnace and that comply with an alternative implementation approach for metals under part (g)6 of this paragraph need not reach steady state conditions with respect to the flow of metals in the system prior to beginning compliance testing for metals emissions.

III. Trial burn data on the level of an operating parameter for which a limit must be established in the permit must be obtained during emissions sampling for the pollutant(s) (i.e., metals, PM, HCl/Cl_2, organic compounds) for which the parameter must be established as specified by this part ~~5 of this subparagraph~~.

(vii) General Requirements

(I) Fugitive Emissions

Fugitive emissions must be controlled by:

I. Keeping the combustion zone totally sealed against fugitive emissions; or

II. Maintaining the combustion zone pressure lower than atmospheric pressure; or

III. An alternate means of control demonstrated (with Part B of the permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.

(II) Automatic Waste Feed Cutoff

A boiler or industrial furnace must be operated with a functioning system that automatically cuts off the hazardous waste feed when operating conditions deviate from those established under this ~~section~~ subparagraph. The Commissioner may limit the number of cutoffs per an operating period on a case-by-case basis. In addition:

I. The permit limit for (the indicator of) minimum combustion chamber temperature must be maintained while hazardous waste or hazardous waste residues remain in the combustion chamber;

II. Exhaust gases must be ducted to the air pollution control system operated in accordance with the permit requirements while hazardous waste or hazardous waste residues remain in the combustion chamber; and

III. Operating parameters for which permit limits are established must continue to be monitored during the cutoff, and the hazardous waste feed shall not be restarted until the levels of those parameters comply with the permit limits. For parameters that may be monitored on an instantaneous basis, the Commissioner will establish a minimum period of time after a waste feed cutoff during which the parameter must not exceed the permit limit before the hazardous waste feed may be restarted.

(III) Changes

A boiler or industrial furnace must cease burning hazardous waste when changes in combustion properties, or feed rates of the hazardous waste, other fuels, or industrial furnace feedstocks, or changes in the boiler or industrial furnace design or operating conditions deviate from the limits as specified in the permit.

(viii) Monitoring and Inspections

(I) The owner or operator must monitor and record the following, at a minimum, while burning hazardous waste:

I. If specified by the permit, feed rates and composition of hazardous waste, other fuels, and industrial furnace feedstocks, and feed rates of ash, metals, and total chloride and chlorine;

II. If specified by the permit, carbon monoxide (CO), hydrocarbons (HC), and oxygen on a continuous basis at a common point in the boiler or industrial furnace downstream of the combustion zone and prior to release of stack gases to the atmosphere in accordance with operating requirements specified in item ~~5~~(ii)(II) of this ~~subparagraph~~ part. CO, HC, and oxygen monitors must be installed, operated, and maintained in accordance with methods specified in Appendix IX of this rule; and

III. Upon the request of the Commissioner, sampling and analysis of the hazardous waste (and other fuels and industrial furnace feedstocks as appropriate), residues, and exhaust emissions must be conducted to verify that the operating requirements established in the permit achieve the applicable standards of subparagraphs ~~(8)~~(e), ~~(8)~~(f), ~~(8)~~(g), and ~~(8)~~(h) of this ~~rule~~ paragraph.

(II) All monitors shall record data in units corresponding to the permit limit unless otherwise specified in the permit.

(III) The boiler or industrial furnace and associated equipment (pumps, valves, pipes, fuel storage tanks, etc.) must be subjected to thorough visual inspection when it contains hazardous waste, at least daily for leaks, spills, fugitive emissions, and signs of tampering.

(IV) The automatic hazardous waste feed cutoff system and associated alarms must be tested at least once every 7 days when hazardous waste is burned to verify operability, unless the applicant demonstrates to the Commissioner that weekly inspections will unduly restrict or upset operations and that less frequent inspections will be adequate. At a minimum, operational testing must be conducted at least once every 30 days.

(V) These monitoring and inspection data must be recorded and the records must be placed in the operating record required by Rules ~~1200-01-11-.06~~ 0400-12-01-.06(5)(d).

(ix) Direct Transfer to the Burner

If hazardous waste is directly transferred from a transport vehicle to a boiler or industrial furnace without the use of a storage unit, the owner and operator must comply with subparagraph (I) of this paragraph.

(x) Recordkeeping

The owner or operator must maintain in the operating record of the facility all information and data required by this subparagraph for five (5) years, or as required by a permit issued after the effective date of this rulemaking, but no less than five (5) years.

(xi) Closure

At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the boiler or industrial furnace.

(d) Interim Status Standards for Burners [40 CFR 266.103]

1. Purpose, Scope, Applicability

(i) General

(I) The purpose of this ~~section~~ subparagraph is to establish minimum national standards for owners and operators of "existing" boilers and industrial furnaces that burn hazardous waste where such standards define the acceptable management of hazardous waste during the period of interim status. The standards of this ~~section~~ subparagraph apply to owners and operators of existing facilities until either a permit is issued under part (c)4 of this paragraph or until closure responsibilities identified in this ~~section~~ subparagraph are fulfilled.

(II) "Existing or in existence" means a boiler or industrial furnace that on or before August 21, 1991 is either in operation burning or processing hazardous waste or for which construction (including the ancillary facilities to burn or to process the hazardous waste) has commenced. A facility has commenced construction if the owner or operator has obtained the Federal, State, and local approvals or permits necessary to begin physical construction; and either:

I. A continuous on-site, physical construction program has begun; or

II. The owner or operator has entered into contractual obligations which cannot be canceled or modified without substantial loss for physical construction of the facility to be completed within a reasonable time.

(III) If a boiler or industrial furnace is located at a facility that already has a permit or interim status, then the facility must comply with the applicable regulations dealing with permit modifications in Rule ~~1200-01-11-.07~~ 0400-12-01-.07(9)(c)5 or changes in interim status in Rule ~~1200-01-11-.07~~ 0400-12-01-.07(3)(c).

(ii) Exemptions

The requirements of this ~~section~~ subparagraph do not apply to hazardous waste and facilities exempt under part (a)2 or subparagraph (i) of this paragraph.

(iii) Prohibition on Burning Dioxin-listed Wastes

The following hazardous waste listed for dioxin and hazardous waste derived

from any of these wastes may not be burned in a boiler or industrial furnace operating under interim status: F020, F021, F022, F023, F026, and F027.

(iv) Applicability of Rule 0400-12-01-.05 Standards

Owners and operators of boilers and industrial furnaces that burn hazardous waste and are operating under interim status are subject to the following provisions of Rule ~~1200-01-11-.05~~ 0400-12-01-.05, except as provided otherwise by this subparagraph:

(I) In paragraph (1) (General), Rule ~~1200-01-11-.05~~ 0400-12-01-.05;

(II) In paragraph (2) (General facility standards), Rules ~~1200-01-11-.05~~ 0400-12-01-.05(2)(b) through (h);

(III) In paragraph (3) (Preparedness and prevention), Rules ~~1200-01-11-.05~~ 0400-12-01-.05(3)(b) through (h);

(IV) In paragraph (4) (Contingency plan and emergency procedures), Rules ~~1200-01-11-.05~~ 0400-12-01-.05(4)(b) through (g);

(V) In paragraph (5) (Manifest system, recordkeeping, and reporting), Rules ~~1200-01-11-.05~~ 0400-12-01-.05(5)(b) through (h), except that Rules ~~1200-01-11-.05~~ 0400-12-01-.05(5)(b), (c), and (g) do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources;

(VI) In paragraph (7) (Closure and post-closure), Rules ~~1200-01-11-.05~~ 0400-12-01-.05(7)(b) through (f);

(VII) In paragraph (8) (Financial requirements), Rules ~~1200-01-11-.05~~ 0400-12-01-.05(8)(b), (c), (d), (n), and (o), except that States and the Federal government are exempt from the requirements of paragraph (8); and

(VIII) In paragraph (28) (Air emission standards for equipment leaks), except Rule ~~1200-01-11-.05~~ 0400-12-01-.05(28)(a)1.

(v) Special Requirements for Furnaces

The following controls apply during interim status to industrial furnaces (e.g., kilns, cupolas) that feed hazardous waste for a purpose other than solely as an ingredient (see item 2(v)(II) of this subparagraph) at any location other than the hot end where products are normally discharged or where fuels are normally fired:

(I) Controls

I. The hazardous waste shall be fed at a location where combustion gas temperatures are at least 1800 °F;

II. The owner or operator must determine that adequate oxygen is present in combustion gases to combust organic constituents in the waste and retain documentation of such determination in the facility record;

III. For cement kiln systems, the hazardous waste shall be fed into the kiln; and

IV. The hydrocarbon controls of part (e)3 or subpart ~~(d)~~3(v) of this

~~paragraph~~ subparagraph apply upon certification of compliance under part 3 of this subparagraph irrespective of the CO level achieved during the compliance test.

(II) Burning Hazardous Waste Solely as an Ingredient

A hazardous waste is burned for a purpose other than solely as an ingredient if it meets either of these criteria:

I. The hazardous waste has a total concentration of nonmetal compounds listed in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02(5) exceeding 500 ppm by weight, as-fired, and so is considered to be burned for destruction. The concentration of nonmetal compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys nonmetal constituents. Blending for dilution to meet the 500 ppm limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the facility record; or

II. The hazardous waste has a heating value of 5,000 Btu/lb or more, as-fired, and so is considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. Blending to augment the heating value to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly blended must be retained in the facility record.

(vi) Restrictions on Burning Hazardous Waste That Is not a Fuel

Prior to certification of compliance under part 3 of this subparagraph, owners and operators shall not feed hazardous waste that has a heating value less than 5,000 Btu/lb, as-generated, (except that the heating value of a waste as-generated may be increased to above the 5,000 Btu/lb limit by bona fide treatment; however, blending to augment the heating value to meet the 5,000 Btu/lb limit is prohibited and records must be kept to document that impermissible blending has not occurred) in a boiler or industrial furnace, except that:

(I) Hazardous waste may be burned solely as an ingredient; or

(II) Hazardous waste may be burned for purposes of compliance testing (or testing prior to compliance testing) for a total period of time not to exceed 720 hours; or

(III) Such waste may be burned if the Commissioner has documentation to show that, prior to August 21, 1991:

I. The boiler or industrial furnace is operating under the interim status standards for incinerators provided by paragraph (15) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05, or the interim status standards for thermal treatment units provided by paragraph (16) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05; and

II. The boiler or industrial furnace met the interim status eligibility requirements under Rule ~~1200-01-11-.07~~ 0400-12-01-.07(3)(a) for paragraph (15) or (16) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05; and

III. Hazardous waste with a heating value less than 5,000 Btu/lb was burned prior to that date; or

(IV) Such waste may be burned in a halogen acid furnace if the waste was burned as an excluded ingredient under Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(b)5 prior to February 21, 1991 and documentation is kept on file supporting this claim.

(vii) Direct Transfer to the Burner

If hazardous waste is directly transferred from a transport vehicle to a boiler or industrial furnace without the use of a storage unit, the owner and operator must comply with subparagraph (I) of this paragraph.

2. Certification of Precompliance

(i) General

The owner or operator must provide complete and accurate information specified in subpart ~~2~~(ii) of this ~~subparagraph~~ part to the Commissioner on or before August 21, 1991, and must establish limits for the operating parameters specified in subpart ~~2~~(iii) of this ~~subparagraph~~ part. Such information is termed a "certification of precompliance" and constitutes a certification that the owner or operator has determined that, when the facility is operated within the limits specified in subpart ~~2~~(iii) of this ~~subparagraph~~ part, the owner or operator believes that, using best engineering judgment, emissions of particulate matter, metals, and HCl and Cl_2 are not likely to exceed the limits provided by subparagraphs (f), (g), and (h) paragraph. The facility may burn hazardous waste only under the operating conditions that the owner or operator establishes under subpart ~~2~~(iii) of this ~~subparagraph~~ part until the owner or operator submits a revised certification of precompliance under subpart ~~2~~(viii) of this ~~subparagraph~~ part or a certification of compliance under part 3 of this subparagraph, or until a permit is issued.

(ii) Information Required

The following information must be submitted with the certification of precompliance to support the determination that the limits established for the operating parameters identified in subpart ~~2~~(iii) of this ~~subparagraph~~ part are not likely to result in an exceedance of the allowable emission rates for particulate matter, metals, and HCl and Cl_2:

(I) General Facility Information:

I. EPA facility ID number;

II. Facility name, contact person, telephone number, and address;

III. Description of boilers and industrial furnaces burning hazardous waste, including type and capacity of device;

IV. A scaled plot plan showing the entire facility and location of the boilers and industrial furnaces burning hazardous waste; and

V. A description of the air pollution control system on each device burning hazardous waste, including the temperature of the flue gas at the inlet to the particulate matter control system.

(II) Except for facilities complying with the Tier I or Adjusted Tier I feed rate

screening limits for metals or total chlorine and chloride provided by parts (g)2 or (g)5 and subpart (h)2(i) or part (h)5 of this paragraph, respectively, the estimated uncontrolled (at the inlet to the air pollution control system) emissions of particulate matter, each metal controlled by subparagraph (g) of this paragraph, and hydrogen chloride and chlorine, and the following information to support such determinations:

I. The feed rate (lb/hr) of ash, chlorine, antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium in each feedstream (hazardous waste, other fuels, industrial furnace feedstocks);

II. The estimated partitioning factor to the combustion gas for the materials identified in subitem ~~2(ii)(II)~~I of this ~~subparagraph~~ item and the basis for the estimate and an estimate of the partitioning to HCl and Cl_2 of total chloride and chlorine in feed materials. To estimate the partitioning factor, the owner or operator must use either best engineering judgment or the procedures specified in Appendix IX of paragraph (30) of this rule;

III. For industrial furnaces that recycle collected particulate matter (PM) back into the furnace and that will certify compliance with the metals emissions standards under subitem 3(iii)(II)I, the estimated enrichment factor for each metal. To estimate the enrichment factor, the owner or operator must use either best engineering judgment or the procedures specified in "Alternative Methodology for Implementing Metals Controls" in Appendix IX of paragraph (30) of this rule; and

IV. If best engineering judgment is used to estimate partitioning factors or enrichment factors under subitems ~~2(ii)(II)~~II or III of this ~~subparagraph~~ item respectively, the basis for the judgment. When best engineering judgment is used to develop or evaluate data or information and make determinations under this subparagraph, the determinations must be made by a qualified, registered professional engineer and a certification of his/her determinations in accordance with Rule ~~1200-01-11-.07~~ 0400-12-01-.07(2)(a)10 must be provided in the certification of precompliance.

(III) For facilities complying with the Tier I or Adjusted Tier I feed rate screening limits for metals or total chlorine and chloride provided by parts (g)2 or (g)5 and subpart (h)2(i) or part (h)5 of this paragraph, the feed rate (lb/hr) of total chloride and chlorine, antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium in each feed stream (hazardous waste, other fuels, industrial furnace feedstocks).

(IV) For facilities complying with the Tier II or Tier III emission limits for metals or HCl and Cl_2 (under parts (g)3 or (g)4 or subpart (h)2(ii) or part (h)3 of this paragraph), the estimated controlled (outlet of the air pollution control system) emissions rates of particulate matter, each metal controlled by subparagraph (g), and HCl and Cl_2, and the following information to support such determinations:

I. The estimated air pollution control system (APCS) removal efficiency for particulate matter, HCl, Cl_2, antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium;

II. To estimate APCS removal efficiency, the owner or operator must use either best engineering judgment or the procedures prescribed in Appendix IX of paragraph (30) of this rule; and

III. If best engineering judgment is used to estimate APCS removal efficiency, the basis for the judgment. Use of best engineering judgment must be in conformance with provisions of subitem ~~2(ii)~~(II)IV of this ~~subparagraph~~ subpart.

(V) Determination of allowable emissions rates for HCl, Cl_2, antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium, and the following information to support such determinations:

I. For all facilities:

A. Physical stack height;

B. Good engineering practice stack height as defined by 40 CFR 51.100(ii);

C. Maximum flue gas flow rate;

D. Maximum flue gas temperature;

E. Attach a US Geological Service topographic map (or equivalent) showing the facility location and surrounding land within 5 km of the facility;

F. Identify terrain type: complex or noncomplex; and

G. Identify land use: urban or rural.

II. For owners and operators using Tier III site specific dispersion modeling to determine allowable levels under part (g)4 or (h)3 of this subparagraph, or adjusted Tier I feed rate screening limits under part (g)5 or (h)5 of this subparagraph:

A. Dispersion model and version used;

B. Source of meteorological data;

C. The dilution factor in micrograms per cubic meter per gram per second of emissions for the maximum annual average off-site (unless on-site is required) ground level concentration (MEI location); and

D. Indicate the MEI location on the map required under section ~~2(ii)(V)~~I E of this ~~subparagraph~~ item.

(VI) For facilities complying with the Tier II or III emissions rate controls for metals or HCl and Cl_2, a comparison of the estimated controlled emissions rates determined under item ~~2(ii)~~(IV) of this ~~subparagraph~~ subpart with the allowable emission rates determined under item ~~2(ii)~~(V) of this ~~subparagraph~~ subpart.

(VII) For facilities complying with the Tier I (or adjusted Tier I) feed rate screening limits for metals or total chloride and chlorine, a comparison of

actual feed rates of each metal and total chlorine and chloride determined under item ~~2(ii)~~(III) of this ~~subparagraph~~ subpart to the Tier I allowable feed rates.

(VIII) For industrial furnaces that feed hazardous waste for any purpose other than solely as an ingredient (as defined by item 1(v)(II) of this subparagraph) at any location other than the product discharge end of the device, documentation of compliance with the requirements of subitems 1(v)(I)I, II, and III of this subparagraph.

(IX) For industrial furnaces that recycle collected particulate matter (PM) back into the furnace and that will certify compliance with the metals emissions standards under subitem 3(iii)(II)I of this subparagraph:

I. The applicable particulate matter standard in lb/hr; and

II. The precompliance limit on the concentration of each metal in collected PM.

(iii) Limits on Operating Conditions

The owner and operator shall establish limits on the following parameters consistent with the determinations made under subpart 2(ii) of this ~~subparagraph~~ part and certify (under provisions of subpart 2(ix) of this ~~subparagraph~~ part) to the Commissioner that the facility will operate within the limits during interim status when there is hazardous waste in the unit until revised certification of precompliance under subpart 2(viii) of this ~~subparagraph~~ part or certification of compliance under part 3 of this subparagraph:

(I) Feed rate of total hazardous waste and (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this paragraph) pumpable hazardous waste;

(II) Feed rate of each metal in the following feed streams:

I. Total feed streams, except that industrial furnaces that comply with the alternative metals implementation approach under subpart 2(iv) of this ~~subparagraph~~ part must specify limits on the concentration of each metal in collected particulate matter in lieu of feed rate limits for total feedstreams;

II. Total hazardous waste feed, unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this subparagraph; and

III. Total pumpable hazardous waste feed, unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this subparagraph;

(III) Total feed rate of chlorine and chloride in total feed streams;

(IV) Total feed rate of ash in total feed streams, except that the ash feed rate for cement kilns and light-weight aggregate kilns is not limited; and

(V) Maximum production rate of the device in appropriate units when producing normal product, unless complying with the Tier I or Adjusted Tier I feed rate screening limits for chlorine under subpart (h)2(i) or part (h)5 of this paragraph and for all metals under part (g)2 or 5 of this subparagraph, and the uncontrolled particulate emissions do not exceed

the standard under subparagraph (f).

(iv) Operating Requirements for Furnaces That Recycle PM

Owners and operators of furnaces that recycle collected particulate matter (PM) back into the furnace and that will certify compliance with the metals emissions controls under subitem 3(iii)(II)I of this subparagraph must comply with the special operating requirements provided in "Alternative Methodology for Implementing Metals Controls" in Appendix IX of paragraph (30) of this rule.

(v) Measurement of feed rates and production rate

(I) General Requirements

Limits on each of the parameters specified in subpart ~~2~~(iii) of this ~~subparagraph~~ part (except for limits on metals concentrations in collected particulate matter (PM) for industrial furnaces that recycle collected PM) shall be established and continuously monitored under either of the following methods:

I. Instantaneous Limits

A limit for a parameter may be established and continuously monitored and recorded on an instantaneous basis (i.e., the value that occurs at any time) not to be exceeded at any time; or

II. Hourly Rolling Average Limits

A limit for a parameter may be established and continuously monitored on an hourly rolling average basis defined as follows:

A. A continuous monitor is one which continuously samples the regulated parameter without interruption, and evaluates the detector response at least once each 15 seconds, and computes and records the average value at least every 60 seconds.

B. An hourly rolling average is the arithmetic mean of the 60 most recent 1-minute average values recorded by the continuous monitoring system.

(II) Rolling Average Limits for Carcinogenic Metals and Lead

Feed rate limits for the carcinogenic metals (arsenic, beryllium, cadmium, and chromium) and lead may be established either on an hourly rolling average basis as prescribed by subitem ~~2(v)~~(I)II of this ~~subparagraph~~ subpart or on (up to) a 24 hour rolling average basis. If the owner or operator elects to use an averaging period from 2 to 24 hours:

I. The feed rate of each metal shall be limited at any time to ten times the feed rate that would be allowed on an hourly rolling average basis;

II. The continuous monitor shall meet the following specifications:

A. A continuous monitor is one which continuously samples the regulated parameter without interruption, and evaluates the detector response at least once each 15 seconds, and computes and records the average value

at least every 60 seconds.

B. The rolling average for the selected averaging period is defined as the arithmetic mean of one hour block averages for the averaging period. A one hour block average is the arithmetic mean of the one minute averages recorded during the 60-minute period beginning at one minute after the beginning of preceding clock hour.

(III) Feed Rate Limits for Metals, Total Chloride and Chlorine, and Ash

Feed rate limits for metals, total chlorine and chloride, and ash are established and monitored by knowing the concentration of the substance (i.e., metals, chloride/chlorine, and ash) in each feedstream and the flow rate of the feedstream. To monitor the feed rate of these substances, the flow rate of each feedstream must be monitored under the continuous monitoring requirements of items ~~2(v)~~(I) and (II) of this ~~subparagraph~~ part.

(vi) Public Notice Requirements at Precompliance

On or before August 21, 1991 the owner or operator must submit a notice with the following information for publication in a major local newspaper of general circulation and send a copy of the notice to the appropriate units of State and local government. The owner and operator must provide to the Commissioner with the certification of precompliance evidence of submitting the notice for publication. The notice, which shall be entitled "Notice of Certification of Precompliance with Hazardous Waste Burning Requirements of part (d)2 of this paragraph", must include:

(I) Name and address of the owner and operator of the facility as well as the location of the device burning hazardous waste;

(II) Date that the certification of precompliance is submitted to the Commissioner;

(III) Brief description of the regulatory process required to comply with the interim status requirements of this ~~section~~ subparagraph including required emissions testing to demonstrate conformance with emissions standards for organic compounds, particulate matter, metals, and HCl and Cl_2;

(IV) Types and quantities of hazardous waste burned including, but not limited to, source, whether solids or liquids, as well as an appropriate description of the waste;

(V) Type of device(s) in which the hazardous waste is burned including a physical description and maximum production rate of each device;

(VI) Types and quantities of other fuels and industrial furnace feedstocks fed to each unit;

(VII) Brief description of the basis for this certification of precompliance as specified in subpart ~~2~~(ii) of this ~~subparagraph~~ part;

(VIII) Locations where the record for the facility can be viewed and copied by interested parties. These records and locations shall at a minimum include:

I. The administrative record kept by the Division office where the supporting documentation was submitted or another location designated by the Commissioner; and

II. The BIF correspondence file kept at the facility site where the device is located. The correspondence file must include all correspondence between the facility and the Commissioner, state and local regulatory officials, including copies of all certifications and notifications, such as the precompliance certification, precompliance public notice, notice of compliance testing, compliance test report, compliance certification, time extension requests and approvals or denials, enforcement notifications of violations, and copies of EPA and State site visit reports submitted to the owner or operator;

(IX) Notification of the establishment of a facility mailing list whereby interested parties shall notify the Agency that they wish to be placed on the mailing list to receive future information and notices about this facility; and

(X) Location (mailing address) of the applicable EPA Regional Office, Hazardous Waste Division, and/or the Tennessee Department of Environment and Conservation (TDEC), Division of Solid Waste Management, as appropriate where further information can be obtained on the regulation of hazardous waste burning.

(vii) Monitoring Other Operating Parameters

When the monitoring systems for the operating parameters listed in items 3(i)(V) through (VIII) of this subparagraph~~) of this section~~ are installed and operating in conformance with vendor specifications or (for CO, HC, and oxygen) specifications provided by Appendix IX of paragraph (30) of this rule, as appropriate, the parameters shall be continuously monitored and records shall be maintained in the operating record.

(viii) Revised Certification of Precompliance

The owner or operator may revise at any time the information and operating conditions documented under subparts ~~2~~(ii) and ~~2~~(iii) of this ~~subparagraph~~ part in the certification of precompliance by submitting a revised certification of precompliance under procedures provided by those subparts.

(I) The public notice requirements of subpart ~~2~~(iv) of this ~~subparagraph~~ part do not apply to recertifications.

(II) The owner and operator must operate the facility within the limits established for the operating parameters under subpart ~~2~~(iii) of this ~~subparagraph~~ part until a revised certification is submitted under this subpart or a certification of compliance is submitted under part 3 of this subparagraph.

(ix) Certification of Precompliance Statement

The owner or operator must include the following signed statement with the certification of precompliance submitted to the Commissioner:

"I certify under penalty of law that this information was prepared under my direction or supervision in accordance with a system designed to ensure that

qualified personnel properly gathered and evaluated the information and supporting documentation. Copies of all emissions tests, dispersion modeling results and other information used to determine conformance with the requirements of Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(d)2 are available at the facility and can be obtained from the facility contact person listed above. Based on my inquiry of the person or persons who manages the facility, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I also acknowledge that the operating limits established in this certification pursuant to Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(d)2(iii) and (iv) are enforceable limits at which the facility can legally operate during interim status until: (1) A revised certification of precompliance is submitted, (2) a certification of compliance is submitted, or (3) an operating permit is issued."

3. Certification of Compliance

The owner or operator shall conduct emissions testing to document compliance with the emissions standards of parts (e)2 through 5, subparagraphs (f), (g), and (h), and subitem 1(v)(I)IV of this subparagraph, under the procedures prescribed by this part, except under extensions of time provided by subpart ~~3~~(vii) of this ~~subparagraph~~ part. Based on the compliance test, the owner or operator shall submit to the Commissioner on or before August 21, 1992 a complete and accurate "certification of compliance" (under subpart ~~3~~(iv) of this ~~subparagraph~~ part) with those emission standards establishing limits on the operating parameters specified in subpart ~~3~~(i) of this ~~subparagraph~~ part.

(i) Limits on Operating Conditions

The owner or operator shall establish limits on the following parameters based on operations during the compliance test (under procedures prescribed in item ~~3~~(iv)(IV) of this ~~subparagraph~~ part) or as otherwise specified and include these limits with the certification of compliance. The boiler or industrial furnace must be operated in accordance with these operating limits and the applicable emissions standards of parts (e)2 through 5, subparagraphs (f), (g), and (h) of this paragraph, and subitem 1(v)(I)IV of this subparagraph at all times when there is hazardous waste in the unit:

(I) Feed rate of total hazardous waste and (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this subparagraph), pumpable hazardous waste;

(II) Feed rate of each metal in the following feedstreams:

I. Total feedstreams, except that:

A. Facilities that comply with Tier I or Adjusted Tier I metals feed rate screening limits may set their operating limits at the metals feed rate screening limits determined under part (g)2 or 5 of this paragraph; and

B. Industrial furnaces that must comply with the alternative metals implementation approach under item ~~3~~(iii)II of this ~~subparagraph~~ part must specify limits on the concentration of each metal in the collected particulate matter in lieu of feed rate limits for total feedstreams;

II. Total hazardous waste feed (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this paragraph); and

III. Total pumpable hazardous waste feed (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or 5 of this paragraph);

(III) Total feed rate of chlorine and chloride in total feed streams, except that facilities that comply with Tier I or Adjusted Tier I feed rate screening limits may set their operating limits at the total chlorine and chloride feed rate screening limits determined under subpart (h)2(i) or part (h)5 of this paragraph;

(IV) Total feed rate of ash in total feed streams, except that the ash feed rate for cement kilns and light-weight aggregate kilns is not limited;

(V) Carbon monoxide concentration, and where required, hydrocarbon concentration in stack gas. When complying with the CO controls of part (e)2 of this paragraph, the CO limit is 100 ppmv, and when complying with the HC controls of part (e)3 of this paragraph, the HC limit is 20 ppmv. When complying with the CO controls of part (e)3 of this paragraph, the CO limit is established based on the compliance test;

(VI) Maximum production rate of the device in appropriate units when producing normal product, unless complying with the Tier I or Adjusted Tier I feed rate screening limits for chlorine under subpart (h)2(i) or part (h)5 of this paragraph and for all metals under part (g)2 or ~~(g)~~5 of this paragraph, and the uncontrolled particulate emissions do not exceed the standard under subparagraph (f) of this paragraph;

(VII) Maximum combustion chamber temperature where the temperature measurement is as close to the combustion zone as possible and is upstream of any quench water injection (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or ~~(g)~~5 of this paragraph);

(VIII) Maximum flue gas temperature entering a particulate matter control device (unless complying with Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or ~~(g)~~5 of this paragraph and the total chlorine and chloride feed rate screening limits under part (h)2 or ~~(h)~~5 of this paragraph);

(IX) For systems using wet scrubbers, including wet ionizing scrubbers (unless complying with Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or ~~(g)~~5 of this paragraph and the total chlorine and chloride feed rate screening limits under subpart (h)2(i) or part (h)5 of this paragraph):

I. Minimum liquid to flue gas ratio;

II. Minimum scrubber blowdown from the system or maximum suspended solids content of scrubber water; and

III. Minimum pH level of the scrubber water;

(X) For systems using venturi scrubbers, the minimum differential gas pressure across the venturi (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or ~~(g)~~5 of this

paragraph and the total chlorine and chloride feed rate screening limits under subpart (h)2(i) or part (h)5 of this paragraph);

(XI) For systems using dry scrubbers (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or ~~(g)~~5 of this paragraph and the total chlorine and chloride feed rate screening limits under subpart (h)2(i) or part (h)5 of this paragraph):

I. Minimum caustic feed rate; and

II. Maximum flue gas flow rate;

(XII) For systems using wet ionizing scrubbers or electrostatic precipitators (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under part (g)2 or ~~(g)~~5 of this paragraph and the total chlorine and chloride feed rate screening limits under subpart (h)2(i) or part (h)5 of this paragraph):

I. Minimum electrical power in kilovolt amperes (kVA) to the precipitator plates; and

II. Maximum flue gas flow rate;

(XIII) For systems using fabric filters (baghouses), the minimum pressure drop (unless complying with the Tier I or Adjusted Tier I metal feed rate screening limits under part (g)2 or ~~(g)~~5 of this paragraph and the total chlorine and chloride feed rate screening limits under subpart (h)2(i) or part (h)5 of this paragraph).

(ii) Prior Notice of Compliance Testing

At least 30 days prior to the compliance testing required by subpart ~~3~~(iii) of this ~~subparagraph~~ part, the owner or operator shall notify the Commissioner and submit the following information:

(I) General facility information including:

I. EPA facility ID number;

II. Facility name, contact person, telephone number, and address;

III. Person responsible for conducting compliance test, including company name, address, and telephone number, and a statement of qualifications;

IV. Planned date of the compliance test;

(II) Specific information on each device to be tested including:

I. Description of boiler or industrial furnace;

II. A scaled plot plan showing the entire facility and location of the boiler or industrial furnace;

III. A description of the air pollution control system;

IV. Identification of the continuous emission monitors that are installed, including:

A. Carbon monoxide monitor;

B. Oxygen monitor;

C. Hydrocarbon monitor, specifying the minimum temperature of the system and, if the temperature is less than 150 °C, an explanation of why a heated system is not used (see subpart ~~3~~(v) of this ~~subparagraph~~ part) and a brief description of the sample gas conditioning system;

V. Indication of whether the stack is shared with another device that will be in operation during the compliance test;

VI. Other information useful to an understanding of the system design or operation.

(III) Information on the testing planned, including a complete copy of the test protocol and Quality Assurance/Quality Control (QA/QC) plan, and a summary description for each test providing the following information at a minimum:

I. Purpose of the test (e.g., demonstrate compliance with emissions of particulate matter); and

II. Planned operating conditions, including levels for each pertinent parameter specified in subpart ~~3~~(i) of this ~~subparagraph~~ part.

(iii) Compliance Testing

(I) General

Compliance testing must be conducted under conditions for which the owner or operator has submitted a certification of precompliance under pat 2 of this of this subparagraph and under conditions established in the notification of compliance testing required by subpart ~~3~~(ii) of this ~~subparagraph~~ part. The owner or operator may seek approval on a case-by-case basis to use compliance test data from one unit in lieu of testing a similar onsite unit. To support the request, the owner or operator must provide a comparison of the hazardous waste burned and other feedstreams, and the design, operation, and maintenance of both the tested unit and the similar unit. The Commissioner shall provide a written approval to use compliance test data in lieu of testing a similar unit if he finds that the hazardous wastes, the devices, and the operating conditions are sufficiently similar, and the data from the other compliance test is adequate to meet the requirements of this part ~~3 of this subparagraph~~.

(II) Special Requirements for Industrial Furnaces that Recycle Collected PM

Owners and operators of industrial furnaces that recycle back into the furnace particulate matter (PM) from the air pollution control system must comply with one of the following procedures for testing to determine compliance with the metals standards of part (g)3 or ~~(g)~~4 of this subparagraph:

I. The special testing requirements prescribed in "Alternative Method for Implementing Metals Controls" in Appendix IX of paragraph (30) of this rule; or

II. Stack emissions testing for a minimum of 6 hours each day while hazardous waste is burned during interim status. The testing must be conducted when burning normal hazardous waste for that day at normal feed rates for that day and when the air pollution control system is operated under normal conditions. During interim status, hazardous waste analysis for metals content must be sufficient for the owner or operator to determine if changes in metals content may affect the ability of the facility to meet the metals emissions standards established under part (g)3 or ~~(g)~~4 of this subparagraph. Under this option, operating limits (under subpart ~~3~~(i) of this ~~subparagraph~~ part) must be established during compliance testing under subpart 3(iii) of this subparagraph only on the following parameters:

A. Feed rate of total hazardous waste;

B. Total feed rate of chlorine and chloride in total feed streams;

C. Total feed rate of ash in total feed streams, except that the ash feed rate for cement kilns and light-weight aggregate kilns is not limited;

D. Carbon monoxide concentration, and where required, hydrocarbon concentration in stack gas;

E. Maximum production rate of the device in appropriate units when producing normal product; or

III. Conduct compliance testing to determine compliance with the metals standards to establish limits on the operating parameters of subpart ~~3~~(i) of this ~~subparagraph~~ part only after the kiln system has been conditioned to enable it to reach equilibrium with respect to metals fed into the system and metals emissions. During conditioning, hazardous waste and raw materials having the same metals content as will be fed during the compliance test must be fed at the feed rates that will be fed during the compliance test.

(III) Conduct of Compliance Testing

I. If compliance with all applicable emissions standards of subparagraphs (e) through (h) of this paragraph is not demonstrated simultaneously during a set of test runs, the operating conditions of additional test runs required to demonstrate compliance with remaining emissions standards must be as close as possible to the original operating conditions.

II. Prior to obtaining test data for purposes of demonstrating compliance with the applicable emissions standards of subparagraphs (e) through (h) of this paragraph or establishing limits on operating parameters under this subparagraph, the facility must operate under compliance test conditions for a sufficient period to reach steady-state operations. Industrial furnaces that recycle collected particulate matter back into the furnace and that comply with subitems ~~3(iii)~~I or II of this ~~subparagraph~~ subpart, however, need not reach steady state conditions with respect to the flow of metals in the system prior

to beginning compliance testing for metals.

III. Compliance test data on the level of an operating parameter for which a limit must be established in the certification of compliance must be obtained during emissions sampling for the pollutant(s) (i.e., metals, PM, HCl/Cl_2, organic compounds) for which the parameter must be established as specified by subpart ~~3~~(i) of this ~~subparagraph~~ part.

(iv) Certification of Compliance

Within 90 days of completing compliance testing, the owner or operator must certify to the Commissioner compliance with the emissions standards of part (e)2, 3, and 5, subparagraphs (f), (g), and (h) of this paragraph, and subitem 1(v)(I)IV of this subparagraph. The certification of compliance must include the following information:

(I) General facility and testing information including:

I. EPA facility ID number;

II. Facility name, contact person, telephone number, and address;

III. Person responsible for conducting compliance testing, including company name, address, and telephone number, and a statement of qualifications;

IV. Date(s) of each compliance test;

V. Description of boiler or industrial furnace tested;

VI. Person responsible for quality assurance/quality control (QA/QC), title, and telephone number, and statement that procedures prescribed in the QA/QC plan submitted under item ~~3~~(ii)(III) of this ~~subparagraph~~ part have been followed, or a description of any changes and an explanation of why changes were necessary;

VII. Description of any changes in the unit configuration prior to or during testing that would alter any of the information submitted in the prior notice of compliance testing under subpart ~~3~~(ii) of this ~~subparagraph~~ part, and an explanation of why the changes were necessary;

VIII. Description of any changes in the planned test conditions prior to or during the testing that alter any of the information submitted in the prior notice of compliance testing under subpart ~~3~~(ii) of this ~~subparagraph~~ part, and an explanation of why the changes were necessary; and

IX. The complete report on results of emissions testing.

(II) Specific information on each test including:

I. Purpose(s) of test (e.g., demonstrate conformance with the emissions limits for particulate matter, metals, HCl, Cl_2, and CO);

II. Summary of test results for each run and for each test including the following information:

A. Date of run;

B. Duration of run;

C. Time-weighted average and highest hourly rolling average CO level for each run and for the test;

D. Highest hourly rolling average HC level, if HC monitoring is required for each run and for the test;

E. If dioxin and furan testing is required under part (e)5 of this paragraph ~~subparagraph~~, time-weighted average emissions for each run and for the test of chlorinated dioxin and furan emissions, and the predicted maximum annual average ground level concentration of the toxicity equivalency factor;

F. Time-weighted average particulate matter emissions for each run and for the test;

G. Time-weighted average HCl and Cl_2 emissions for each run and for the test;

H. Time-weighted average emissions for the metals subject to regulation under subparagraph (g) of this paragraph for each run and for the test; and

I. QA/QC results.

(III) Comparison of the actual emissions during each test with the emissions limits prescribed by parts (e)2, 3, and 5 and subparagraphs (f), (g), and (h) of this paragraph and established for the facility in the certification of precompliance under part 2 of this subparagraph.

(IV) Determination of operating limits based on all valid runs of the compliance test for each applicable parameter listed in subpart ~~3~~(i) of this ~~subparagraph~~ part using either of the following procedures:

I. Instantaneous Limits

A parameter may be measured and recorded on an instantaneous basis (i.e., the value that occurs at any time) and the operating limit specified as the time-weighted average during all runs of the compliance test; or

II. Hourly rolling average basis

A. The limit for a parameter may be established and continuously monitored on an hourly rolling average basis defined as follows:

(A) A continuous monitor is one which continuously samples the regulated parameter without interruption, and evaluates the detector response at least once each 15 seconds, and computes and records the average value at least every 60 seconds.

(B) An hourly rolling average is the arithmetic mean of the 60 most recent 1-minute average values recorded by the continuous monitoring system;

B. The operating limit for the parameter shall be established based on compliance test data as the average over all test runs of the highest hourly rolling average value for each run; or

III. Rolling average limits for carcinogenic metals and lead

Feed rate limits for the carcinogenic metals (i.e., arsenic, beryllium, cadmium and chromium) and lead may be established either on an hourly rolling average basis as prescribed by subitem 3(iv)(IV)II of this subparagraph or on (up to) a 24 hour rolling average basis. If the owner or operator elects to use an averaging period from 2 to 24 hours:

A. The feed rate of each metal shall be limited at any time to ten times the feed rate that would be allowed on an hourly rolling average basis;

B. The continuous monitor shall meet the following specifications:

(A) A continuous monitor is one which continuously samples the regulated parameter without interruption, and evaluates the detector response at least once each 15 seconds, and computes and records the average value at least every 60 seconds;

(B) The rolling average for the selected averaging period is defined as arithmetic mean of one hour block averages for the averaging period. A one hour block average is the arithmetic mean of the one minute averages recorded during the 60-minute period beginning at one minute after the beginning of preceding clock hour; and

C. The operating limit for the feed rate of each metal shall be established based on compliance test data as the average over all test runs of the highest hourly rolling average feed rate for each run; or

IV. Feed rate limits for metals, total chloride and chlorine, and ash

Feed rate limits for metals, total chlorine and chloride, and ash are established and monitored by knowing the concentration of the substance (i.e., metals, chloride/chlorine, and ash) in each feedstream and the flow rate of the feedstream. To monitor the feed rate of these substances, the flow rate of each feedstream must be monitored under the continuous monitoring requirements of subitems ~~3(iv)(IV)~~I through III of this ~~subparagraph~~ item.

(V) Certification of Compliance Statement

The following statement shall accompany the certification of compliance:

"I certify under penalty of law that this information was prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gathered and evaluated the information and supporting documentation. Copies of all emissions tests, dispersion modeling results and other information used to determine conformance with the requirements of Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(d)3 are available at the facility and can be obtained from the facility contact person listed above. Based on my inquiry of the person or persons who manages the facility, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I also acknowledge that the operating conditions established in this certification pursuant to Rule ~~1200-01-11-.09~~ 0400-12-01-.09(8)(d)3(iv)(IV) are enforceable limits at which the facility can legally operate during interim status until a revised certification of compliance is submitted."

(v) Special Requirements for HC Monitoring Systems

When an owner or operator is required to comply with the hydrocarbon (HC) controls provided by part (e)3 of this paragraph or subitem 1(v)(I)IV of this subparagraph, a conditioned gas monitoring system may be used in conformance with specifications provided in Appendix IX of paragraph (30) of this rule provided that the owner or operator submits a certification of compliance without using extensions of time provided by subpart ~~3~~(vii) of this ~~subparagraph~~ part.

(vi) Special Operating Requirements for Industrial Furnaces that Recycle Collected PM

Owners and operators of industrial furnaces that recycle back into the furnace particulate matter (PM) from the air pollution control system must:

(I) When complying with the requirements of subitem ~~3~~(iii)(II)I of this ~~subparagraph~~ part, comply with the operating requirements prescribed in "Alternative Method to Implement the Metals Controls" in Appendix IX of paragraph (30) of this rule; and

(II) When complying with the requirements of subitem ~~3~~(iii)(II)II of this ~~subparagraph~~ part, comply with the operating requirements prescribed by that subitem.

(vii) Extensions of Time

(I) If the owner or operator does not submit a complete certification of compliance for all of the applicable emissions standards of subparagraph (e), (f), (g), and (h) of this paragraph by August 21, 1992, he/she must either:

I. Stop burning hazardous waste and begin closure activities under part 12 of this subparagraph for the hazardous waste portion of the facility; or

II. Limit hazardous waste burning only for purposes of compliance testing (and pretesting to prepare for compliance testing) a total

period of 720 hours for the period of time beginning August 21, 1992, submit a notification to the Commissioner by August 21, 1992 stating that the facility is operating under restricted interim status and intends to resume burning hazardous waste, and submit a complete certification of compliance by August 23, 1993; or

III. Obtain a case-by-case extension of time under item ~~3(vii)~~(II) of this ~~subparagraph~~ subpart.

(II) The owner or operator may request a case-by-case extension of time to extend any time limit provided by part 3 of this subparagraph if compliance with the time limit is not practicable for reasons beyond the control of the owner or operator.

I. In granting an extension, the Commissioner may apply conditions as the facts warrant to ensure timely compliance with the requirements of this ~~section~~ subparagraph and that the facility operates in a manner that does not pose a hazard to human health and the environment;

II. When an owner or operator requests an extension of time to enable the facility to comply with the alternative hydrocarbon provisions of part (e)6 of this paragraph and obtain a operating permit because the facility cannot meet the HC limit of part (e)3 of this paragraph:

A. The Commissioner shall, in considering whether to grant the extension:

(A) Determine whether the owner and operator have submitted in a timely manner a complete Part B permit application that includes information required under Rule ~~1200-01-11-.07~~ 0400-12-01-.07(2); and

(B) Consider whether the owner and operator have made a good faith effort to certify compliance with all other emission controls, including the controls on dioxins and furans of part (e)5 of this paragraph and the controls on PM, metals, and HCl/Cl_2.

B. If an extension is granted, the Director shall, as a condition of the extension, require the facility to operate under flue gas concentration limits on CO and HC that, based on available information, including information in the Part B permit application, are baseline CO and HC levels as defined by subpart (e)6(i) of this paragraph.

(viii) Revised Certification of Compliance

The owner or operator may submit at any time a revised certification of compliance (recertification of compliance) under the following procedures:

(I) Prior to submittal of a revised certification of compliance, hazardous waste may not be burned for more than a total of 720 hours under operating conditions that exceed those established under a current certification of compliance, and such burning may be conducted only for

purposes of determining whether the facility can operate under revised conditions and continue to meet the applicable emissions standards of subparagraphs (e), (f), (g), and (h) of this paragraph;

(II) At least 30 days prior to first burning hazardous waste under operating conditions that exceed those established under a current certification of compliance, the owner or operator shall notify the Commissioner and submit the following information:

I. EPA facility ID number, and facility name, contact person, telephone number, and address;

II. Operating conditions that the owner or operator is seeking to revise and description of the changes in facility design or operation that prompted the need to seek to revise the operating conditions;

III. A determination that when operating under the revised operating conditions, the applicable emissions standards of subparagraphs (e), (f), (g), and (h) of this paragraph are not likely to be exceeded. To document this determination, the owner or operator shall submit the applicable information required under subpart 2(ii) of this subparagraph; and

IV. Complete emissions testing protocol for any pretesting and for a new compliance test to determine compliance with the applicable emissions standards of subparagraphs (e), (f), (g), and (h) of this paragraph when operating under revised operating conditions. The protocol shall include a schedule of pre-testing and compliance testing. If the owner and operator revises the scheduled date for the compliance test, he/she shall notify the Commissioner in writing at least 30 days prior to the revised date of the compliance test;

(III) Conduct a compliance test under the revised operating conditions and the protocol submitted to the Commissioner to determine compliance with the applicable emissions standards of subparagraphs (e), (f), (g), and (h) of this paragraph; and

(IV) Submit a revised certification of compliance under subpart ~~3~~(iv) of this ~~subparagraph~~ part.

4. Periodic Recertifications

The owner or operator must conduct compliance testing and submit to the Commissioner a recertification of compliance under provisions of part 3 of this subparagraph within five (5) years from submitting the previous certification or recertification. If the owner or operator seeks to recertify compliance under new operating conditions, he/she must comply with the requirements of subpart 3(viii) of this subparagraph.

5. Noncompliance with Certification Schedule

If the owner or operator does not comply with the interim status compliance schedule provided by parts 2, 3, and 4 of this subparagraph, hazardous waste burning must terminate on the date that the deadline is missed, closure activities must begin under part 12 of this subparagraph, and hazardous waste burning may not resume except under an operating permit issued under Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(j). For purposes of compliance with the closure provisions of part 12 of this subparagraph and Rules ~~1200-01-11-.05~~ 0400-12-01-.05(7)(c)4(ii) and .05(7)(d) the boiler or industrial furnace has

received "the known final volume of hazardous waste" on the date that the deadline is missed.

6. Start-up and Shut-down

Hazardous waste (except waste fed solely as an ingredient under the Tier I (or adjusted Tier I) feed rate screening limits for metals and chloride/chlorine) must not be fed into the device during start-up and shut-down of the boiler or industrial furnace, unless the device is operating within the conditions of operation specified in the certification of compliance.

7. Automatic Waste Feed Cutoff

During the compliance test required by subpart 3(iii) of this subparagraph, and upon certification of compliance under part 3 of this subparagraph, a boiler or industrial furnace must be operated with a functioning system that automatically cuts off the hazardous waste feed when the applicable operating conditions specified in items 3(i)(I) and (V) through (XIII) of this subparagraph deviate from those established in the certification of compliance. In addition:

(i) To minimize emissions of organic compounds, the minimum combustion chamber temperature (or the indicator of combustion chamber temperature) that occurred during the compliance test must be maintained while hazardous waste or hazardous waste residues remain in the combustion chamber, with the minimum temperature during the compliance test defined as either:

(I) If compliance with the combustion chamber temperature limit is based on an hourly rolling average, the minimum temperature during the compliance test is considered to be the average over all runs of the lowest hourly rolling average for each run; or

(II) If compliance with the combustion chamber temperature limit is based on an instantaneous temperature measurement, the minimum temperature during the compliance test is considered to be the time-weighted average temperature during all runs of the test; and

(ii) Operating parameters limited by the certification of compliance must continue to be monitored during the cutoff, and the hazardous waste feed shall not be restarted until the levels of those parameters comply with the limits established in the certification of compliance.

8. Fugitive Emissions

Fugitive emissions must be controlled by:

(i) Keeping the combustion zone totally sealed against fugitive emissions; or

(ii) Maintaining the combustion zone pressure lower than atmospheric pressure; or

(iii) An alternate means of control that the owner or operator can demonstrate provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure. Support for such demonstration shall be included in the operating record.

9. Changes

A boiler or industrial furnace must cease burning hazardous waste when changes in combustion properties, or feed rates of the hazardous waste, other fuels, or industrial furnace feedstocks, or changes in the boiler or industrial furnace design or operating conditions deviate from the limits specified in the certification of compliance.

10. Monitoring and Inspections

(i) The owner or operator must monitor and record the following, at a minimum, while burning hazardous waste:

(I) Feed rates and composition of hazardous waste, other fuels, and industrial furnace feed stocks, and feed rates of ash, metals, and total chloride and chlorine as necessary to ensure conformance with the certification of precompliance or certification of compliance;

(II) Carbon monoxide (CO), oxygen, and if applicable, hydrocarbons (HC), on a continuous basis at a common point in the boiler or industrial furnace downstream of the combustion zone and prior to release of stack gases to the atmosphere in accordance with the operating limits specified in the certification of compliance. CO, HC, and oxygen monitors must be installed, operated, and maintained in accordance with methods specified in Appendix IX of this rule;

(III) Upon the request of the Commissioner, sampling and analysis of the hazardous waste (and other fuels and industrial furnace feed stocks as appropriate) and the stack gas emissions must be conducted to verify that the operating conditions established in the certification of precompliance or certification of compliance achieve the applicable standards of subparagraphs (e), (f), (g), and (h) of this paragraph.

(ii) The boiler or industrial furnace and associated equipment (pumps, valves, pipes, fuel storage tanks, etc.) must be subjected to thorough visual inspection when they contain hazardous waste, at least daily for leaks, spills, fugitive emissions, and signs of tampering.

(iii) The automatic hazardous waste feed cutoff system and associated alarms must be tested at least once every 7 days when hazardous waste is burned to verify operability, unless the owner or operator can demonstrate that weekly inspections will unduly restrict or upset operations and that less frequent inspections will be adequate. Support for such demonstration shall be included in the operating record. At a minimum, operational testing must be conducted at least once every 30 days.

(iv) These monitoring and inspection data must be recorded and the records must be placed in the operating log.

11. Recordkeeping

The owner or operator must keep in the operating record of the facility all information and data required by this subparagraph for five (5) years, or as required by a permit issued after the effective date of this rulemaking, but no less than five (5) years.

12. Closure

At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the boiler or industrial furnace and must comply with Rules ~~1200-01-11-.05~~ 0400-12-01-.05(7)(b) through (f).

(e) Standards to Control Organic Emissions [40 CFR 266.104]

1. DRE Standard

(i) General

Except as provided in subpart 1(iii) of this subparagraph, a boiler or industrial furnace burning hazardous waste must achieve a destruction and removal efficiency (DRE) of 99.99% for all organic hazardous constituents in the waste feed. To demonstrate conformance with this requirement, 99.99% DRE must be demonstrated during a trial burn for each principal organic hazardous constituent (POHC) designated (under subpart ~~1~~(ii) of this ~~subparagraph~~ part) in its permit for each waste feed. DRE is determined for each POHC from the following equation:

$$DRE = \left[1 - \frac{W_{out}}{W_{in}} \times 100 \right]$$

where:

W_{in} = Mass feed rate of one principal organic hazardous constituent (POHC) in the hazardous waste fired to the boiler or industrial furnace; and

W_{out} = Mass emission rate of the same POHC present in stack gas prior to release to the atmosphere.

(ii) Designation of POHCs

Principal organic hazardous constituents (POHCs) are those compounds for which compliance with the DRE requirements of this ~~section~~ subparagraph shall be demonstrated in a trial burn in conformance with procedures prescribed in Rule ~~1200-01-11-.07~~ 0400-12-01-.07(1)(j). One or more POHCs shall be designated by the Commissioner for each waste feed to be burned. POHCs shall be designated based on the degree of difficulty of destruction of the organic constituents in the waste and on their concentrations or mass in the waste feed considering the results of waste analyses submitted with Part B of the permit application. POHCs are most likely to be selected from among those compounds listed in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02 that are also present in the normal waste feed. However, if the applicant demonstrates to the Commissioner's satisfaction that a compound not listed in Appendix VIII or not present in the normal waste feed is a suitable indicator of compliance with the DRE requirements of this ~~section~~ subparagraph, that compound may be designated as a POHC. Such POHCs need not be toxic or organic compounds.

(iii) Dioxin-listed Waste

A boiler or industrial furnace burning hazardous waste containing (or derived from) Hazardous Wastes Codes F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999% for each POHC designated (under subpart ~~1~~(ii) of this ~~subparagraph~~ part) in its permit. This performance must be demonstrated on POHCs that are more difficult to burn than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each POHC from the equation in subpart ~~1~~(ii) of this ~~subparagraph~~ part. In addition, the owner or operator of the boiler or industrial furnace must notify the Commissioner of intent to burn Hazardous Waste Codes F020, F021, F022, F023, F026, or F027.

(iv) Automatic Waiver of DRE Trial Burn

Owners and operators of boilers operated under the special operating requirements provided by subparagraph (k) of this paragraph are considered to be in compliance with the DRE standard of subpart 1(ii) of this ~~subparagraph~~ part and are exempt from the DRE trial burn.

(v) Low Risk Waste

Owners and operators of boilers or industrial furnaces that burn hazardous waste in compliance with the requirements of part (j)1 of this paragraph are considered to be in compliance with the DRE standard of subpart 1(ii) of this ~~subparagraph~~ part and are exempt from the DRE trial burn.

2. Carbon Monoxide Standard

(i) Except as provided in part 3 of this subparagraph, the stack gas concentration of carbon monoxide (CO) from a boiler or industrial furnace burning hazardous waste cannot exceed 100 ppmv on an hourly rolling average basis (i.e., over any 60 minute period), continuously corrected to 7 percent oxygen, dry gas basis.

(ii) CO and oxygen shall be continuously monitored in conformance with "Performance Specifications for Continuous Emission Monitoring of Carbon Monoxide and Oxygen for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste" in Appendix IX of paragraph (30) of this rule.

(iii) Compliance with the 100 ppmv CO limit must be demonstrated during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). To demonstrate compliance, the highest hourly rolling average CO level during any valid run of the trial burn or compliance test must not exceed 100 ppmv.

3. Alternative Carbon Monoxide Standard

(i) The stack gas concentration of carbon monoxide (CO) from a boiler or industrial furnace burning hazardous waste may exceed the 100 ppmv limit provided that stack gas concentrations of hydrocarbons (HC) do not exceed 20 ppmv, except as provided by part 6 of this subparagraph for certain industrial furnaces.

(ii) HC limits must be established under this ~~section~~ subparagraph on an hourly rolling average basis (i.e., over any 60 minute period), reported as propane, and continuously corrected to 7 percent oxygen, dry gas basis.

(iii) HC shall be continuously monitored in conformance with "Performance Specifications for Continuous Emission Monitoring of Hydrocarbons for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste" in Appendix IX of paragraph (30) of this rule. CO and oxygen shall be continuously monitored in conformance with subpart 2(ii) of this subparagraph.

(iv) The alternative CO standard is established based on CO data during the trial burn (for a new facility) and the compliance test (for an interim status facility). The alternative CO standard is the average over all valid runs of the highest hourly average CO level for each run. The CO limit is implemented on an hourly rolling average basis, and continuously corrected to 7 percent oxygen, dry gas basis.

4. Special Requirements for Furnaces

Owners and operators of industrial furnaces (e.g., kilns, cupolas) that feed hazardous waste for a purpose other than solely as an ingredient (see item (d)1(v)(II) of this

paragraph) at any location other than the end where products are normally discharged and where fuels are normally fired must comply with the hydrocarbon limits provided by parts 3 or 6 of this subparagraph irrespective of whether stack gas CO concentrations meet the 100 ppmv limit of part 2 of this subparagraph.

5. Controls for Dioxins and Furans

Owners and operators of boilers and industrial furnaces that are equipped with a dry particulate matter control device that operates within the temperature range of 450-750 °F, and industrial furnaces operating under an alternative hydrocarbon limit established under part 6 of this subparagraph must conduct a site-specific risk assessment as follows to demonstrate that emissions of chlorinated dibenzo-p-dioxins and dibenzofurans do not result in an increased lifetime cancer risk to the hypothetical maximum exposed individual (MEI) exceeding 1 in 100,000:

(i) During the trial burn (for new facilities or an interim status facility applying for a permit) or compliance test (for interim status facilities), determine emission rates of the tetra-octa congeners of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs/CDFs) using Method 0023A. Sampling Method for Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans Emissions from Stationary Sources, EPA Publication SW-846, as listed in Rule 0400-12-01-.01(2)(b);

(ii) Estimate the 2,3,7,8-TCDD toxicity equivalence of the tetra-octa CDDs/CDFs congeners using "Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners" in Appendix IX of paragraph (30) of this rule. Multiply the emission rates of CDD/CDF congeners with a toxicity equivalence greater than zero (see the procedure) by the calculated toxicity equivalence factor to estimate the equivalent emission rate of 2,3,7,8-TCDD;

(iii) Conduct dispersion modeling using methods recommended in 40 CFR Part 51, Appendix W ~~of~~ to Part 51 ~~of this chapter~~ ("Guideline on Air Quality Models (Revised)" (1986) and its supplements), the "Hazardous Waste Combustion Air Quality Screening Procedure", provided in Appendix IX of paragraph (30) of this rule, or in Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised (listed in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(b)) to predict the maximum annual average off-site ground level concentration of 2,3,7,8-TCDD equivalents determined under subpart ~~5~~(ii) of this ~~subparagraph~~ part. The maximum annual average concentration must be used when a person resides on-site; and

(iv) The ratio of the predicted maximum annual average ground level concentration of 2,3,7,8-TCDD equivalents to the risk-specific dose for 2,3,7,8-TCDD provided in Appendix V of this rule (2.2×10^{-7}) shall not exceed 1.0.

6. Monitoring CO and HC in the By-pass Duct of a Cement Kiln

Cement kilns may comply with the carbon monoxide and hydrocarbon limits provided by parts 2, 3, and 4 of this subparagraph by monitoring in the by-pass duct provided that:

(i) Hazardous waste is fired only into the kiln and not at any location downstream from the kiln exit relative to the direction of gas flow; and

(ii) The by-pass duct diverts a minimum of 10% of kiln off-gas into the duct.

7. Use of Emissions Test Data to Demonstrate Compliance and Establish Operating Limits

Compliance with the requirements of this subparagraph must be demonstrated simultaneously by emissions testing or during separate runs under identical operating

conditions. Further, data to demonstrate compliance with the CO and HC limits of this subparagraph or to establish alternative CO or HC limits under this subparagraph must be obtained during the time that DRE testing, and where applicable, CDD/CDF testing under part 5 of this subparagraph and comprehensive organic emissions testing under part 6 of this subparagraph is conducted.

8. Enforcement

For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under subparagraph (c) of this paragraph) will be regarded as compliance with this subparagraph. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this ~~section~~ subparagraph may be "information" justifying modification or revocation and re-issuance of a permit under Rule ~~1200-01-11-.07~~ 0400-12-01-.07(9).

(f) Standards to Control Particulate Matter [40 CFR 266.105]

1. A boiler or industrial furnace burning hazardous waste may not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) after correction to a stack gas concentration of 7% oxygen, using procedures prescribed in 40 CFR Part 60, appendix A, methods 1 through 5, and Appendix IX of paragraph (30) of this rule.

2. An owner or operator meeting the requirements of part (j)2 of this paragraph for the low risk waste exemption is exempt from the particulate matter standard.

3. Oxygen correction

(i) Measured pollutant levels must be corrected for the amount of oxygen in the stack gas according to the formula:

Pc = Pm x 14/(E-Y)

Where:

Pc is the corrected concentration of the pollutant in the stack gas;

Pm is the measured concentration of the pollutant in the stack gas;

E is the oxygen concentration on a dry basis in the combustion air fed to the device; and

Y is the measured oxygen concentration on a dry basis in the stack.

(ii) For devices that feed normal combustion air, E will equal 21 percent.

For devices that feed oxygen-enriched air for combustion (that is, air with an oxygen concentration exceeding 21 percent), the value of E will be the concentration of oxygen in the enriched air.

(iii) Compliance with all emission standards provided by this paragraph must be based on correcting to 7 percent oxygen using this procedure.

4. For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under subparagraph (c) of this paragraph) will be regarded as compliance with this subparagraph. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this subparagraph may be "information" justifying modification or revocation and re-issuance of a permit under Rule ~~1200-01-11-.07~~ 0400-12-01-.07(9).

(g) Standards to Control Metals Emissions [40 CFR 266.106]

1. General

The owner or operator must comply with the metals standards provided by parts 2, 3, 4, 5, or 6 of this subparagraph for each metal listed in part 2 of this subparagraph that is present in the hazardous waste at detectable levels by using appropriate analytical procedures.

2. Tier I Feed Rate Screening Limits

Feed rate screening limits for metals are specified in Appendix I of this rule as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in subpart ~~2~~(vii) of this ~~subparagraph~~ part.

(i) Noncarcinogenic Metals

The feed rates of antimony, barium, lead, mercury, thallium, and silver in all feed streams, including hazardous waste, fuels, and industrial furnace feed stocks shall not exceed the screening limits specified in Appendix I of this rule.

(I) The feed rate screening limits for antimony, barium, mercury, thallium, and silver are based on either:

I. An hourly rolling average as defined in subitem (c)5(vi)(I)II of this paragraph; or

II. An instantaneous limit not to be exceeded at any time.

(II) The feed rate screening limit for lead is based on one of the following:

I. An hourly rolling average as defined in subitem (c)5(vi)(I)II of this paragraph;

II. An averaging period of 2 to 24 hours as defined in item (c)5(vi)(II) of this paragraph with an instantaneous feed rate limit not to exceed 10 times the feed rate that would be allowed on an hourly rolling average basis; or

III. An instantaneous limit not to be exceeded at any time.

(ii) Carcinogenic Metals

(I) The feed rates of arsenic, cadmium, beryllium, and chromium in all feed streams, including hazardous waste, fuels, and industrial furnace feed stocks shall not exceed values derived from the screening limits specified in Appendix I of this rule. The feed rate of each of these metals is limited to a level such that the sum of the ratios of the actual feed rate to the feed rate screening limit specified in Appendix I shall not exceed 1.0, as provided by the following equation:

$$\sum_{i=1}^{n} \frac{AFR_{(i)}}{FRSL_{(i)}} \leq 1.0$$

where:

n = number of carcinogenic metals

AFR = actual feed rate to the device for metal "i"

FRSL = feed rate screening limit provided by Appendix I of this part for metal "i".

(II) The feed rate screening limits for the carcinogenic metals are based on either:

I. An hourly rolling average; or

II. An averaging period of 2 to 24 hours as defined in item (c)5(vi)(II) of this paragraph with an instantaneous feed rate limit not to exceed 10 times the feed rate that would be allowed on an hourly rolling average basis.

(iii) TESH

(I) The terrain-adjusted effective stack height is determined according to the following equation:

TESH = Ha+H1-Tr

where:

Ha = Actual physical stack height

H1 = Plume rise as determined from Appendix VI of this rule as a function of stack flow rate and stack gas exhaust temperature.

Tr = Terrain rise within five kilometers of the stack.

(II) The stack height may not exceed good engineering practice as specified in 40 CFR 51.100(ii).

(III) If the TESH for a particular facility is not listed in the table in the appendices, the nearest lower TESH listed in the table shall be used. If the TESH is four meters or less, a value of four meters shall be used.

(iv) Terrain Type

The screening limits are a function of whether the facility is located in noncomplex or complex terrain. A device located where any part of the surrounding terrain within 5 kilometers of the stack equals or exceeds the elevation of the physical stack height is considered to be in complex terrain and the screening limits for complex terrain apply. Terrain measurements are to be made from U.S. Geological Survey 7.5-minute topographic maps of the area surrounding the facility.

(v) Land Use

The screening limits are a function of whether the facility is located in an area where the land use is urban or rural. To determine whether land use in the vicinity of the facility is urban or rural, procedures provided in Appendix IX or Appendix X of this rule shall be used.

(vi) Multiple Stacks

Owners and operators of facilities with more than one on-site stack from a boiler, industrial furnace, incinerator, or other thermal treatment unit subject to controls of metals emissions under an operating permit or interim status controls must comply with the screening limits for all such units assuming all hazardous waste is fed into the device with the worst-case stack based on dispersion characteristics. The worst-case stack is determined from the following equation as applied to each stack:

$K = HVT$

Where:

K = a parameter accounting for relative influence of stack height and plume rise;

H = physical stack height (meters);

V = stack gas flow rate (m^3/second); and

T = exhaust temperature (°K).

The stack with the lowest value of K is the worst-case stack.

(vii) Criteria for Facilities Not Eligible for Screening Limits

If any criteria below are met, the Tier I and Tier II screening limits do not apply. Owners and operators of such facilities must comply with either the Tier III standards provided by part 4 of this subparagraph or with the adjusted Tier I feed rate screening limits provided by part 5 of this subparagraph.

(I) The device is located in a narrow valley less than one kilometer wide;

(II) The device has a stack taller than 20 meters and is located such that the terrain rises to the physical height within one kilometer of the facility;

(III) The device has a stack taller than 20 meters and is located within five kilometers of a shoreline of a large body of water such as an ocean or large lake;

(IV) The physical stack height of any stack is less than 2.5 times the height of any building within five building heights or five projected building widths of the stack and the distance from the stack to the closest boundary is within five building heights or five projected building widths of the associated building; or

(V) The Commissioner determines that standards based on site-specific dispersion modeling are required.

(viii) Implementation

The feed rate of metals in each feedstream must be monitored to ensure that the feed rate screening limits are not exceeded.

3. Tier II Emission Rate Screening Limits

Emission rate screening limits are specified in Appendix I as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in subpart

2(vii) of this subparagraph.

(i) Noncarcinogenic Metals

The emission rates of antimony, barium, lead, mercury, thallium, and silver shall not exceed the screening limits specified in Appendix I of this rule.

(ii) Carcinogenic Metals

The emission rates of arsenic, cadmium, beryllium, and chromium shall not exceed values derived from the screening limits specified in Appendix I of this rule. The emission rate of each of these metals is limited to a level such that the sum of the ratios of the actual emission rate to the emission rate screening limit specified in Appendix I shall not exceed 1.0, as provided by the following equation:

$$\sum_{i=1}^{n} \frac{AER_{(i)}}{ERSL_{(i)}} \leq 1.0$$

where:

n = number of carcinogenic metals

AER = actual emission rate for metal "i"

ERSL = emission rate screening limit provided by appendix I of this part for metal "i".

(iii) Implementation

The emission rate limits must be implemented by limiting feed rates of the individual metals to levels during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). The feed rate averaging periods are the same as provided by items 2(i)(I) and (II) and 2(ii)(II) of this subparagraph. The feed rate of metals in each feedstream must be monitored to ensure that the feed rate limits for the feedstreams specified under subparagraphs (c) or (d) of this paragraph are not exceeded.

(iv) Definitions and Limitations

The definitions and limitations provided by part 2 of this subparagraph for the following terms also apply to the Tier II emission rate screening limits provided by this part ~~3 of this subparagraph~~: terrain-adjusted effective stack height, good engineering practice stack height, terrain type, land use, and criteria for facilities not eligible to use the screening limits.

(v) Multiple Stacks

(I) Owners and operators of facilities with more than one onsite stack from a boiler, industrial furnace, incinerator, or other thermal treatment unit subject to controls on metals emissions under a operating permit or interim status controls must comply with the emissions screening limits for any such stacks assuming all hazardous waste is fed into the device with the worst-case stack based on dispersion characteristics.

(II) The worst-case stack is determined by procedures provided in subpart

2(vi) of this subparagraph.

(III) For each metal, the total emissions of the metal from those stacks shall not exceed the screening limit for the worst-case stack.

4. Tier III and Adjusted Tier I Site-specific Risk Assessment

The requirements of this part apply to facilities complying with either the Tier III or Adjusted Tier I controls, except where specified otherwise.

(i) General

Conformance with the Tier III metals controls must be demonstrated by emissions testing to determine the emission rate for each metal. In addition, conformance with either the Tier III or Adjusted Tier I metals controls must be demonstrated by air dispersion modeling to predict the maximum annual average off-site ground level concentration for each metal, and a demonstration that acceptable ambient levels are not exceeded.

(ii) Acceptable Ambient Levels

Appendices IV and V of this rule list the acceptable ambient levels for purposes of this rule. Reference air concentrations (RACs) are listed for the noncarcinogenic metals and 10^{-5} risk-specific doses (RSDs) are listed for the carcinogenic metals. The RSD for a metal is the acceptable ambient level for that metal provided that only one of the four carcinogenic metals is emitted. If more than one carcinogenic metal is emitted, the acceptable ambient level for the carcinogenic metals is a fraction of the RSD as described in subpart 4(iii) of this ~~subparagraph~~ part.

(iii) Carcinogenic Metals

For the carcinogenic metals, arsenic, cadmium, beryllium, and chromium, the sum of the ratios of the predicted maximum annual average off-site ground level concentrations (except that on-site concentrations must be considered if a person resides on site) to the risk-specific dose (RSD) for all carcinogenic metals emitted shall not exceed 1.0 as determined by the following equation:

$$\sum_{i=1}^{n} \frac{\text{Predicted Ambient Concentration}_{(i)}}{\text{Risk-Specific Dose}_{(i)}} \leq 1.0$$

where: n = number of carcinogenic metals

(iv) Noncarcinogenic Metals

For the noncarcinogenic metals, the predicted maximum annual average off-site ground level concentration for each metal shall not exceed the reference air concentration (RAC).

(v) Multiple Stacks

Owners and operators of facilities with more than one on-site stack from a boiler, industrial furnace, incinerator, or other thermal treatment unit subject to controls on metals emissions under a operating permit or interim status controls must conduct emissions testing (except that facilities complying with Adjusted Tier I controls need not conduct emissions testing) and dispersion modeling to demonstrate that the aggregate emissions from all such on-site stacks do not result in an exceedance of the acceptable ambient levels.

(vi) Implementation

Under Tier III, the metals controls must be implemented by limiting feed rates of the individual metals to levels during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). The feed rate averaging periods are the same as provided by items 2(i)(I) and (II) and 2(ii)(II) of this subparagraph. The feed rate of metals in each feedstream must be monitored to ensure that the feed rate limits for the feedstreams specified under subparagraph (c) or (d) of this paragraph are not exceeded.

5. Adjusted Tier I Feed Rate Screening Limits

The owner or operator may adjust the feed rate screening limits provided by appendix I of this part to account for site-specific dispersion modeling. Under this approach, the adjusted feed rate screening limit for a metal is determined by back-calculating from the acceptable ambient level provided by Appendices IV and V of this rule using dispersion modeling to determine the maximum allowable emission rate. This emission rate becomes the adjusted Tier I feed rate screening limit. The feed rate screening limits for carcinogenic metals are implemented as prescribed in subpart 2(ii) of this subparagraph.

6. Alternative Implementation Approaches

(i) The Commissioner may approve on a case-by-case basis approaches to implement the Tier II or Tier III metals emission limits provided by parts 3 or 4 of this subparagraph alternative to monitoring the feed rate of metals in each feedstream.

(ii) The emission limits provided by part 4 of this subparagraph must be determined as follows:

(I) For each noncarcinogenic metal, by back-calculating from the RAC provided in Appendix IV of this rule to determine the allowable emission rate for each metal using the dilution factor for the maximum annual average ground level concentration predicted by dispersion modeling in conformance with part 8 of this subparagraph; and

(II) For each carcinogenic metal by:

I. Back-calculating from the RSD provided in Appendix V of this rule to determine the allowable emission rate for each metal if that metal were the only carcinogenic metal emitted using the dilution factor for the maximum annual average ground level concentration predicted by dispersion modeling in conformance with part 8 of this subparagraph; and

II. If more than one carcinogenic metal is emitted, selecting an emission limit for each carcinogenic metal not to exceed the emission rate determined by subitem ~~6(ii)(II)~~I of this ~~subparagraph~~ item such that the sum for all carcinogenic metals of the ratios of the selected emission limit to the emission rate determined by that part does not exceed 1.0.

7. Emission Testing

(i) General

Emission testing for metals shall be conducted using Method 0060,

Determinations of Metals in Stack Emissions, EPA Publication SW-846, listed in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(b).

(ii) Hexavalent Chromium

Emissions of chromium are assumed to be hexavalent chromium unless the owner or operator conducts emissions testing to determine hexavalent chromium emissions using procedures prescribed in Method 0061, Determination of Hexavalent Chromium Emissions from Stationary Sources, EPA Publication SW-846, listed in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(b).

8. Dispersion Modeling

Dispersion modeling required under this ~~section~~ subparagraph shall be conducted according to methods recommended in 40 CFR Part 51, Appendix W ~~of~~ to Part 51 ~~of this chapter~~ ("Guideline on Air Quality Models (Revised)" (1986) and its supplements), the "Hazardous Waste Combustion Air Quality Screening Procedure", provided in Appendix IX of this rule, or in Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised (listed in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(b)) to predict the maximum annual average off-site ground level concentration. However, on-site concentrations must be considered when a person resides on-site.

9. Enforcement

For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under subparagraph (c) of this paragraph) will be regarded as compliance with this subparagraph. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this subparagraph may be "information" justifying modification or revocation and re-issuance of a permit under Rule ~~1200-01-11-.07~~ 0400-12-01-.07(9).

(h) Standards to Control Hydrogen Chloride (HCl) and Chlorine Gas (Cl_2) Emissions [40 CFR 266.107]

1. General

The owner or operator must comply with the hydrogen chloride (HCl) and chlorine (Cl_2) controls provided by part 2, 3, or 5 of this subparagraph.

2. Screening Limits

(i) Tier I Feed Rate Screening Limits

Feed rate screening limits are specified for total chlorine in Appendix II of this rule as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. The feed rate of total chlorine and chloride, both organic and inorganic, in all feed streams, including hazardous waste, fuels, and industrial furnace feed stocks shall not exceed the levels specified.

(ii) Tier II Emission Rate Screening Limits

Emission rate screening limits for HCl and Cl_2 are specified in Appendix III of this rule as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. The stack emission rates of HCl and Cl_2 shall not exceed the levels specified.

(iii) Definitions and Limitations

The definitions and limitations provided by part (g)2 of this paragraph for the

following terms also apply to the screening limits provided by this subpart: terrain-adjusted effective stack height, good engineering practice stack height, terrain type, land use, and criteria for facilities not eligible to use the screening limits.

(iv) Multiple Stacks

Owners and operators of facilities with more than one on-site stack from a boiler, industrial furnace, incinerator, or other thermal treatment unit subject to controls on HCl or Cl_2 emissions under a operating permit or interim status controls must comply with the Tier I and Tier II screening limits for those stacks assuming all hazardous waste is fed into the device with the worst-case stack based on dispersion characteristics.

(I) The worst-case stack is determined by procedures provided in subpart (g)2(vi) of this paragraph.

(II) Under Tier I, the total feed rate of chlorine and chloride to all subject devices shall not exceed the screening limit for the worst-case stack.

(III) Under Tier II, the total emissions of HCl and Cl_2 from all subject stacks shall not exceed the screening limit for the worst-case stack.

3. Tier III Site-specific Risk Assessments

(i) General

Conformance with the Tier III controls must be demonstrated by emissions testing to determine the emission rate for HCl and Cl_2, air dispersion modeling to predict the maximum annual average off-site ground level concentration for each compound, and a demonstration that acceptable ambient levels are not exceeded.

(ii) Acceptable Ambient Levels

Appendix IV of this rule lists the reference air concentrations (RACs) for HCl (7 micrograms per cubic meter) and Cl_2 (0.4 micrograms per cubic meter).

(iii) Multiple Stacks

Owners and operators of facilities with more than one on-site stack from a boiler, industrial furnace, incinerator, or other thermal treatment unit subject to controls on HCl or Cl_2 emissions under a operating permit or interim status controls must conduct emissions testing and dispersion modeling to demonstrate that the aggregate emissions from all such on-site stacks do not result in an exceedance of the acceptable ambient levels for HCl and Cl_2.

4. Averaging Periods

The HCl and Cl_2 controls are implemented by limiting the feed rate of total chlorine and chloride in all feedstreams, including hazardous waste, fuels, and industrial furnace feed stocks. Under Tier I, the feed rate of total chloride and chlorine is limited to the Tier I Screening Limits. Under Tier II and Tier III, the feed rate of total chloride and chlorine is limited to the feed rates during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). The feed rate limits are based on either:

(i) An hourly rolling average as defined in subpart (c)5(vi) of this paragraph; or

(ii) An instantaneous basis not to be exceeded at any time.

5. Adjusted Tier I Feed Rate Screening Limits

The owner or operator may adjust the feed rate screening limit provided by Appendix II of this rule to account for site-specific dispersion modeling. Under this approach, the adjusted feed rate screening limit is determined by back-calculating from the acceptable ambient level for Cl_2 provided by Appendix IV of this rule using dispersion modeling to determine the maximum allowable emission rate. This emission rate becomes the adjusted Tier I feed rate screening limit.

6. Emissions Testing

Emissions testing for HCl and Cl_2 shall be conducted using the procedures described in Methods 0050 or 0051, EPA Publication SW-846, listed in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(b).

7. Dispersion Modeling

Dispersion modeling shall be conducted according to the provisions of part (g)8 of this paragraph.

8. Enforcement

For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under subparagraph (c) of this paragraph) will be regarded as compliance with this subparagraph. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this subparagraph may be "information" justifying modification or revocation and re-issuance of a permit under Rule ~~1200-01-11-.07~~ 0400-12-01-.07(9).

(i) Small Quantity On-site Burner Exemption [40 CFR 266.108]

1. Exempt Quantities

Owners and operators of facilities that burn hazardous waste in an on-site boiler or industrial furnace are exempt from the requirements of this subpart provided that:

(i) The quantity of hazardous waste burned in a device for a calendar month does not exceed the limits provided in the following table based on the terrain-adjusted effective stack height as defined in subpart (g)2(iii) of this paragraph:

Exempt Quantities for Small Quantity Burner Exemption

Terrain-adjusted Effective Stack Height of Device (meters)	Allowable Hazardous Waste Burning Rate (gallons/month)	Terrain-adjusted Effective Stack Height of Device (meters)	Allowable Hazardous Waste Burning Rate (Gallons/month)
0 to 3.9	0	40.0 to 44.9	210
4.0 to 5.9	13	45.0 to 49.9	260
6.0 to 7.9	18	50.0 to 54.9	330
8.0 to 9.9	27	55.0 to 59.9	400
10.0 to 11.9	40	60.0 to 64.9	490
12.0 to 13.9	48	65.0 to 69.9	610
14.0 to 15.9	59	70.0 to 74.9	680
16.0 to 17.9	69	75.0 to 79.9	760
18.0 to 19.9	76	80.0 to 84.9	850
20.0 to 21.9	84	85.0 to 89.9	960
22.0 to 23.9	93	90.0 to 94.9	1,100
24.0 to 25.9	100	95.0 to 99.9	1,200
26.0 to 27.9	110	100.0 to 104.9	1,300

28.0 to 29.9	130	105.0 to 109.9	1,500
30.0 to 34.9	140	110.0 to 114.9	1,700
35.0 to 39.9	170	115.0 or greater	1,900

(ii) The maximum hazardous waste firing rate does not exceed at any time 1 percent of the total fuel requirements for the device (hazardous waste plus other fuel) on a total heat input or mass input basis, whichever results in the lower mass feed rate of hazardous waste.

(iii) The hazardous waste has a minimum heating value of 5,000 Btu/lb, as generated; and

(iv) The hazardous waste fuel does not contain (and is not derived from) Hazardous Waste Codes F020, F021, F022, F023, F026, or F027.

2. Mixing With Nonhazardous Fuels

If hazardous waste fuel is mixed with a nonhazardous fuel, the quantity of hazardous waste before such mixing is used to comply with part 1 of this subparagraph.

3. Multiple Stacks

If an owner or operator burns hazardous waste in more than one on-site boiler or industrial furnace exempt under this subparagraph, the quantity limits provided by subpart 1(i) of this subparagraph are implemented according to the following equation:

$$\sum_{i=1}^{n} \frac{\text{Actual Quantity Burned}_{(i)}}{\text{Allowable Quantity Burned}_{(i)}} \leq 1.0$$

where:

n means the number of stacks;

Actual Quantity Burned means the waste quantity burned per month in device "i";

Allowed Quantity Burned means the maximum allowable exempt quantity for stack "i" from the table in subpart 1(i) of this subparagraph ~~above~~.

(Note: Hazardous wastes that are subject to the special requirements for small quantity generators under Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(e) may be burned in an off-site device under the exemption provided by subparagraph (i) of this paragraph, but must be included in the quantity determination for the exemption.)

4. Notification Requirements

The owner or operator of facilities qualifying for the small quantity burner exemption under this subparagraph must provide a one-time signed, written notice to the Department indicating the following:

(i) The combustion unit is operating as a small quantity burner of hazardous waste;

(ii) The owner and operator are in compliance with the requirements of this subparagraph; and

(iii) The maximum quantity of hazardous waste that the facility may burn per month as provided by subpart 1(i) of this subparagraph.

5. Recordkeeping Requirements

The owner or operator must maintain at the facility for at least three years sufficient records documenting compliance with the hazardous waste quantity, firing rate, and heating value limits of this subparagraph. At a minimum, these records must indicate the quantity of hazardous waste and other fuel burned in each unit per calendar month, and the heating value of the hazardous waste.

(j) Low Risk Waste Exemption [40 CFR 266.109]

1. Waiver of DRE Standard

The DRE standard of part (e)1 of this paragraph does not apply if the boiler or industrial furnace is operated in conformance with subpart ~~1~~(i) of this ~~subparagraph~~ part and the owner or operator demonstrates by procedures prescribed in subpart ~~1~~(ii) of this ~~subparagraph~~ part that the burning will not result in unacceptable adverse health effects.

(i) The device shall be operated as follows:

(I) A minimum of 50 percent of fuel fired to the device shall be fossil fuel, fuels derived from fossil fuel, tall oil, or, if approved by the Commissioner on a case-by-case basis, other nonhazardous fuel with combustion characteristics comparable to fossil fuel. Such fuels are termed "primary fuel" for purposes of this subparagraph. (Tall oil is a fuel derived from vegetable and rosin fatty acids.) The 50 percent primary fuel firing rate shall be determined on a total heat or mass input basis, whichever results in the greater mass feed rate of primary fuel fired;

(II) Primary fuels and hazardous waste fuels shall have a minimum as-fired heating value of 8,000 Btu/lb;

(III) The hazardous waste is fired directly into the primary fuel flame zone of the combustion chamber; and

(IV) The device operates in conformance with the carbon monoxide controls provided by subpart (e)2(i) of this paragraph. Devices subject to the exemption provided by this subparagraph are not eligible for the alternative carbon monoxide controls provided by part (e)3 of this paragraph.

(ii) Procedures to demonstrate that the hazardous waste burning will not pose unacceptable adverse public health effects are as follows:

(I) Identify and quantify those nonmetal compounds listed in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02(5) that could reasonably be expected to be present in the hazardous waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained;

(II) Calculate reasonable, worst case emission rates for each ~~constitutent~~ constituent identified in item ~~1(ii)~~(I) of this ~~subparagraph~~ subpart by assuming the device achieves 99.9 percent destruction and removal efficiency. That is, assume that 0.1 percent of the mass weight of each constituent fed to the device is emitted;

(III) For each constituent identified in item ~~1(ii)~~(I) of this ~~subparagraph~~ subpart, use emissions dispersion modeling to predict the maximum annual average ground level concentration of the constituent.

I. Dispersion modeling shall be conducted using methods specified in part (g)8 of this paragraph.

II. Owners and operators of facilities with more than one on-site stack from a boiler or industrial furnace that is exempt under this subparagraph must conduct dispersion modeling of emissions from all stacks exempt under this subparagraph to predict ambient levels prescribed by this item;

(IV) Ground level concentrations of constituents predicted under item ~~1(ii)~~(III) of this ~~subparagraph~~ subpart must not exceed the following levels:

I. For the noncarcinogenic compounds listed in Appendix IV of this rule, the levels established in Appendix IV;

II. For the carcinogenic compounds listed in Appendix V of this rule, the sum for all constituents of the ratios of the actual ground level concentration to the level established in Appendix V cannot exceed 1.0; and

III. For constituents not listed in Appendix IV or V, 0.1 micrograms per cubic meter.

2. Waiver of Particulate Matter Standard

The particulate matter standard of subparagraph (f) of this paragraph does not apply if:

(i) The DRE standard is waived under part 1 of this subparagraph; and

(ii) The owner or operator complies with the Tier I or adjusted Tier I metals feed rate screening limits provided by part (g)2 or ~~(g)~~5 of this paragraph.

(k) Waiver of DRE Trial Burn for Boilers [40 CFR 266.110]

Boilers that operate under the special requirements of this subparagraph, and that do not burn hazardous waste containing (or derived from) Hazardous Waste Codes F020, F021, F022, F023, F026, or F027, are considered to be in conformance with the DRE standard of part (e)1 of this paragraph, and a trial burn to demonstrate DRE is waived. When burning hazardous waste:

1. A minimum of 50 percent of fuel fired to the device shall be fossil fuel, fuels derived from fossil fuel, tall oil, or, if approved by the Commissioner on a case-by-case basis, other nonhazardous fuel with combustion characteristics comparable to fossil fuel. Such fuels are termed "primary fuel" for purposes of this ~~section~~ subparagraph. (Tall oil is a fuel derived from vegetable and rosin fatty acids.) The 50 percent primary fuel firing rate shall be determined on a total heat or mass input basis, whichever results in the greater mass feed rate of primary fuel fired;

2. Boiler load shall not be less than 40 percent. Boiler load is the ratio at any time of the total heat input to the maximum design heat input;

3. Primary fuels and hazardous waste fuels shall have a minimum as-fired heating value of 8,000 Btu/lb, and each material fired in a burner where hazardous waste is fired must have a heating value of at least 8,000 Btu/lb, as-fired;

4. The device shall operate in conformance with the carbon monoxide standard provided by subpart (e)2(i) of this paragraph. Boilers subject to the waiver of the DRE trial burn provided by this subparagraph are not eligible for the alternative carbon monoxide standard provided by part (e)3 of this paragraph;

5. The boiler must be a watertube type boiler that does not feed fuel using a stoker or stoker type mechanism; and

6. The hazardous waste shall be fired directly into the primary fuel flame zone of the combustion chamber with an air or steam atomization firing system, mechanical atomization system, or a rotary cup atomization system under the following conditions:

(i) Viscosity

The viscosity of the hazardous waste fuel as-fired shall not exceed 300 SSU;

(ii) Particle Size

When a high pressure air or steam atomizer, low pressure atomizer, or mechanical atomizer is used, 70% of the hazardous waste fuel must pass through a 200 mesh (74 micron) screen, and when a rotary cup atomizer is used, 70% of the hazardous waste must pass through a 100 mesh (150 micron) screen;

(iii) Mechanical Atomization Systems

Fuel pressure within a mechanical atomization system and fuel flow rate shall be maintained within the design range taking into account the viscosity and volatility of the fuel;

(iv) Rotary Cup Atomization Systems

Fuel flow rate through a rotary cup atomization system must be maintained within the design range taking into account the viscosity and volatility of the fuel.

(l) Standards for Direct Transfer [40 CFR 266.111]

1. Applicability

The regulations in this subparagraph apply to owners and operators of boilers and industrial furnaces subject to subparagraphs (c) or (d) of this paragraph if hazardous waste is directly transferred from a transport vehicle to a boiler or industrial furnace without the use of a storage unit.

2. Definitions

(i) When used in this subparagraph, the following terms have the meanings given below:

"Direct transfer equipment" means any device (including but not limited to, such devices as piping, fittings, flanges, valves, and pumps) that is used to distribute, meter, or control the flow of hazardous waste between a container (i.e., transport vehicle) and a boiler or industrial furnace.

"Container" means any portable device in which hazardous waste is transported, stored, treated, or otherwise handled, and includes transport vehicles that are containers themselves (e.g., tank trucks, tanker-trailers, and rail tank cars), and containers placed on or in a transport vehicle.

(ii) This subparagraph references several requirements provided in paragraph (9) and (10) of Rules ~~1200-01-11-.05~~ 0400-12-01-.05 and .06. For purposes of this subparagraph, the term "tank systems" in those referenced requirements means direct transfer equipment as defined in subpart 2(i) of this ~~subparagraph~~ part.

3. General Operating Requirements

(i) No direct transfer of a pumpable hazardous waste shall be conducted from an open-top container to a boiler or industrial furnace.

(ii) Direct transfer equipment used for pumpable hazardous waste shall always be closed, except when necessary to add or remove the waste, and shall not be opened, handled, or stored in a manner that may cause any rupture or leak.

(iii) The direct transfer of hazardous waste to a boiler or industrial furnace shall be conducted so that it does not:

(I) Generate extreme heat or pressure, fire, explosion, or violent reaction;

(II) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

(III) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(IV) Damage the structural integrity of the container or direct transfer equipment containing the waste;

(V) Adversely affect the capability of the boiler or industrial furnace to meet the standards provided by subparagraph (e) through (h) of this paragraph; or

(VI) Threaten human health or the environment.

(iv) Hazardous waste shall not be placed in direct transfer equipment, if it could cause the equipment or its secondary containment system to rupture, leak, corrode, or otherwise fail.

(v) The owner or operator of the facility shall use appropriate controls and practices to prevent spills and overflows from the direct transfer equipment or its secondary containment systems. These include at a minimum:

(I) Spill prevention controls (e.g., check valves, dry discount couplings); and

(II) Automatic waste feed cutoff to use if a leak or spill occurs from the direct transfer equipment.

4. Areas Where Direct Transfer Vehicles (containers) are Located

Applying the definition of container under this subparagraph, owners and operators must comply with the following requirements:

(i) The containment requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(9)(f);

(ii) The use and management requirements of Rule ~~1200-01-11-.05~~ 0400-12-01-.05(9), except for Rule ~~1200-01-11-.05~~ 0400-12-01-.05(9)(a) and (9)(e), and except that in lieu of the special requirements of Rule ~~1200-01-11-.05~~ 0400-12-01-.05(9)(g) for ignitable or reactive waste, the owner or operator may comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjacent property line that can be built upon as required in Tables 2-1 through 2-6 of the National Fire Protection Association's (NFPA) "Flammable and Combustible Liquids Code," (1977 or 1981) (listed in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(b)). The owner or operator must obtain and keep on file at the facility a

written certification by the local Fire Marshall that the installation meets the subject NFPA codes; and

(iii) The closure requirements of Rule ~~1200-01-11-.06~~ 0400-12-01-.06(9)(i).

5. Direct Transfer Equipment

Direct transfer equipment must meet the following requirements:

(i) Secondary Containment

Owners and operators shall comply with the secondary containment requirements of Rule ~~1200-01-11-.05~~ 0400-12-01-.05(10)(d), except for parts 4, 5, and 9 of that rule as follows:

(I) For all new direct transfer equipment, prior to their being put into service; and

(II) For existing direct transfer equipment within 2 years after August 21, 1991.

(ii) Requirements Prior to Meeting Secondary Containment Requirements

(I) For existing direct transfer equipment that does not have secondary containment, the owner or operator shall determine whether the equipment is leaking or is unfit for use. The owner or operator shall obtain and keep on file at the facility a written assessment reviewed and certified by a qualified, registered professional engineer in accordance with Rule ~~1200-01-11-.07~~ 0400-12-01-.07(2)(a)10 that attests to the equipment's integrity by August 21, 1992.

(II) This assessment shall determine whether the direct transfer equipment is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be transferred to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment shall consider the following:

I. Design standard(s), if available, according to which the direct transfer equipment was constructed;

II. Hazardous characteristics of the waste(s) that have been or will be handled;

III. Existing corrosion protection measures;

IV. Documented age of the equipment, if available, (otherwise, an estimate of the age); and

V. Results of a leak test or other integrity examination such that the effects of temperature variations, vapor pockets, cracks, leaks, corrosion, and erosion are accounted for.

(III) If, as a result of the assessment specified above, the direct transfer equipment is found to be leaking or unfit for use, the owner or operator shall comply with the requirements of Rules ~~1200-01-11-.05~~ 0400-12-01-.05(10)(g)1 and 2.

(iii) Inspections and Recordkeeping

(I) The owner or operator must inspect at least once each operating hour when hazardous waste is being transferred from the transport vehicle (container) to the boiler or industrial furnace:

I. Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;

II. The above ground portions of the direct transfer equipment to detect corrosion, erosion, or releases of waste (e.g., wet spots, dead vegetation); and

III. Data gathered from monitoring equipment and leak-detection equipment, (e.g., pressure and temperature gauges) to ensure that the direct transfer equipment is being operated according to its design.

(II) The owner or operator must inspect cathodic protection systems, if used, to ensure that they are functioning properly according to the schedule provided by Rule ~~1200-01-11-.05~~ 0400-12-01-.05(10)(f)2.

(III) Records of inspections made under this subpart shall be maintained in the operating record at the facility, and available for inspection for at least 3 years from the date of the inspection.

(iv) Design and Installation of New Ancillary Equipment

Owners and operators must comply with the requirements of Rule ~~1200-01-11-.05~~ 0400-12-01-.05(10)(c).

(v) Response to Leaks or Spills

Owners and operators must comply with the requirements of Rule ~~1200-01-11-.05~~ 0400-12-01-.05(10)(g).

(vi) Closure

Owners and operators must comply with the requirements of Rule ~~1200-01-11-.05~~ 0400-12-01-.05(10)(h), except for subparts 3(ii) through 3(iv) of that rule.

(m) Regulation of Residues [40 CFR 266.112]

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of a hazardous waste under subparts (1)(d)2(xiii), (xv), or (xvi) of Rule ~~1200-01-11-.02~~ 0400-12-01-.02~~(1)(d)~~ unless the device and the owner or operator meet the following requirements:

1. The device meets the following criteria:

(i) Boilers

Boilers must burn at least 50% coal on a total heat input or mass input basis, whichever results in the greater mass feed rate of coal;

(ii) Ore or Mineral Furnaces

Industrial furnaces subject to Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(d)2(xv) must process at least 50% by weight normal, nonhazardous raw materials;

(iii) Cement Kilns

Cement kilns must process at least 50% by weight normal cement-production raw materials;

2. The owner or operator demonstrates that the hazardous waste does not significantly affect the residue by demonstrating conformance with either of the following criteria:

(i) Comparison of Waste-derived Residue With Normal Residue

The waste-derived residue must not contain Appendix VIII, Rule ~~1200-01-11-.02~~ 0400-12-01-.02(5) constituents (toxic constituents) that could reasonably be attributable to the hazardous waste at concentrations significantly higher than in residue generated without burning or processing of hazardous waste, using the following procedure. Toxic compounds that could reasonably be attributable to burning or processing the hazardous waste (constituents of concern) include toxic constituents in the hazardous waste, and the organic compounds listed in Appendix VIII of this rule that may be generated as products of incomplete combustion. For polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans, analyses must be performed to determine specific congeners and homologues, and the results converted to 2, 3, 7, 8-TCDD equivalent values using the procedure specified in section 4.0 of the Methods Manual for Compliance with the BIF Regulations. (See Appendix IX of this rule.)

(I) Normal Residue

Concentrations of toxic constituents of concern in normal residue shall be determined based on analyses of a minimum of 10 samples representing a minimum of 10 days of operation. Composite samples may be used to develop a sample for analysis provided that the compositing period does not exceed 24 hours. The upper tolerance limit (at 95% confidence with a 95% proportion of the sample distribution) of the concentration in the normal residue shall be considered the statistically-derived concentration in the normal residue. If changes in raw materials or fuels reduce the statistically-derived concentrations of the toxic constituents of concern in the normal residue, the statistically-derived concentrations must be revised or statistically-derived concentrations of toxic constituents in normal residue must be established for a new mode of operation with the new raw material or fuel. To determine the upper tolerance limit in the normal residue, the owner or operator shall use statistical procedures prescribed in "Statistical Methodology for Bevill Residue Determinations" in Appendix IX of this rule.

(II) Waste-derived Residue

Waste-derived residue shall be sampled and analyzed as often as necessary to determine whether the residue generated during each 24-hour period has concentrations of toxic constituents that are higher than the concentrations established for the normal residue under item ~~2(i)~~(I) of this ~~subparagraph~~ subpart. If so, hazardous waste burning has significantly affected the residue and the residue shall not be excluded from the definition of a hazardous waste. Concentrations of toxic constituents of concern in the waste-derived residue shall be determined based on analysis of one or more samples obtained over a 24-hour period. Multiple samples may be analyzed, and multiple samples may be taken to form a composite sample for analysis provided that the sampling period does not exceed 24 hours. If more than one sample is analyzed to characterize waste-derived residues generated over a 24-hour period,

the concentration of each toxic constituent shall be the arithmetic mean of the concentrations in the samples. No results may be disregarded; or

(ii) Comparison of Waste-derived Residue Concentrations With Health-based Limits

(I) Nonmetal Constituents

The concentration of each nonmetal toxic constituent of concern (specified in subpart ~~2~~(i) of this ~~subparagraph~~ part) in the waste-derived residue must not exceed the health-based level specified in Appendix VII of this rule, or the level of detection, whichever is higher. If a health-based limit for a constituent of concern is not listed in Appendix VII of this rule, then a limit of 0.002 micrograms per kilogram or the level of detection (which must be determined by using appropriate analytic procedures), whichever is higher, must be used. The levels specified in Appendix VII of this rule (and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in Note 1 of Appendix VII of this rule) are administratively stayed under the condition, for those constituents specified in subpart ~~2~~(i) of this ~~subparagraph~~ part, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in Rule ~~1200-01-11-.10~~ 0400-12-01-.10(3)(d) for F039 nonwastewaters. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of best good-faith efforts as defined by applicable Department guidance or standards, the owner or operator is deemed to be in compliance for that constituent. Until new guidance or standards are developed, the owner or operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above the level provided by Rule ~~1200-01-11-.10~~ 0400-12-01-.10(3)(d) for F039 nonwastewaters. In complying with the Rule ~~1200-01-11-.10~~ 0400-12-01-.10(3)(d) F039 nonwastewater levels for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, analyses must be performed for total hexachlorodibenzo-p-dioxins, total hexachlorodibenzofurans, total pentachlorobibenzo-p-dioxins, total pentachlorodibenzofurans, total tetrachlorodibenzo-p-dioxins, and total tetrachlorodibenzofurans.

Note to this ~~paragraph~~ item: The administrative stay, under the condition that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in § 268.43 of this chapter for F039 nonwastewaters, remains in effect until further administrative action is taken and notice is published in the Federal Register and the Code of Federal Regulations.

(II) Metal Constituents

The concentration of metals in an extract obtained using the Toxicity Characteristic Leaching Procedure of Rule ~~1200-01-11-.02~~ 0400-12-01-.02(3)(e) must not exceed the levels specified in Appendix VII of this rule; and

(III) Sampling and Analysis

Waste-derived residue shall be sampled and analyzed as often as necessary to determine whether the residue generated during each 24-hour period has concentrations of toxic constituents that are higher than the health-based levels. Concentrations of toxic constituents of concern in the waste-derived residue shall be determined based on analysis of one or more samples obtained over a 24-hour period. Multiple samples

may be analyzed, and multiple samples may be taken to form a composite sample for analysis provided that the sampling period does not exceed 24 hours. If more than one sample is analyzed to characterize waste-derived residues generated over a 24-hour period, the concentration of each toxic constituent shall be the arithmetic mean of the concentrations in the samples. No results may be disregarded; and

3. Records sufficient to document compliance with the provisions of this subparagraph shall be retained until closure of the boiler or industrial furnace unit. At a minimum, the following shall be recorded.

(i) Levels of constituents in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02(5), that are present in waste-derived residues;

(ii) If the waste-derived residue is compared with normal residue under subpart 2(i) of this subparagraph:

(I) The levels of constituents in Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02(5), that are present in normal residues; and

(II) Data and information, including analyses of samples as necessary, obtained to determine if changes in raw materials or fuels would reduce the concentration of toxic constituents of concern in the normal residue.

(9) through (12) (RESERVED) [40 CFR 266 Subparts I through L]

(13) Military Munitions [40 CFR 266 Subpart M]

(a) Applicability [40 CFR 266.200]

1. The regulations in this paragraph identify when military munitions become a solid waste, and, if these wastes are also hazardous under this paragraph or Rule ~~1200-01-11-.02~~ 0400-12-01-.02, the management standards that apply to these wastes.

2. Unless otherwise specified in this paragraph, all applicable requirements in Rule ~~1200-01-11-.01~~ 0400-12-01-.01 through .10 apply to waste military munitions.

(b) Definitions [40 CFR 266.201]

In addition to the definitions in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a), the following definitions apply to this paragraph:

"Active range" means a military range that is currently in service and is being regularly used for range activities.

"Chemical agents and munitions" are defined as in 50 U.S.C. section 1521(j)(1).

"Explosives or munitions emergency response specialist" is as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a).

"Explosives or munitions emergency" is as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a).

"Explosives or munitions emergency response" is as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a).

"Inactive range" means a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

"Military" means the Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

"Military munitions" is as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a).

"Military range" means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

"Unexploded ordnance (UXO)" means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

(c) Definition of Solid Waste [40 CFR 266.202]

1. A military munition is not a solid waste when:

(i) Used for its intended purpose, including:

(I) Use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions); or

(II) Use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or

(III) Recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use.

(ii) An unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as defined in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(b)3(i), or burning for energy recovery as defined in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(b)3(ii).

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

(i) The munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in part 1 of this subparagraph), incinerated, or treated prior to disposal; or

(ii) The munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal; or

(iii) The munition is deteriorated or damaged (e.g., the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or

(iv) The munition has been declared a solid waste by an authorized military official.

3. A used or fired military munition is a solid waste:

(i) When transported off range or from the site of use, where the site of use is not a range, for the purposes of storage, reclamation, treatment, disposal, or treatment prior to disposal; or

(ii) If recovered, collected, and then disposed of by burial, or landfilling either on or off a range.

4. For purposes of Tennessee Code Annotated (T.C.A.) §68-212-104(17), a used or fired military munition is a solid waste, and, therefore, is potentially subject to corrective action authorities under T.C.A. §§68-212-108(l), and 68-212-111, or imminent and substantial endangerment authorities under T.C.A. §68-212-105, T.C.A. §68-212-111, T.C.A. §68-212-114, and T.C.A. §68-212-115, if the munition lands off-range and is not promptly rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

(d) Standards Applicable to the Transportation of Solid Waste Military Munition [40 CFR 266.203]

1. Criteria for hazardous waste regulation of waste non-chemical military munitions in transportation.

(i) Waste military munitions that are being transported and that exhibit a hazardous waste characteristic or are listed as hazardous waste under Rule ~~1200-01-11-.02~~ 0400-12-01-.02, are listed or identified as a hazardous waste (and thus are subject to regulation under Rule ~~1200-01-11-.01~~ 0400-12-01-.01 through .10), unless all the following conditions are met:

(I) The waste military munitions are not chemical agents or chemical munitions;

(II) The waste military munitions must be transported in accordance with the Department of Defense shipping controls applicable to the transport of military munitions;

(III) The waste military munitions must be transported from a military owned or operated installation to a military owned or operated treatment, storage, or disposal facility; and

(IV) The transporter of the waste must provide oral notice to the Division Director within 24 hours from the time the transporter becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of this subpart ~~1(i) of this subparagraph~~ that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within 5 days from the time the transporter becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of this subpart ~~1(i) of this subparagraph~~.

(ii) If any waste military munitions shipped under subpart ~~1~~(i) of this ~~subparagraph~~ part are not received by the receiving facility within 45 days of the day the waste was shipped, the owner or operator of the receiving facility must report this non-receipt to the Director within 5 days.

(iii) The exemption in subpart ~~1~~(i) of this ~~subparagraph~~ part from regulation as hazardous waste shall apply only to the transportation of non-chemical waste

military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to storage, treatment or disposal.

(iv) The conditional exemption in subpart ~~1~~(i) of this ~~subparagraph~~ part applies only so long as all of the conditions in subpart ~~1~~(i) of this ~~subparagraph~~ part are met.

2. Reinstatement of exemption. If any waste military munition loses its exemption under subpart 1(i) of this subparagraph, an application may be filed with the Commissioner for reinstatement of the exemption from hazardous waste transportation regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of subpart 1(i) of this subparagraph. If the Commissioner finds that reinstatement of the exemption is appropriate based on factors such as the transporter's provision of a satisfactory explanation of the circumstances of the violation or a demonstration that the violations are not likely to recur, the Commissioner may reinstate the exemption under subpart 1(i) of this subparagraph. If the Commissioner does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement shall be deemed granted, retroactive to the date of the application. However, the Commissioner may terminate a conditional exemption reinstated by default in the preceding sentence if the Commissioner finds that reinstatement is inappropriate based on factors such as the transporter's failure to provide a satisfactory explanation of the circumstances of the violation or failure to demonstrate that the violations are not likely to recur. In reinstating the exemption under subpart 1(i) of this subparagraph, the Commissioner may specify additional conditions as are necessary to ensure and document proper transportation to protect human health and the environment.

3. Amendments to DOD shipping controls. The Department of Defense shipping controls applicable to the transport of military munitions referenced in item 1(i)(II) of this subparagraph are Government Bill of Lading (GBL) (GSA Standard Form 1109), requisition tracking form DD Form 1348, the Signature and Talley Record (DD Form 1907), Special Instructions for Motor Vehicle Drivers (DD Form 836), and the Motor Vehicle Inspection Report (DD Form 626) in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the Department of Defense shipping controls shall become effective for purposes of subpart 1(i) of this subparagraph on the date the Department of Defense publishes notice in the Federal Register that the shipping controls referenced in item 1(i)(II) of this subparagraph have been amended.

(e) Standards Applicable to Emergency Responses [40 CFR 266.204]

Explosives and munitions emergencies involving military munitions or explosives are subject to Rules ~~1200-01-11-.03~~ 0400-12-01-.03(1)(a)10, .04(1)(a)6, .06(1)(b)2(vii), .05(1)(b)2(vii), and .07(1)(b)5, or alternatively to .07(1)(d).

(f) Standards Applicable to the Storage of Solid Waste Military Munitions [40 CFR 266.205]

1. Criteria for hazardous waste regulation of waste non-chemical military munitions in storage.

(i) Waste military munitions in storage that exhibit a hazardous waste characteristic or are listed as hazardous waste under Rule ~~1200-01-11-.02~~ 0400-12-01-.02 are listed or identified as a hazardous waste (and thus are subject to regulation under Rules ~~1200-01-11-.01~~ 0400-12-01-.01 through .10), unless all the following conditions are met:

(I) The waste military munitions are not chemical agents or chemical munitions.

(II) The waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB).

(III) The waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions.

(IV) Within 90 days of August 12, 1997 or within 90 days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the Commissioner of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in subpart ~~1~~(i) of this ~~subparagraph~~ part is claimed.

(V) The owner or operator must provide oral notice to the Commissioner within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of subpart ~~1~~(i) of this ~~subparagraph~~ part that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within 5 days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of subpart ~~1~~(i) of this ~~subparagraph~~ part.

(VI) The owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of subpart ~~1~~(i) of this ~~subparagraph~~ part, and must maintain records of the findings of these inventories and inspections for at least three years.

(VII) Access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

(ii) The conditional exemption in subpart ~~1~~(i) of this ~~subparagraph~~ part from regulation as hazardous waste shall apply only to the storage of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to transportation, treatment or disposal.

(iii) The conditional exemption in subpart ~~1~~(i) of this ~~subparagraph~~ part applies only so long as all of the conditions in subpart ~~1~~(i) of this ~~subparagraph~~ part are met.

2. Notice of termination of waste storage. The owner or operator must notify the Commissioner when a storage unit identified in subpart 1(i) of this subparagraph will no longer be used to store waste military munitions.

3. Reinstatement of conditional exemption. If any waste military munition loses its conditional exemption under subpart 1(i) of this subparagraph, an application may be filed with the Commissioner for reinstatement of the conditional exemption from hazardous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of subpart 1(i) of this subparagraph. If the Commissioner finds that reinstatement of the conditional exemption is appropriate based on factors such as the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation or a demonstration that the violations are not likely to recur, the Commissioner may reinstate the conditional exemption under subpart 1(i) of this subparagraph. If the Commissioner does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement shall be deemed granted, retroactive to the date of the application. However, the Commissioner may terminate a conditional exemption reinstated by default in the preceding sentence if he/she finds that reinstatement is inappropriate based on factors such as the owner's or operator's failure to provide a satisfactory explanation of the circumstances of the violation or failure to demonstrate that the violations are not likely to recur. In reinstating the conditional exemption under subpart 1(i) of this

subparagraph, the Commissioner may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.

4. Waste chemical munitions.

(i) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under Rule ~~1200-01-11-.02~~ 0400-12-01-.02, are listed or identified as a hazardous waste and shall be subject to the applicable regulatory requirements of ~~Rule~~ Chapter ~~1200-01-11~~ 0400-12-01.

(ii) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under Rule ~~1200-01-11-.02~~ 0400-12-01-.02 are not subject to the storage prohibition in Rule ~~1200-01-11-.10~~ 0400-12-01-.10(4)(a).

5. Amendments to DDESB storage standards. The DDESB storage standards applicable to waste military munitions, referenced in item 1(i)(III) of this subparagraph, are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the DDESB storage standards shall become effective for purposes of subpart 1(i) of this subparagraph on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in subpart 1(i) of this subparagraph have been amended.

(g) Standards Applicable to the Treatment and Disposal of Waste Military Munitions [40 CFR 266.206]

The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in Rules ~~1200-01-11-.01~~ 0400-12-01-.01 through .10.

(14) Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal (40 CFR 266 Subpart N)

(a) Definitions

1. What definitions apply to this subpart? (266.210)

This part uses the following special definitions:

"Agreement State" means a state that has entered into an agreement with the NRC under subsection 274b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.

"Certified Delivery" means certified mail with return receipt requested, or equivalent courier service, or other means that provides the sender with a receipt confirming delivery.

"Commissioner" refers to the definition in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a).

"Eligible Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)" is NARM that is eligible for the Transportation and Disposal Conditional Exemption. It is a NARM waste that contains hazardous waste, meets the waste acceptance criteria of, and is allowed by Sate NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with 10 CFR Part 61 or NRC Agreement State equivalent regulations.

"Exempted Waste" means a waste that meets the eligibility criteria in part (b)6 of this paragraph and meets all of the conditions in part (b)11 of this paragraph, or meets the eligibility criteria in part (m)1 of this paragraph and complies with all the conditions in part (n)1 of this paragraph. Such waste is conditionally exempted from the regulatory definition of hazardous waste described in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(c).

"Hazardous Waste" means any material which is defined to be hazardous waste in accordance with Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(c), "Definition of Hazardous Waste".

"Land Disposal Restriction (LDR) Treatment Standards" means treatment standards, under Rule ~~1200-01-11-.10~~ 0400-12-01-.10 that a hazardous waste must meet before it can be disposed of in a hazardous waste land disposal unit.

"License" means a license issued by the Nuclear Regulatory Commission, or NRC Agreement State, to users that manage radionuclides regulated by NRC, or NRC Agreement States, under authority of the Atomic Energy Act of 1954, as mended.

"Low-Level Mixed Waste (LLMW)" is a waste that contains both low-level radioactive waste and hazardous waste.

"Low-Level Radioactive Waste (LLW) is a radioactive waste which contains source, special nuclear, or byproduct material, and which is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11e.(2) of the Atomic Energy Act. (See also NRC definition of "waste" at 10 CFR 61.2.)

"Mixed Waste" means a waste that contains both hazardous waste and source, special nuclear, or byproduct material subject to the Atomic Energy Act of 1954, as amended.

"Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)" means radioactive materials that:

(i) Are naturally occurring and are not source, special nuclear, or byproduct materials (as defined by the AEA) or

(ii) Are produced by an accelerator. NARM is regulated by the States under State law or by DOE (as authorized by the AEA) under DOE orders.

"NRC" means the U.S. Nuclear Regulatory Commission.

"We" or "Us" within this paragraph means the Commissioner as defined in Rule ~~1200-01-11-.01~~ 0400-12-01-.01(2)(a).

"You" means a generator, treater, or other handler of low-level mixed waste or eligible NARM.

2. through 5. (RESERVED)

(b) Storage and Treatment Conditional Exemption and Eligibility

1. What does a storage and treatment conditional exemption do? (266.220)

The storage and treatment conditional exemption exempts your low-level mixed Waste from the regulatory definition of hazardous waste in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(c) if your waste meets the eligibility criteria in part 6 of this subparagraph and you meet the conditions in part 11 of this subparagraph.

2.through 5. (RESERVED)

6. What wastes are eligible for the storage and treatment conditional exemption? (266.225)

Low-level mixed waste (LLMW), defined in part (a)1 of this paragraph for this conditional exemption if it is generated and managed by you under a single NRC or NRC Agreement State license. (Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a permit and is ineligible for this exemption. In addition, NARM waste is ineligible for this exemption.)

7. through 10. (RESERVED)

11. What conditions must you meet for your LLMW to qualify for and maintain a storage and treatment exemption? (266.230)

(i) For your LLMW to qualify for the exemption you must notify us in writing by certified delivery that you are claiming a conditional exemption for the LLMW stored on your facility. The dated notification must include your name, address, installation identification number, NRC or NRC Agreement State license number, the hazardous waste code(s) and storage unit(s) for which you are seeking an exemption, and a statement that you meet the conditions of this paragraph. Your notification must be signed by your authorized representative who certifies that the information in the notification is true, accurate, and complete. You must notify us of your claim either within 90 days of the effective date of this rule or within 90 days of when a storage unit is first used to store conditionally exempt LLMW.

(ii) To qualify for and maintain an exemption for your LLMW you must:

(I) Store your LLMW waste in tanks or containers in compliance with the requirements of your license that apply to the proper storage of low-level radioactive waste (not including those license requirements that relate solely to recordkeeping);

(II) Store your LLMW in tanks or containers in compliance with chemical compatibility requirements of a tank or container in subparagraph (9)(h) or (10)(j) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05 or subparagraph (9)(h) or (10)(j) or Rule ~~1200-01-11-.06~~ 0400-12-01-.06;

(III) Certify that facility personnel who manage stored conditionally Exempt LLMW are trained in a manner that ensures that the conditionally exempt waste is safely managed and includes training in chemical waste management and hazardous materials incidents response that meets the personnel training standards found in subpart (2)(g)1(iii) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05;

(IV) Conduct an inventory of your stored conditionally exempt LLMW at least annually and inspect it at least quarterly for compliance with this paragraph ~~(14) of this rule~~; and

(V) Maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities; describe evacuation plans; list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators; and list emergency equipment.

12. through 15. (RESERVED)

(c) Treatment

1. What waste treatment does the storage and treatment conditional exemption allow? (266.235)

You may treat your low-level mixed waste at your facility within a tank or container in accordance with the terms of your NRC or NRC Agreement State license. Treatment that cannot be done in a tank or container without a permit (such as incineration) is not allowed under this exemption.

2. through 5. (RESERVED)

(d) Loss of Conditional Exemption

1. How could you lose the conditional exemption for your LLMW and what action must you take? (266.240)

(i) Your LLMW will automatically lose the storage and treatment conditional exemption if you fail to meet any of the conditions specified in part (b)11 of this paragraph. When your LLMW loses the exemption, you must immediately manage that waste which failed the condition as hazardous waste, and the storage unit storing the LLMW immediately becomes subject to hazardous waste container and/or tank storage requirements.

(I) If you fail to meet any of the conditions specified in part (b)11 of this paragraph you must report to us and the NRC, or the oversight agency in the NRC Agreement State, in writing by certified delivery within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

I. The specific condition(s) you failed to meet;

II. A description of the LLMW (including the waste name, hazardous waste codes and quantity) and storage location at the facility; and

III. The date(s) on which you failed to meet the condition(s).

(II) If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers, or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environmental, you must follow the provisions of your emergency plan.

(ii) We may terminate your conditional exemption for your LLMW, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of this paragraph.

2. through 5. (RESERVED)

6. If you lose the storage and treatment conditional exemption for your LLMW, can the exemption be reclaimed? (266.245)

(i) You may reclaim the storage and treatment for your LLMW if:

(I) You again meet the conditions specified in part (b)11 of this paragraph;

(II) You send us a notice by certified delivery that you are reclaiming the exemption for your LLMW. Your notice must be signed by your authorized representative certifying that the information contained in your notice is true, complete, and accurate. In your notice you must do the following:

I. Explain the circumstances of each failure.

II. Certify that you have corrected each failure that caused you to lose the exemption for your LLMW and that you again meet all the conditions as of the date you specify.

III. Describe plans that you have implemented, listing specific steps you have taken, to ensure the conditions will be met in the future.

IV. Include any other information you want us to consider when we review your notice reclaiming the exemption.

(ii) We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to, the following:

(I) you have failed to correct the problem;

(II) you explained the circumstances of the failure unsatisfactorily; or

(III) you failed to implement a plan with steps to prevent another failure to meet the conditions of part (b)11 of this paragraph.

In reviewing a reclaimed conditional exemption under this ~~section~~ subparagraph, we may add conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will protect human health and the environment.

(e) Recordkeeping

1. What records must you keep at your facility and for how long? (266.250)

(i) In addition to those records required by your NRC or NRC Agreement State license, you must keep records as follows:

(I) Your initial notification records, return receipts, reports to us of failure(s) to meet the exemption conditions, and all records supporting any reclaim of an exemption;

(II) Records of your LLMW annual inventories, and quarterly inspections;

(III) Your certification that facility personnel who manage stored mixed waste are trained in safe management of LLMW including training in chemical waste management and hazardous materials incidents response; and

(IV) Your emergency plan as specified in subpart (b)11(ii) of this paragraph.

(ii) You must maintain records concerning notification, personnel trained, and your emergency plan for as long as you claim this exemption and for three years thereafter, or in accordance with NRC regulations under 10 CFR Part 20 (or equivalent NRC Agreement State regulations), whichever is longer. You must

maintain records concerning your annual inventory and quarterly inspections for three years after the waste is sent for disposal, or in accordance with NRC regulations under 10 CFR Part 20 (or equivalent NRC Agreement State regulations), whichever is longer.

2. through 5. (RESERVED)

(f) Reentry Into RCRA

1. When is your LLMW no longer eligible for the storage and treatment conditional exemption? (266.255)

(i) When your LLMW has met the requirements of your NRC or NRC Agreement State license for decay-in-storage and can be disposed of as non-radioactive waste, then the conditional exemption for storage no longer applies. On that date your waste is subject to hazardous waste regulation under the relevant ~~sections~~ requirements of Rules ~~1200-01-11-.01~~ 0400-12-01-.01 through .10, and the time period for accumulation of a hazardous waste as specified in subparagraph (4)(e) of Rule ~~1200-01-11-.03~~ 0400-12-01-.03 begins.

(ii) When your conditionally exempt LLMW, which has been generated and stored under a single NRC or NRC Agreement State license number, is removed from storage, it is no longer eligible for the storage and treatment exemption. However, your waste may be eligible for the transportation and disposal conditional exemption at part (l)1 of this paragraph.

(g) Storage Unit Closure

1. Do closure requirements apply to units that stored LLMW prior to the effective date of paragraph (14) of this rule? (266.260)

Interim status and permitted storage units that have been used to store only LLMW prior to the effective date of subpart N of this part and, after that date, store only LLMW which becomes exempt under this subpart N, are not subject to the closure requirements of Rules ~~1200-01-11-.05~~ 0400-12-01-.05 and .06. Storage units (or portions of units) that have been used to store both LLMW and non-mixed hazardous waste prior to the effective date of this paragraph ~~(14) of this rule~~ or are used to store both after that date remain subject to closure requirements with respect to the non-mixed hazardous waste.

2. through 5. (RESERVED)

(h) through (k) (RESERVED)

(l) Transportation and Disposal Conditional Exemption

1. What does the transportation and disposal conditional exemption do? (266.305)

This conditional exemption exempts your waste from the regulatory definition of hazardous waste in Rule ~~1200-01-11-.02~~ 0400-12-01-.02(1)(c) if your waste meets the eligibility criteria under part (m)1 of this paragraph, and you meet the conditions in part (n)1 of this paragraph.

(m) Eligibility

1. What wastes are eligible for the transportation and disposal conditional exemption? (266.310)

Eligible waste must be:

(i) A low-level mixed waste (LLMW), as defined in part (a)1 of this paragraph that meets the waste acceptance criteria of a LLRWDF; and/or

(ii) An eligible NARM waste, defined in part (a)1 of this paragraph.

2. through 5. (RESERVED)

(n) Conditions

1. What are the conditions you must meet for your waste to qualify for and maintain the transportation and disposal conditional exemption? (266.315)

You must meet the following conditions for your eligible waste to qualify for and maintain the exemption:

(i) The eligible waste must meet or be treated to meet LDR treatment standards as described in part ~~(n)~~6 of this ~~paragraph~~ subparagraph.

(ii) If you are not already subject to NRC, or NRC Agreement State equivalent manifest and transportation regulations for the shipment of your waste, you must manifest and transport your waste according to NRC regulations as described in part ~~(n)~~11 of this ~~paragraph~~ subparagraph.

(iii) The exempted waste must be in containers when it is disposed of in the LLRWDF as described in part ~~(n)~~26 of this ~~paragraph~~ subparagraph.

(iv) The exempted waste must be disposed of at a designated LLRWDF as described in part ~~(n)~~21 of this ~~paragraph~~ subparagraph.

2. through 5. (RESERVED)

6. What treatment standards must your eligible waste meet? (266.320)

Your LLMW or eligible NARM waste must meet Land Disposal Restriction (LDR) treatment standards specified in paragraph (3) of Rule ~~1200-01-11-.10~~ 0400-12-01-.10.

7. through 10. (RESERVED)

11. Are you subject to the manifest and transportation condition in subpart ~~(n)~~1(ii) of this ~~paragraph~~ subparagraph? (266.325)

If you are not already subject to NRC, or NRC Agreement State equivalent manifest and transportation regulations for the shipment of your waste, you must meet the manifest requirements under 10 CFR 20.2006 (or NRC Agreement State equivalent regulations), and the transportation requirements under 10 CFR 1.5 (or NRC Agreement State equivalent regulations) to ship the exempted waste.

12. through 15. (RESERVED)

16. When does the transportation and disposal exemption take effect? (266.330)

The exemption becomes effective once all the following have occurred:

(i) Your eligible waste meets the applicable LDR treatment standards.

(ii) You have received return receipts that you have notified us and the LLRWDF as described in part (o)1 of this paragraph.

(iii) You have completed the packaging and preparation for shipment requirements

for your waste according to NRC Packaging and Transportation regulations found under 10 CFR Part 71 (or NRC Agreement State equivalent regulations); and you have prepared a manifest for your waste according to NRC manifest regulations found under 10 CFR Part 20 (or NRC Agreement State equivalent regulations), and

(iv) You have placed your waste on a transportation vehicle destined for a LLRWDF licensed by NRC or an NRC Agreement State.

17. through 20. (RESERVED)

21. Where must your exempted waste be disposed of? (266.335)

Your exempted waste must be disposed of in a LLRWDF that is regulated and licensed by NRC under 10 CFR Part 61 or by an NRC Agreement State under equivalent State regulations, including State NARM licensing regulations for eligible NARM.

22. through 25. (RESERVED)

26. What type of container must be used for disposal of exempted waste? (266.340)

Your exempted waste must be placed in containers before it is disposed. The container must be:

(i) A carbon steel drum; or

(ii) An alternative container with equivalent containment performance in the disposal environment as a carbon steel drum; or

(iii) A high integrity container as defined by NRC.

27. through 30. (RESERVED)

(o) Notification

1. Whom must you notify? (266.345)

(i) You must provide a one time notice to us stating that you are claiming the transportation and disposal conditional exemption prior to the initial shipment of an exempted waste from your facility to a LLRWDF. Your dated written notice must include your facility name, address, phone number, and installation ID number, and be sent by certified delivery.

(ii) You must notify the LLRWDF receiving your exempted waste by certified delivery before shipment of each exempted waste. You can only ship the exempted waste after you have received the return receipt of your notice to the LLRWDF. This notification must include the following:

(I) A statement that you have claimed the exemption for the waste.

(II) A statement that the eligible waste meets applicable LDR treatment standards.

(III) Your facility's name, address, and installation number.

(IV) The hazardous waste codes prior to the exemption of the waste streams.

(V) A statement that the exempted waste must be placed in a container according to part (n)26 of this paragraph prior to disposal in order for the

waste to remain exempt under the transportation and disposal conditional exemption of this paragraph ~~(14) of this rule~~.

(VI) The manifest number of the shipment that will contain the exempted waste.

(VII) A certification that all the information provided is true, complete, and accurate. The statement must be signed by your authorized representative.

2. through 5. (RESERVED)

(p) Recordkeeping

1. What records must you keep at your facility and for how long? (266.350)

In addition to those records required by your NRC or NRC Agreement State license, you must keep records as follows:

(i) You must follow the applicable existing recordkeeping requirements under subparagraph (5)(d) of Rule ~~1200-01-11-.05~~ 0400-12-01-.05, subparagraph (5)(d) of Rule ~~1200-01-11-.06~~ 0400-12-01-.06, and subparagraph (1)(g) of Rule ~~1200-01-11-.10~~ 0400-12-01-.10 to demonstrate that your waste has met LDR treatment standards prior to your claiming the exemption.

(ii) You must keep a copy of all notifications and return receipts required under parts (q)1 and ~~(q)~~6 of this paragraph for three years after the exempted waste is sent for disposal.

(iii) You must keep a copy of all notification and return receipts required under subpart (o)1(i) of this paragraph for three years after the last exempted waste is sent for disposal.

(iv) You must keep a copy of the notification and return receipt required under subpart (o)1(ii) of this paragraph for three years after the exempted waste is sent for disposal.

(v) If you are not already subject to NRC, or NRC Agreement State equivalent manifest and transportation regulations for the shipment of your waste, you must also keep all other documents related to tracking the exempted waste as required under 10 CFR 20.2006 or NRC Agreement State equivalent regulations, including applicable NARM requirements, in addition to the records specified in subparts ~~(p)1~~(i) through ~~subpart (p)1~~(iv) of this ~~paragraph~~ part.

(q) Loss of Transportation and Disposal Conditional Exemption

1. How could you lose the transportation and disposal conditional exemption for your waste and what action must you take? (266.355)

(i) Any waste will automatically lose the transportation and disposal exemption if you fail to manage it in accordance with all of the conditions specified in part (n)1 of this paragraph.

(I) When you fail to meet any of the conditions specified in part (n)1 of this paragraph for any of your wastes, you must report to us, in writing by certified delivery, within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

I. The specific condition(s) that you failed to meet for the waste;

II. A description of the waste (including the waste name, hazardous waste codes and quantity) that lost the exemption; and

III. The date(s) on which you failed to meet the condition(s) for the waste.

(II) If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within 5 days.

(ii) We may terminate your ability to claim a conditional exemption for your waste, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of this paragraph ~~(14) of this rule~~.

2. through 5. (RESERVED)

6. If you lose the transportation and disposal conditional exemption for a waste, can the exemption be reclaimed? (266.360)

(i) You may reclaim the transportation and disposal exemption for a waste after you have received a return receipt confirming that we have received your notification of the loss of the exemption specified in subpart ~~(q)~~1(i) of this ~~paragraph~~ subparagraph and if:

(I) You again meet the conditions specified in part (n)1 of this paragraph for the waste; and

(II) You send a notice, by certified delivery, to us that you are reclaiming the exemption for the waste. Your notice must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. The notice must:

I. Explain the circumstances of each failure.

II. Certify that each failure that caused you to lose the exemption for the waste has been corrected and that you again meet all conditions for the waste as of the date you specify.

III. Describe plans you have implemented, listing the specific steps that you have taken, to ensure that conditions will be met in the future.

IV. Include any other information you want us to consider when we review your notice reclaiming the exemption.

(ii) We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to:

(I) you have failed to correct the problem;

(II) you explained the circumstances of the failure unsatisfactorily; or

(III) you failed to implement a plan with steps to prevent another failure to meet the conditions of part (n)1 of this paragraph.

In reviewing a reclaimed conditional exemption under this ~~section~~ subparagraph, we may add conditions to the exemption to ensure that transportation and disposal activities will protect human health and the environment.

(15) through (26) (RESERVED) [40 CFR 266 Subpart O-Z]

(27) through (29) (RESERVED) [40 CFR 266 Subpart AA-CC]

(30) APPENDICES TO RULE ~~1200-01-11-.09~~ 0400-12-01-.09 [40 CFR 266 APPENDICES]

Appendix I-Tier I and Tier II Feed Rate and Emissions Screening Limits for Metals [40 CFR 266 APPENDIX I]

Table I-A.-Tier I and Tier II Feed Rate and Emissions Screening Limits for Noncarcinogenic Metals for Facilities in Noncomplex Terrain

[Values for Urban Areas]

Terrain-adjusted Eff. Stack Ht. (m)	Antimony (g/hr)	Barium (g/hr)	Lead (g/hr)	Mercury (g/hr)	Silver (g/hr)	Thallium (g/hr)
4	6.0E+01	1.0E+04	1.8E+01	6.0E+01	6.0E+02	6.0E+01
6	6.8E+01	1.1E+04	2.0E+01	6.8E+01	6.8E+02	6.8E+01
8	7.6E+01	1.3E+04	2.3E+01	7.6E+01	7.6E+02	7.6E+01
10	8.6E+01	1.4E+04	2.6E+01	8.6E+01	8.6E+02	8.6E+01
12	9.6E+01	1.7E+04	3.0E+01	9.6E+01	9.6E+02	9.6E+01
14	1.1E+02	1.8E+04	3.4E+01	1.1E+02	1.1E+03	1.1E+02
16	1.3E+02	2.1E+04	3.6E+01	1.3E+02	1.3E+03	1.3E+02
18	1.4E+02	2.4E+04	4.3E+01	1.4E+02	1.4E+03	1.4E+02
20	1.6E+02	2.7E+04	4.6E+01	1.6E+02	1.6E+03	1.6E+02
22	1.8E+02	3.0E+04	5.4E+01	1.8E+02	1.8E+03	1.8E+02
24	2.0E+02	3.4E+04	6.0E+01	2.0E+02	2.0E+03	2.0E+02
26	2.3E+02	3.9E+04	6.8E+01	2.3E+02	2.3E+03	2.3E+02
28	2.6E+02	4.3E+04	7.8E+01	2.6E+02	2.6E+03	2.6E+02
30	3.0E+02	5.0E+04	9.0E+01	3.0E+02	3.0E+03	3.0E+02
35	4.0E+02	6.6E+04	1.1E+02	4.0E+02	4.0E+03	4.0E+02
40	4.6E+02	7.8E+04	1.4E+02	4.6E+02	4.6E+03	4.6E+02
45	6.0E+02	1.0E+05	1.8E+02	6.0E+02	6.0E+03	6.0E+02
50	7.8E+02	1.3E+05	2.3E+02	7.8E+02	7.8E+03	7.8E+02
55	9.6E+02	1.7E+05	3.0E+02	9.6E+02	9.6E+03	9.6E+02
60	1.2E+03	2.0E+05	3.6E+02	1.2E+03	1.2E+04	1.2E+03
65	1.5E+03	2.5E+05	4.3E+02	1.5E+03	1.5E+04	1.5E+03
70	1.7E+03	2.8E+05	5.0E+02	1.7E+03	1.7E+04	1.7E+03
75	1.9E+03	3.2E+05	5.8E+02	1.9E+03	1.9E+04	1.9E+03
80	2.2E+03	3.6E+05	6.4E+02	2.2E+03	2.2E+04	2.2E+03
85	2.5E+03	4.0E+05	7.6E+02	2.5E+03	2.5E+04	2.5E+03
90	2.8E+03	4.6E+05	8.2E+02	2.8E+03	2.8E+04	2.8E+03
95	3.2E+03	5.4E+05	9.6E+02	3.2E+03	3.2E+04	3.2E+03
100	3.6E+03	6.0E+05	1.1E+03	3.6E+03	3.6E+04	3.6E+03
105	4.0E+03	6.8E+05	1.2E+03	4.0E+03	4.0E+04	4.0E+03
110	4.6E+03	7.8E+05	1.4E+03	4.6E+03	4.6E+04	4.6E+03
115	5.4E+03	8.6E+05	1.6E+03	5.4E+03	5.4E+04	5.4E+03
120	6.0E+03	1.0E+06	1.8E+03	6.0E+03	6.0E+04	6.0E+03

Table I-B.-Tier I and Tier II Feed Rate and Emissions Screening Limits for Noncarcinogenic Metals for Facilities in Noncomplex Terrain

[Values for Rural Areas]

Terrain-adjusted Eff. Stack Ht. (m)	Antimony (g/hr)	Barium (g/hr)	Lead (g/hr)	Mercury (g/hr)	Silver (g/hr)	Thallium (g/hr)
4	3.1E+01	5.2E+03	9.4E+00	3.1E+01	3.1E+02	3.1E+01
6	3.6E+01	6.0E+03	1.1E+01	3.6E+01	3.6E+02	3.6E+01
8	4.0E+01	6.8E+03	1.2E+01	4.0E+01	4.0E+02	4.0E+01
10	4.6E+01	7.8E+03	1.4E+01	4.6E+01	4.6E+02	4.6E+01
12	5.8E+01	9.6E+03	1.7E+01	5.8E+01	5.8E+02	5.8E+01
14	6.8E+01	1.1E+04	2.1E+01	6.8E+01	6.8E+02	6.8E+01
16	8.6E+01	1.4E+04	2.6E+01	8.6E+01	8.6E+02	8.6E+01
18	1.1E+02	1.8E+04	3.2E+01	1.1E+02	1.1E+03	1.1E+02
20	1.3E+02	2.2E+04	4.0E+01	1.3E+02	1.3E+03	1.3E+02
22	1.7E+02	2.8E+04	5.0E+01	1.7E+02	1.7E+03	1.7E+02
24	2.2E+02	3.6E+04	6.4E+01	2.2E+02	2.2E+03	2.2E+02
26	2.8E+02	4.6E+04	8.2E+01	2.8E+02	2.8E+03	2.8E+02
28	3.5E+02	5.8E+04	1.0E+02	3.5E+02	3.5E+03	3.5E+02
30	4.3E+02	7.6E+04	1.3E+02	4.3E+02	4.3E+03	4.3E+02
35	7.2E+02	1.2E+05	2.1E+02	7.2E+02	7.2E+03	7.2E+02
40	1.1E+03	1.8E+05	3.2E+02	1.1E+03	1.1E+04	1.1E+03
45	1.5E+03	2.5E+05	4.6E+02	1.5E+03	1.5E+04	1.5E+03
50	2.0E+03	3.3E+05	6.0E+02	2.0E+03	2.0E+04	2.0E+03
55	2.6E+03	4.4E+05	7.8E+02	2.6E+03	2.6E+04	2.6E+03
60	3.4E+03	5.8E+05	1.0E+03	3.4E+03	3.4E+04	3.4E+03
65	4.6E+03	7.6E+05	1.4E+03	4.6E+03	4.6E+04	4.6E+03
70	5.4E+03	9.0E+05	1.6E+03	5.4E+03	5.4E+04	5.4E+03
75	6.4E+03	1.1E+06	1.9E+03	6.4E+03	6.4E+04	6.4E+03
80	7.6E+03	1.3E+06	2.3E+03	7.6E+03	7.6E+04	7.6E+03
85	9.4E+03	1.5E+06	2.8E+03	9.4E+03	9.4E+04	9.4E+03
90	1.1E+04	1.8E+06	3.3E+03	1.1E+04	1.1E+05	1.1E+04
95	1.3E+04	2.2E+06	3.9E+03	1.3E+04	1.3E+05	1.3E+04
100	1.5E+04	2.6E+06	4.6E+03	1.5E+04	1.5E+05	1.5E+04
105	1.8E+04	3.0E+06	5.4E+03	1.8E+04	1.8E+05	1.8E+04
110	2.2E+04	3.6E+06	6.6E+03	2.2E+04	2.2E+05	2.2E+04
115	2.6E+04	4.4E+06	7.8E+03	2.6E+04	2.6E+05	2.6E+04
120	3.1E+04	5.0E+06	9.2E+03	3.1E+04	3.1E+05	3.1E+04

Table I-C.-Tier I and Tier II Feed Rate and Emissions Screening Limits for Noncarcinogenic Metals for Facilities in Complex Terrain

[Values for Urban and Rural Areas]

Terrain-adjusted Eff. Stack Ht. (m)	Antimony (g/hr)	Barium (g/hr)	Lead (g/hr)	Mercury (g/hr)	Silver (g/hr)	Thallium (g/hr)
4	1.4E+01	2.4E+03	4.3E+00	1.4E+01	1.4E+02	1.4E+01
6	2.1E+01	3.5E+03	6.2E+00	2.1E+01	2.1E+02	2.1E+01
8	3.0E+01	5.0E+03	9.2E+00	3.0E+01	3.0E+02	3.0E+01
10	4.3E+01	7.6E+03	1.3E+01	4.3E+01	4.3E+02	4.3E+01
12	5.4E+01	9.0E+03	1.7E+01	5.4E+01	5.4E+02	5.4E+01
14	6.8E+01	1.1E+04	2.0E+01	6.8E+01	6.8E+02	6.8E+01
16	7.8E+01	1.3E+04	2.4E+01	7.8E+01	7.8E+02	7.8E+01
18	8.6E+01	1.4E+04	2.6E+01	8.6E+01	8.6E+02	8.6E+01
20	9.6E+01	1.6E+04	2.9E+01	9.6E+01	9.6E+02	9.6E+01
22	1.0E+02	1.8E+04	3.2E+01	1.0E+02	1.0E+03	1.0E+02
24	1.2E+02	1.9E+04	3.5E+01	1.2E+02	1.2E+03	1.2E+02
26	1.3E+02	2.2E+04	3.6E+01	1.3E+02	1.3E+03	1.3E+02
28	1.4E+02	2.4E+04	4.3E+01	1.4E+02	1.4E+03	1.4E+02
30	1.6E+02	2.7E+04	4.6E+01	1.6E+02	1.6E+03	1.6E+02
35	2.0E+02	3.3E+04	5.8E+01	2.0E+02	2.0E+03	2.0E+02
40	2.4E+02	4.0E+04	7.2E+01	2.4E+02	2.4E+03	2.4E+02
45	3.0E+02	5.0E+04	9.0E+01	3.0E+02	3.0E+03	3.0E+02
50	3.6E+02	6.0E+04	1.1E+02	3.6E+02	3.6E+03	3.6E+02
55	4.6E+02	7.6E+04	1.4E+02	4.6E+02	4.6E+03	4.6E+02
60	5.8E+02	9.4E+04	1.7E+02	5.8E+02	5.8E+03	5.8E+02
65	6.8E+02	1.1E+05	2.1E+02	6.8E+02	6.8E+03	6.8E+02
70	7.8E+02	1.3E+05	2.4E+02	7.8E+02	7.8E+03	7.8E+02
75	8.6E+02	1.4E+05	2.6E+02	8.6E+02	8.6E+03	8.6E+02
80	9.6E+02	1.6E+05	2.9E+02	9.6E+02	9.6E+03	9.6E+02
85	1.1E+03	1.8E+05	3.3E+02	1.1E+03	1.1E+04	1.1E+03
90	1.2E+03	2.0E+05	3.6E+02	1.2E+03	1.2E+04	1.2E+03
95	1.4E+03	2.3E+05	4.0E+02	1.4E+03	1.4E+04	1.4E+03
100	1.5E+03	2.6E+05	4.6E+02	1.5E+03	1.5E+04	1.5E+03
105	1.7E+03	2.8E+05	5.0E+02	1.7E+03	1.7E+04	1.7E+03
110	1.9E+03	3.2E+05	5.8E+02	1.9E+03	1.9E+04	1.9E+03
115	2.1E+03	3.6E+05	6.4E+02	2.1E+03	2.1E+04	2.1E+03
120	2.4E+03	4.0E+05	7.2E+02	2.4E+03	2.4E+04	2.4E+03

Table I-D.-Tier I and Tier II Feed Rate and Emissions Screening Limits for Carcinogenic Metals for Facilities in Noncomplex Terrain

Values for Use in Urban Areas					Values for Use in Rural Areas			
Terrain-adjusted Eff. Stack Ht. (m)	Arsenic (g/hr)	Cadmium (g/hr)	Chromium (g/hr)	Beryllium (g/hr)	Arsenic (g/hr)	Cadmium (g/hr)	Chromium (g/hr)	Beryllium (g/hr)
4	4.6E-01	1.1E+00	1.7E-01	8.2E-01	2.4E-01	5.8E-01	8.6E-02	4.3E-01
6	5.4E-01	1.3E+00	1.9E-01	9.4E-01	2.8E-01	6.6E-01	1.0E-01	5.0E-01
8	6.0E-01	1.4E+00	2.2E-01	1.1E+00	3.2E-01	7.6E-01	1.1E-01	5.6E-01
10	6.8E-01	1.6E+00	2.4E-01	1.2E+00	3.6E-01	8.6E-01	1.3E-01	6.4E-01
12	7.6E-01	1.8E+00	2.7E-01	1.4E+00	4.3E-01	1.1E+00	1.6E-01	7.8E-01
14	8.6E-01	2.1E+00	3.1E-01	1.5E+00	5.4E-01	1.3E+00	2.0E-01	9.6E-01
16	9.6E-01	2.3E+00	3.5E-01	1.7E+00	6.8E-01	1.6E+00	2.4E-01	1.2E+00
18	1.1E+00	2.6E+00	4.0E-01	2.0E+00	8.2E-01	2.0E+00	3.0E-01	1.5E+00
20	1.2E+00	3.0E+00	4.4E-01	2.2E+00	1.0E+00	2.5E+00	3.7E-01	1.9E+00
22	1.4E+00	3.4E+00	5.0E-01	2.5E+00	1.3E+00	3.2E+00	4.8E-01	2.4E+00
24	1.6E+00	3.9E+00	5.8E-01	2.8E+00	1.7E+00	4.0E+00	6.0E-01	3.0E+00
26	1.8E+00	4.3E+00	6.4E-01	3.2E+00	2.1E+00	5.0E+00	7.6E-01	3.9E+00
28	2.0E+00	4.8E+00	7.2E-01	3.6E+00	2.7E+00	6.4E+00	9.8E-01	5.0E+00
30	2.3E+00	5.4E+00	8.2E-01	4.0E+00	3.5E+00	8.2E+00	1.2E+00	6.2E+00
35	3.0E+00	6.8E+00	1.0E+00	5.4E+00	5.4E+00	1.3E+01	1.9E+00	9.6E+00
40	3.6E+00	9.0E+00	1.3E+00	6.8E+00	8.2E+00	2.0E+01	3.0E+00	1.5E+01
45	4.6E+00	1.1E+01	1.7E+00	8.6E+00	1.1E+01	2.8E+01	4.2E+00	2.1E+01
50	6.0E+00	1.4E+01	2.2E+00	1.1E+01	1.5E+01	3.7E+01	5.4E+00	2.8E+01
55	7.6E+00	1.8E+01	2.7E+00	1.4E+01	2.0E+01	5.0E+01	7.2E+00	3.6E+01
60	9.4E+00	2.2E+01	3.4E+00	1.7E+01	2.7E+01	6.4E+01	9.6E+00	4.8E+01
65	1.1E+01	2.8E+01	4.2E+00	2.1E+01	3.6E+01	8.6E+01	1.3E+01	6.4E+01
70	1.3E+01	3.1E+01	4.6E+00	2.4E+01	4.3E+01	1.0E+02	1.5E+01	7.6E+01
75	1.5E+01	3.6E+01	5.4E+00	2.7E+01	5.0E+01	1.2E+02	1.8E+01	9.0E+01
80	1.7E+01	4.0E+01	6.0E+00	3.0E+01	6.0E+01	1.4E+02	2.2E+01	1.1E+02
85	1.9E+01	4.6E+01	6.8E+00	3.4E+01	7.2E+01	1.7E+02	2.6E+01	1.3E+02

90	2.2E+01	5.0E+01	7.8E+00	3.9E+01	8.6E+01	2.0E+02	3.0E+01	1.5E+02
95	2.5E+01	5.8E+01	9.0E+00	4.4E+01	1.0E+02	2.4E+02	3.6E+01	1.8E+02
100	2.8E+01	6.8E+01	1.0E+01	5.0E+01	1.2E+02	2.9E+02	4.3E+01	2.2E+02
105	3.2E+01	7.6E+01	1.1E+01	5.6E+01	1.4E+02	3.4E+02	5.0E+01	2.6E+02
110	3.6E+01	8.6E+01	1.3E+01	6.4E+01	1.7E+02	4.0E+02	6.0E+01	3.0E+02
115	4.0E+01	9.6E+01	1.5E+01	7.2E+01	2.0E+02	4.8E+02	7.2E+01	3.6E+02
120	4.6E+01	1.1E+02	1.7E+01	8.2E+01	2.4E+02	5.8E+02	8.6E+01	4.3E+02

Table I-E.-Tier I and Tier II Feed Rate and Emissions Screening Limits for Carcinogenic Metals for Facilities in Complex Terrain

Values for Use in Urban and Rural Areas				
Terrain-adjusted Eff. Stack Ht. (m)	Arsenic (g/hr)	Cadmium (g/hr)	Chromium (g/hr)	Beryllium (g/hr)
4	1.1E-01	2.6E-01	4.0E-02	2.0E-01
6	1.6E-01	3.9E-01	5.8E-02	2.9E-01
8	2.4E-01	5.8E-01	8.6E-02	4.3E-01
10	3.5E-01	8.2E-01	1.3E-01	6.2E-01
12	4.3E-01	1.0E+00	1.5E-01	7.6E-01
14	5.0E-01	1.3E+00	1.9E-01	9.4E-01
16	6.0E-01	1.4E+00	2.2E-01	1.1E+00
18	6.8E-01	1.6E+00	2.4E-01	1.2E+00
20	7.6E-01	1.8E+00	2.7E-01	1.3E+00
22	8.2E-01	1.9E+00	3.0E-01	1.5E+00
24	9.0E-01	2.1E+00	3.3E-01	1.6E+00
26	1.0E+00	2.4E+00	3.6E-01	1.8E+00
28	1.1E+00	2.7E+00	4.0E-01	2.0E+00
30	1.2E+00	3.0E+00	4.4E-01	2.2E+00
35	1.5E+00	3.7E+00	5.4E-01	2.7E+00
40	1.9E+00	4.6E+00	6.8E-01	3.4E+00
45	2.4E+00	5.4E+00	8.4E-01	4.2E+00
50	2.9E+00	6.8E+00	1.0E+00	5.0E+00
55	3.5E+00	8.4E+00	1.3E+00	6.4E+00
60	4.3E+00	1.0E+01	1.5E+00	7.8E+00
65	5.4E+00	1.3E+01	1.9E+00	9.6E+00
70	6.0E+00	1.4E+01	2.2E+00	1.1E+01
75	6.8E+00	1.6E+01	2.4E+00	1.2E+01
80	7.6E+00	1.8E+01	2.7E+00	1.3E+01
85	8.2E+00	2.0E+01	3.0E+00	1.5E+01
90	9.4E+00	2.3E+01	3.4E+00	1.7E+01
95	1.0E+01	2.5E+01	4.0E+00	1.9E+01
100	1.2E+01	2.8E+01	4.3E+00	2.1E+01
105	1.3E+01	3.2E+01	4.8E+00	2.4E+01
110	1.5E+01	3.5E+01	5.4E+00	2.7E+01
115	1.7E+01	4.0E+01	6.0E+00	3.0E+01
120	1.9E+01	4.4E+01	6.4E+00	3.3E+01

Appendix II - Tier I Feed Rate Screening Limits for Total Chlorine [40 CFR 266 APPENDIX II]

Tier I Feed Rate Screening Limits for Total Chlorine

Terrain-adjusted Effective Stack Height (m)	Noncomplex Terrain		Complex Terrain
	Urban (g/hr)	Rural (g/hr)	(g/hr)
4	8.2E + 01	4.2E + 01	1.9E + 01
6	9.1E + 01	4.8E + 01	2.8E + 01
8	1.0E + 02	5.3E + 01	4.1E + 01
10	1.2E + 02	6.2E + 01	5.8E + 01
12	1.3E + 02	7.7E + 01	7.2E + 01
14	1.5E + 02	9.1E + 01	9.1E + 01
16	1.7E + 02	1.2E + 02	1.1E + 02
18	1.9E + 02	1.4E + 02	1.2E + 02
20	2.1E + 02	1.8E + 02	1.3E + 02
22	2.4E + 02	2.3E + 02	1.4E + 02
24	2.7E + 02	2.9E + 02	1.6E + 02
26	3.1E + 02	3.7E + 02	1.7E + 02
28	3.5E + 02	4.7E + 02	1.9E + 02
30	3.9E + 02	5.8E + 02	2.1E + 02
35	5.3E + 02	9.6E + 02	2.6E + 02
40	6.2E + 02	1.4E + 03	3.3E + 02
45	8.2E + 02	2.0E + 03	4.0E + 02
50	1.1E + 03	2.6E + 03	4.8E + 02
55	1.3E + 03	3.5E + 03	6.2E + 02
60	1.6E + 03	4.6E + 03	7.7E + 02
65	2.0E + 03	6.2E + 03	9.1E + 02
70	2.3E + 03	7.2E + 03	1.1E + 03
75	2.5E + 03	8.6E + 03	1.2E + 03
80	2.9E + 03	1.0E + 04	1.3E + 03
85	3.3E + 03	1.2E + 04	1.4E + 03
90	3.7E + 03	1.4E + 04	1.6E + 03
95	4.2E + 03	1.7E + 04	1.8E + 03
100	4.8E + 03	2.1E + 04	2.0E + 03
105	5.3E + 03	2.4E + 04	2.3E + 03
110	6.2E + 03	2.9E + 04	2.5E + 03
115	7.2E + 03	3.5E + 04	2.8E + 03
120	8.2E + 03	4.1E + 04	3.2E + 03

Appendix III - Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride [40 CFR 266 APPENDIX III]

Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

Terrain-adjusted Effective Stack Height (m)	Noncomplex Terrain				Complex Terrain	
	Values for Urban Areas		Values for Rural Areas		Values for Use in Urban and Rural Areas	
	$C1_2$ (g/hr)	HC1 (g/hr)	$C1_2$ (g/hr)	HC1 (g/hr)	$C1_2$ (g/hr)	HC1 (g/hr)
4	8.2E + 01	1.4E + 03	4.2E + 01	7.3E + 02	1.9E + 01	3.3E + 02
6	9.1E + 01	1.6E + 03	4.8E + 01	8.3E + 02	2.8E + 01	4.9E + 02
8	1.0E + 02	1.8E + 03	5.3E + 01	9.2E + 02	4.1E + 01	7.1E + 02
10	1.2E + 02	2.0E + 03	6.2E + 01	1.1E + 03	5.8E + 01	1.0E + 03
12	1.3E + 02	2.3E + 03	7.7E + 01	1.3E + 03	7.2E + 01	1.3E + 03
14	1.5E + 02	2.6E + 03	9.1E + 01	1.6E + 03	9.1E + 01	1.6E + 03
16	1.7E + 02	2.9E + 03	1.2E + 02	2.0E + 03	1.1E + 02	1.8E + 03
18	1.9E + 02	3.3E + 03	1.4E + 02	2.5E + 03	1.2E + 02	2.0E + 03
20	2.1E + 02	3.7E + 03	1.8E + 02	3.1E + 03	1.3E + 02	2.3E + 03
22	2.4E + 02	4.2E + 03	2.3E + 02	3.9E + 03	1.4E + 02	2.4E + 03
24	2.7E + 02	4.8E + 03	2.9E + 02	5.0E + 03	1.6E + 02	2.8E + 03
26	3.1E + 02	5.4E + 03	3.7E + 02	6.5E + 03	1.7E + 02	3.0E + 03
28	3.5E + 02	6.0E + 03	4.7E + 02	8.1E + 03	1.9E + 02	3.4E + 03
30	3.9E + 02	6.9E + 03	5.8E + 02	1.0E + 04	2.1E + 02	3.7E + 03
35	5.3E + 02	9.2E + 03	9.6E + 02	1.7E + 04	2.6E + 02	4.6E + 03
40	6.2E + 02	1.1E + 04	1.4E + 03	2.5E + 04	3.3E + 02	5.7E + 03
45	8.2E + 02	1.4E + 04	2.0E + 03	3.5E + 04	4.0E + 02	7.0E + 03
50	1.1E + 03	1.8E + 04	2.6E + 03	4.6E + 04	4.8E + 02	8.4E + 03
55	1.3E + 03	2.3E + 04	3.5E + 03	6.1E + 04	6.2E + 02	1.1E + 04
60	1.6E + 03	2.9E + 04	4.6E + 03	8.1E + 04	7.7E + 02	1.3E + 04
65	2.0E + 03	3.4E + 04	6.2E + 03	1.1E + 05	9.1E + 02	1.6E + 04
70	2.3E + 03	3.9E + 04	7.2E + 03	1.3E + 05	1.1E + 03	1.8E + 04
75	2.5E + 03	4.5E + 04	8.6E + 03	1.5E + 05	1.2E + 03	2.0E + 04
80	2.9E + 03	5.0E + 04	1.0E + 04	1.8E + 05	1.3E + 03	2.3E + 04
85	3.3E + 03	5.8E + 04	1.2E + 04	2.2E + 05	1.4E + 03	2.5E + 04
90	3.7E + 03	6.6E + 04	1.4E + 04	2.5E + 05	1.6E + 03	2.9E + 04
95	4.2E + 03	7.4E + 04	1.7E + 04	3.0E + 05	1.8E + 03	3.2E + 04
100	4.8E + 03	8.4E + 04	2.1E + 04	3.6E + 05	2.0E + 03	3.5E + 04
105	5.3E + 03	9.2E + 04	2.4E + 04	4.3E + 05	2.3E + 03	3.9E + 04
110	6.2E + 03	1.1E + 05	2.9E + 04	5.1E + 05	2.5E + 03	4.5E + 04
115	7.2E + 03	1.3E + 05	3.5E + 04	6.1E + 05	2.8E + 03	5.0E + 04
120	8.2E + 03	1.4E + 05	4.1E + 04	7.2E + 05	3.2E + 03	5.6E + 04

Appendix IV-Reference Air Concentrations*

Constituent	CAS No.	RAC (ug/m^3)
Acetaldehyde	75-07-0	10
Acetonitrile	75-05-8	10
Acetophenone	98-86-2	100
Acrolein	107-02-8	20
Aldicarb	116-06-3	1
Aluminum Phosphide	20859-73-8	0.3
Allyl Alcohol	107-18-6	5
Antimony	7440-36-0	0.3
Barium	7440-39-3	50
Barium Cyanide	542-62-1	50
Bromomethane	74-83-9	0.8
Calcium Cyanide	592-01-8	30
Carbon Disulfide	75-15-0	200
Chloral	75-87-6	2
Chlorine (free)		0.4
2-Chloro-1,3-butadiene	126-99-8	3
Chromium III	16065-83-1	1000
Copper Cyanide	544-92-3	5
Cresols	1319-77-3	50
Cumene	98-82-8	1
Cyanide (free)	57-12-15	20
Cyanogen	460-19-5	30
Cyanogen Bromide	506-68-3	80
Di-n-butyl Phthalate	84-74-2	100
o-Dichlorobenzene	95-50-1	10
p-Dichlorobenzene	106-46-7	10
Dichlorodifluoromethane	75-71-8	200
2,4-Dichlorophenol	120-83-2	3
Diethyl Phthalate	84-66-2	800
Dimethoate	60-51-5	0.8
2,4-Dinitrophenol	51-28-5	2
Dinoseb	88-85-7	0.9
Diphenylamine	122-39-4	20
Endosulfan	115-29-1	0.05
Endrin	72-20-8	0.3
Fluorine	7782-41-4	50
Formic Acid	64-18-6	2000
Glycidyaldehyde	765-34-4	0.3
Hexachlorocyclopentadiene	77-47-4	5
Hexachlorophene	70-30-4	0.3
Hydrocyanic Acid	74-90-8	20
Hydrogen Chloride	7647-01-1	7
Hydrogen Sulfide	7783-06-4	3
Isobutyl Alcohol	78-83-1	300
Lead	7439-92-1	0.09
Maleic Anhydride	108-31-6	100
Mercury	7439-97-6	0.3
Methacrylonitrile	126-98-7	0.1
Methomyl	16752-77-5	20
Methoxychlor	72-43-5	50
Methyl Chlorocarbonate	79-22-1	1000
Methyl Ethyl Ketone	78-93-3	80
Methyl Parathion	298-00-0	0.3
Nickel Cyanide	557-19-7	20
Nitric Oxide	10102-43-9	100

Nitrobenzene	98-95-3	0.8
Pentachlorobenzene	608-93-5	0.8
Pentachlorophenol	87-86-5	30
Phenol	108-95-2	30
M-Phenylenediamine	108-45-2	5
Phenylmercuric Acetate	62-38-4	0.075
Phosphine	7803-51-2	0.3
Phthalic Anhydride	85-44-9	2000
Potassium Cyanide	151-50-8	50
Potassium Silver Cyanide	506-61-6	200
Pyridine	110-86-1	1
Selenious Acid	7783-60-8	3
Selenourea	630-10-4	5
Silver	7440-22-4	3
Silver Cyanide	506-64-9	100
Sodium Cyanide	143-33-9	30
Strychnine	57-24-9	0.3
1,2,4,5-Tetrachlorobenzene	95-94-3	0.3
2,3,4,6-Tetrachlorophenol	58-90-2	30
Tetraethyl Lead	78-00-2	0.0001
Tetrahydrofuran	109-99-9	10
Thallic Oxide	1314-32-5	0.3
Thallium	7440-28-0	0.5
Thallium (I) Acetate	563-68-8	0.5
Thallium (I) Carbonate	6533-73-9	0.3
Thallium (I) Chloride	7791-12-0	0.3
Thallium (I) Nitrate	10102-45-1	0.5
Thallium Selenite	12039-52-0	0.5
Thallium (I) Sulfate	7446-18-6	0.075
Thiram	137-26-8	5
Toluene	108-88-3	300
1,2,4-Trichlorobenzene	120-82-1	20
Trichloromonofluoromethane	75-69-4	300
2,4,5-Trichlorophenol	95-95-4	100
Vanadium Pentoxide	1314-62-1	20
Warfarin	81-81-2	0.3
Xylenes	1330-20-7	80
Zinc Cyanide	557-21-1	50
Zinc Phosphide	1314-84-7	0.3

FOOTNOTE:* The RAC for other Appendix VIII Rule ~~1200-01-11-.02~~ 0400-12-01-.02(5) constituents not listed herein or in Appendix V of this rule is 0.1 ug/m^3.

Appendix V - Risk Specific Doses [40 CFR 266 APPENDIX V]

Constituent	CAS No.	Risk Specific Doses (10^{-5}) Unit Risk (m^3/ug)	RsD (ug/m^3)
Acrylamide	79-06-1	1.3E-03	7.7E-03
Acrylonitrile	107-13-1	6.8E-05	1.5E-01
Aldrin	309-00-2	4.9E-03	2.0E-03
Aniline	62-53-3	7.4E-06	1.4E+00
Arsenic	7440-38-2	4.3E-03	2.3E-03
Benz(a)anthracene	56-55-3	8.9E-04	1.1E-02
Benzene	71-43-2	8.3E-06	1.2E+00
Benzidine	92-87-5	6.7E-02	1.5E-04
Benzo(a)pyrene	50-32-8	3.3E-03	3.0E-03
Beryllium	7440-41-7	2.4E-03	4.2E-03
Bis(2-chloroethyl)ether	111-44-4	3.3E-04	3.0E-02
Bis(chloromethyl)ether	542-88-1	6.2E-02	1.6E-04
Bis(2-ethylhexyl)-phthalate	117-81-7	2.4E-07	4.2E+01
1,3-Butadiene	106-99-0	2.8E-04	3.6E-02
Cadmium	7440-43-9	1.8E-03	5.6E-03
Carbon Tetrachloride	56-23-5	1.5E-05	6.7E-01
Chlordane	57-74-9	3.7E-04	2.7E-02
Chloroform	67-66-3	2.3E-05	4.3E-01
Chloromethane	74-87-3	3.6E-06	2.8E+00
Chromium VI	7440-47-3	1.2E-02	8.3E-04
DDT	50-29-3	9.7E-05	1.0E-01
Dibenz(a,h)anthracene	53-70-3	1.4E-02	7.1E-04
1,2-Dibromo-3-chloropropane	96-12-8	6.3E-03	1.6E-03
1,2-Dibromoethane	106-93-4	2.2E-04	4.5E-02
1,1-Dichloroethane	75-34-3	2.6E-05	3.8E-01
1,2-Dichloroethane	107-06-2	2.6E-05	3.8E-01
1,1-Dichloroethylene	75-35-4	5.0E-05	2.0E-01
1,3-Dichloropropene	542-75-6	3.5E-01	2.9E-05
Dieldrin	60-57-1	4.6E-03	2.2E-03
Diethylstilbestrol	56-53-1	1.4E-01	7.1E-05
Dimethylnitrosamine	62-75-9	1.4E-02	7.1E-04
2,4-Dinitrotoluene	121-14-2	8.8E-05	1.1E-01
1,2-Diphenylhydrazine	122-66-7	2.2E-04	4.5E-02
1,4-Dioxane	123-91-1	1.4E-06	7.1E+00
Epichlorohydrin	106-89-8	1.2E-06	8.3E+00
Ethylene Oxide	75-21-8	1.0E-04	1.0E-01
Ethylene Dibromide	106-93-4	2.2E-04	4.5E-02
Formaldehyde	50-00-0	1.3E-05	7.7E-01
Heptachlor	76-44-8	1.3E-03	7.7E-03
Heptachlor Epoxide	1024-57-3	2.6E-03	3.8E-03
Hexachlorobenzene	118-74-1	4.9E-04	2.0E-02
Hexachlorobutadiene	87-68-3	2.0E-05	5.0E-01
Alpha-hexachlorocyclo-hexane	319-84-6	1.8E-03	5.6E-03
Beta-hexachlorocyclohexane	319-85-7	5.3E-04	1.9E-02
Gamma-hexachlorocyclo-hexane	58-89-9	3.8E-04	2.6E-02
Hexachlorocyclohexane, Technical		5.1E-04	2.0E-02
Hexachlorodibenzo-p-dioxin(1,2 Mixture)		1.3E+0	7.7E-06
Hexachloroethane	67-72-1	4.0E-06	2.5E+00

Hydrazine	302-01-2	2.9E-03	3.4E-03
Hydrazine Sulfate	302-01-2	2.9E-03	3.4E-03
3-Methylcholanthrene	56-49-5	2.7E-03	3.7E-03
Methyl Hydrazine	60-34-4	3.1E-04	3.2E-02
Methylene Chloride	75-09-2	4.1E-06	2.4E+00
4,4'-Methylene-bis-2-chloroaniline	101-14-4	4.7E-05	2.1E-01
Nickel	7440-02-0	2.4E-04	4.2E-02
Nickel Refinery Dust	7440-02-0	2.4E-04	4.2E-02
Nickel Subsulfide	12035-72-2	4.8E-04	2.1E-02
2-Nitropropane	79-46-9	2.7E-02	3.7E-04
N-Nitroso-n-butylamine	924-16-3	1.6E-03	6.3E-03
N-Nitroso-n-methylurea	684-93-5	8.6E-02	1.2E-04
N-Nitrosodiethylamine	55-18-5	4.3E-02	2.3E-04
N-Nitrosopyrrolidine	930-55-2	6.1E-04	1.6E-02
Pentachloronitrobenzene	82-68-8	7.3E-05	1.4E-01
PCBs	1336-36-3	1.2E-03	8.3E-03
Pronamide	23950-58-5	4.6E-06	2.2E+00
Reserpine	50-55-5	3.0E-03	3.3E-03
2,3,7,8-Tetrachloro-dibenzo-p-dioxin	1746-01-6	4.5E+01	2.2E-07
1,1,2,2-Tetrachloroethane	79-34-5	5.8E-05	1.7E-01
Tetrachloroethylene	127-18-4	4.8E-07	2.1E+01
Thiourea	62-56-6	5.5E-04	1.8E-02
1,1,2-Trichloroethane	79-00-5	1.6E-05	6.3E-01
Trichloroethylene	79-01-6	1.3E-06	7.7E+00
2,4,6-Trichlorophenol	88-06-2	5.7E-06	1.8E+00
Toxaphene	8001-35-2	3.2E-04	3.1E-02
Vinyl Chloride	75-01-4	7.1E-06	1.4E+00

Appendix VI-Stack Plume Rise [40 CFR 266 APPENDIX VI]

[Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

Flow rate (m^3/s)	Exhaust Temperature (K°)										
	<325	325-349	350-399	400-449	450-499	500-599	600-699	700-799	800-999	1000-1499	>1499
<0.5	0	0	0	0	0	0	0	0	0	0	0
0.5-0.9	0	0	0	0	0	0	0	0	1	1	1
1.0-1.9	0	0	0	0	1	1	2	3	3	3	4
2.0-2.9	0	0	1	3	4	4	6	6	7	8	9
3.0-3.9	0	1	2	5	6	7	9	10	11	12	13
4.0-4.9	1	2	4	6	8	10	12	13	14	15	17
5.0-7.4	2	3	5	8	10	12	14	16	17	19	21
7.5-9.9	3	5	8	12	15	17	20	22	22	23	24
10.0-12.4	4	6	10	15	19	21	23	24	25	26	27
12.5-14.9	4	7	12	18	22	23	25	26	27	28	29
15.0-19.9	5	8	13	20	23	24	26	27	28	29	31
20.0-24.9	6	10	17	23	25	27	29	30	31	32	34
25.0-29.9	7	12	20	25	27	29	31	32	33	35	36
30.0-34.9	8	14	22	26	29	31	33	35	36	37	39
35.0-39.9	9	16	23	28	30	32	35	36	37	39	41
40.0-49.9	10	17	24	29	32	34	36	38	39	41	42
50.0-59.9	12	21	26	31	34	36	39	41	42	44	46
60.0-69.9	14	22	27	33	36	39	42	43	45	47	49
70.0-79.9	16	23	29	35	38	41	44	46	47	49	51
80.0-89.9	17	25	30	36	40	42	46	48	49	51	54
90.0-99.9	19	26	31	38	42	44	48	50	51	53	56
100.0-119.9	21	26	32	39	43	46	49	52	53	55	58
120.0-139.9	22	28	35	42	46	49	52	55	56	59	61
140.0-159.9	23	30	36	44	48	51	55	58	59	62	65
160.0	25	31	38	46	50	54	58	60	62	65	67

179.9											
180.0 - 199.9	26	32	40	48	52	56	60	63	65	67	70
>199.9	26	33	41	49	54	58	62	65	67	69	73

Appendix VII-Health-Based Limits for Exclusion of Waste-derived Residues* [40 CFR 266 APPENDIX VII]

Metals-TCLP Extract Concentration Limits

Constituent	CAS No.	Concentration Limits (mg/L)
Antimony	7440-36-0	1xE+00
Arsenic	7440-38-2	5xE+00
Barium	7440-39-3	1xE+02
Beryllium	7440-41-7	7xE-03
Cadmium	7440-43-9	1xE+00
Chromium	7440-47-3	5xE+00
Lead	7439-92-1	5xE+00
Mercury	7439-97-6	2xE-01
Nickel	7440-02-0	7xE+01
Selenium	7782-49-2	1xE+00
Silver	7440-22-4	5xE+00
Thallium	7440-28-0	7xE+00

Nonmetals-Residue Concentration Limits

Constituent	CAS No.	Concentration Limits for Residues (mg/kg)
Acetonitrile	75-05-8	2xE-01
Acetophenone	98-86-2	4xE+00
Acrolein	107-02-8	5xE-01
Acrylamide	79-06-1	2xE-04
Acrylonitrile	107-13-1	7xE-04
Aldrin	309-00-2	2xE-05
Allyl alcohol	107-18-6	2xE-01
Aluminum phosphide	20859-73-8	1xE-02
Aniline	62-53-3	6xE-02
Barium cyanide	542-62-1	1xE+00
Benz(a)anthracene	56-55-3	1xE-04
Benzene	71-43-2	5xE-03
Benzidine	92-87-5	1xE-06
Bis(2-chloroethyl) ether	111-44-4	3xE-04
Bis(chloromethyl) ether	542-88-1	2xE-06
Bis(2-ethylhexyl) phthalate	117-81-7	3xE+01
Bromoform	75-25-2	7xE-01
Calcium cyanide	592-01-8	1xE-06
Carbon disulfide	75-15-0	4xE+00
Carbon tetrachloride	56-23-5	5xE-03
Chlordane	57-74-9	3xE-04
Chlorobenzene	108-90-7	1xE+00
Chloroform	67-66-3	6xE-02
Copper cyanide	544-92-3	2xE-01
Cresols (Cresylic acid)	1319-77-3	2xE+00
Cyanogen	460-19-5	1xE+00
DDT	50-29-3	1xE-03
Dibenz(a, h)-anthracene	53-70-3	7xE-06
1,2-Dibromo-3-chloropropane	96-12-8	2xE-05
p-Dichlorobenzene	106-46-7	7.5xE-02

Dichlorodifluoromethane	75-71-8	7xE+00
1,1-Dichloroethylene	75-35-4	5xE-03
2,4-Dichlorophenol	120-83-2	1xE-01
1,3-Dichloropropene	542-75-6	1xE-03
Dieldrin	60-57-1	2xE-05
Diethyl phthalate	84-66-2	3xE+01
Diethylstilbesterol	56-53-1	7xE-07
Dimethoate	60-51-5	3xE-02
2,4-Dinitrotoluene	121-14-2	5xE-04
Diphenylamine	122-39-4	9xE-01
1,2-Diphenylhydrazine	122-66-7	5xE-04
Endosulfan	115-29-7	2xE-03
Endrin	72-20-8	2xE-04
Epichlorohydrin	106-89-8	4xE-02
Ethylene dibromide	106-93-4	4xE-07
Ethylene oxide	75-21-8	3xE-04
Fluorine	7782-41-4	4xE+00
Formic acid	64-18-6	7xE+01
Heptachlor	76-44-8	8xE-05
Heptachlor epoxide	1024-57-3	4xE-05
Hexachlorobenzene	118-74-1	2xE-04
Hexachlorobutadiene	87-68-3	5xE-03
Hexachlorocyclopentadiene	77-47-4	2xE-01
Hexachlorodibenzo-p-dioxins	19408-74-3	6xE-08
Hexachloroethane	67-72-1	3xE-02
Hydrazine	302-01-1	1xE-04
Hydrogen cyanide	74-90-8	7xE-05
Hydrogen sulfide	7783-06-4	1xE-06
Isobutyl alcohol	78-83-1	1xE+01
Methomyl	16752-77-5	1xE+00
Methoxychlor	72-43-5	1xE-01
3-Methylcholanthrene	56-49-5	4xE-05
4,4'-Methylenebis (2-chloroaniline)	101-14-4	2xE-03
Methylene chloride	75-09-2	5xE-02
Methyl ethyl ketone (MEK)	78-93-3	2xE+00
Methyl hydrazine	60-34-4	3xE-04
Methyl parathion	298-00-0	2xE-02
Naphthalene	91-20-3	1xE+01
Nickel cyanide	557-19-7	7xE-01
Nitric oxide	10102-43-9	4xE+00
Nitrobenzene	98-95-3	2xE-02
N-Nitrosodi-n-butylamine	924-16-3	6xE-05
N-Nitrosodiethylamine	55-18-5	2xE-06
N-Nitroso-N-methylurea	684-93-5	1xE-07
N-Nitrosopyrrolidine	930-55-2	2xE-04
Pentachlorobenzene	608-93-5	3xE-02
Pentachloronitrobenzene (PCNB)	82-68-8	1xE-01
Pentachlorophenol	87-86-5	1xE+00
Phenol	108-95-2	1xE+00
Phenylmercury acetate	62-38-4	3xE-03
Phosphine	7803-51-2	1xE-02
Polychlorinated biphenyls, N.O.S	1336-36-3	5xE-05
Potassium cyanide	151-50-8	2xE+00
Potassium silver cyanide	506-61-6	7xE+00
Pronamide	23950-58-5	3xE+00
Pyridine	110-86-1	4xE-02
Reserpine	50-55-5	3xE-05
Selenourea	630-10-4	2xE-01
Silver cyanide	506-64-9	4xE+00

Sodium cyanide	143-33-9	1xE+00
Strychnine	57-24-9	1xE-02
1,2,4,5-Tetrachlorobenzene	95-94-3	1xE-02
1,1,2,2-tetrachloroethane	79-34-5	2xE-03
Tetrachloroethylene	127-18-4	7xE-01
2,3,4,6-Tetrachlorophenol	58-90-2	1xE-02
Tetraethyl lead	78-00-2	4xE-06
Thiourea	62-56-6	2xE-04
Toluene	108-88-3	1xE+01
Toxaphene	8001-35-2	5xE-03
1,1,2-Trichloroethane	79-00-5	6xE-03
Trichloroethylene	79-01-6	5xE-03
Trichloromonofluoromethane	75-69-4	1xE+01
2,4,5-Trichlorophenol	95-95-4	4xE+00
2,4,6-Trichlorophenol	88-06-2	4xE+00
Vanadium pentoxide	1314-62-1	7xE-01
Vinyl chloride	75-01-4	2xE-03

*Note 1: The health-based concentration limits for Appendix VIII of Rule ~~1200-01-11-.02~~ 0400-12-01-.02(5) constituents for which a health-based concentration is not provided below is 2xE-06 mg/kg.

Note 2: The levels specified in this appendix and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in Note 1 of this appendix are administratively stayed under the condition, for those constituents specified in subpart (8)(m)2(i) of this rule, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in Rule ~~1200-01-11-.10~~ 0400-12-01-.10(3)(d) for F039 nonwastewaters. See item (8)(m)2(ii)(I) of this rule.

Appendix VIII-Organic Compounds For Which Residues Must Be Analyzed [40 CFR 266 APPENDIX VIII]

Volatiles	Semivolatiles
Benzene	Bis(2-ethylhexyl)phthalate
Toluene	Naphthalene
Carbon tetrachloride	Phenol
Chloroform	Diethyl phthalate
Methylene chloride	Butyl benzyl phthalate
Trichloroethylene	2,4-Dimethylphenol
Tetrachloroethylene	o-Dichlorobenzene
1,1,1-Trichloroethane	m-Dichlorobenzene
Chlorobenzene	p-Dichlorobenzene
cis-1,4-Dichloro-2-butene	Hexachlorobenzene
Bromochloromethane	2,4,6-Trichlorophenol
Bromodichloromethane	Fluoranthene
Bromoform	o-Nitrophenol
Bromomethane	1,2,4-Trichlorobenzene
Methylene bromide	o-Chlorophenol
Methyl ethyl ketone	Pentachlorophenol
	Pyrene
	Dimethyl phthalate
	Mononitrobenzene
	2,6-Toluene diisocyanate
	Polychlorinated dibenzo-p-dioxins[1]
	Polychlorinated dibenzo-furans[1]

[1] Analyses for polychlorinated dibenso-p-dioxins and polychlorinated dibenzo-furans are required only for residues collected from areas downstream of the combustion chamber (e.g., ductwork, boiler tubes, heat exchange surfaces, air pollution control devices, etc.).

NOTE TO THE TABLE: Analysis is not required for those compounds that do not have an established F039 nonwastewater concentration limit.

Appendix IX - Methods Manual for Compliance With the BIF Regulations

The Methods Manual for Compliance with the BIF Regulations presents required methods for demonstrating compliance with Tennessee's Hazardous Waste Regulations for boilers and industrial furnaces (BIFs) burning hazardous waste.

(Note: A copy of this Methods Manual may be obtained by contacting the Division Director at the following address:

Division Director
Division of Solid Waste Management
Tennessee Department of Environment
and Conservation
L & C Tower, 5th Floor
401 Church Street
Nashville, Tennessee 37243-1535

or calling 615-532-0780. The Methods Manual may also be found at 40 CFR 266 Appendix IX.)

Appendix X - (RESERVED)

Appendix XI - Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters [40 CFR 266 APPENDIX XI]

A. Exempt Lead-Bearing Materials When Generated or Originally Produced By Lead-Associated Industries:
Acid dump/fill solids
Sump mud
Materials from laboratory analyses
Acid filters
Baghouse bags
Clothing (e.g., coveralls, aprons, shoes, hats, gloves)
Sweepings
Air filter bags and cartridges
Respiratory cartridge filters
Shop abrasives
Stacking boards
Waste shipping containers (e.g., cartons, bags, drums, cardboard)
Paper hand towels
Wiping rags and sponges
Contaminated pallets
Water treatment sludges, filter cakes, residues, and solids
Emission control dusts, sludges, filter cakes, residues, and solids from lead-associated industries (e.g., K069 and D008 wastes)
Spent grids, posts, and separators
Spent batteries
Lead oxide and lead oxide residues
Lead plates and groups
Spent battery cases, covers, and vents
Pasting belts
Water filter media
Cheesecloth from pasting rollers
Pasting additive bags
Asphalt paving materials

B. Exempt Lead-Bearing Materials When Generated or Originally Produced By Any Industry

Charging jumpers and clips
Platen abrasive

Fluff from lead wire and cable casings
Lead-based pigments and compounding pigment dust

Appendix XII -Nickel or Chromium-bearing Material That May Be Processed in Exempt Nickel-chromium Recovery Furnaces [40 CFR 266 APPENDIX XII]

A. Exempt Nickel or Chromium-Bearing Materials when Generated by Manufacturers or Users of Nickel, Chromium, or Iron

Baghouse bags
Raney nickel catalyst
Floor sweepings
Air filters
Electroplating bath filters
Wastewater filter media
Wood pallets
Disposable clothing (coveralls, aprons, hats, and gloves)
Laboratory samples and spent chemicals
Shipping containers and plastic liners from containers or vehicles used to transport nickel or chromium-containing wastes
Respirator cartridge filters
Paper hand towels

B. Exempt Nickel or Chromium-Bearing Materials when Generated by Any Industry

Electroplating wastewater treatment sludges (F006)
Nickel and/or chromium-coating solutions
Nickel, chromium, and iron catalysts
Nickel-cadmium and nickel-iron batteries
Filter cake from wet scrubber system water treatment plants in the specialty steel industry
Filter cake from nickel-chromium alloy pickling operations

Appendix XIII -Mercury Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units [40 CFR 266 APPENDIX XIII]

These are exempt mercury-bearing materials with less than 500 ppm of Rule ~~1200-01-11-.02~~ 0400-12-01-.02(5), Appendix VIII organic constituents when generated by manufacturers or users of mercury or mercury products.

1. Activated carbon
2. Decomposer graphite
3. Wood
4. Paper
5. Protective clothing
6. Sweepings
7. Respiratory cartridge filters
8. Cleanup articles
9. Plastic bags and other contaminated containers
10. Laboratory and process control samples
11. K106 and other wastewater treatment plant sludge and filter cake
12. Mercury cell sump and tank sludge
13. Mercury cell process solids
14. Recoverable levels of mercury contained in soil

Authority: T.C.A. §§ 68-212-101 et seq., and 4-5-201 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Dr. Warren Anderson	X				
Michael Atchison	X				
Elaine Boyd	X				
Melissa Bryant				X	
Dr. Jack Deibert	X				
Kenneth Donaldson	X				
Dr. George Hyfantis, Jr.	X				
Jared L. Lynn	X				
Mayor Franklin Smith, III	X				
Mark Williams				X	
Glenn Youngblood	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Solid Waste Disposal Control Board on 10/04/2011, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/07/11

Rulemaking Hearing(s) Conducted on: (add more dates). 08/05/11

Date: October 4, 2011

Signature: _____

Name of Officer: Kenneth Donaldson

Title of Officer: Chairman

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

_____
Robert E. Cooper, Jr.
Attorney General and Reporter

_____
Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

_____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment: On May 14, 2009, EPA published in the Federal Register a notice that the National Environmental Performance Track Program was terminated. All regulations referring to EPA's Performance Track Program should be terminated and it is recommended that following regulations be appropriately amended, deleted, or deleted and its place reserved since they are now obsolete:

Rule 0400-12-01-.07: Subpart (9)(c)5(xii) should be deleted and reserved; and part (10)(o)1 should be deleted and reserved.

Response: The Department checked with EPA Region IV and was directed to delete all references to the National Performance Track Program from Tennessee's regulations since that program has been terminated by the EPA. Therefore, the Department agrees with the commenter and all requested changes (deletions) have been made.

Regulatory Flexibility Addendum
Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

This rulemaking includes the adoption of the January 8, 2010 federal revisions incorporating recent changes to the agreements concerning transboundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development (OECD) and the federal technical corrections published by EPA on March 18, 2010, June 4, 2010 and December 20, 2010. The vast majority of the changes to these regulations substantially codify federal regulations. On May 14, 2009, EPA published in the Federal Register a notice that the National Environmental Performance Track Program was terminated, and as result, all references to this program have been eliminated from these rules. The remaining changes are those necessary to change the regulatory Chapter designation from "1200-01-11" to "0400-12-01", correcting typos, delete obsolete language, and to make general housekeeping changes. Therefore, these questions regarding the impact on small businesses will address the impact of the non-federal changes.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

This rulemaking changes the rule numbers from Chapter 1200-01-11 to 0400-12-01. It also makes housekeeping changes correcting editorial errors. Therefore, there is no impact on small business.

(2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There are no projected additional reporting, recordkeeping or administrative costs as a result of this rulemaking.

(3) A statement of the probable effect on impacted small businesses and consumers.

There is no adverse affect on small businesses as a result of this rulemaking.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The Department is unaware of alternatives to the proposed rules.

(5) A comparison of the proposed rule with any federal or state counterparts.

There is no exact match with any federal or state counterparts.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Due to the administrative nature of this rulemaking, small businesses could not be exempt from this rulemaking.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule to proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The Department does not anticipate that this rulemaking will have an impact on local government.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rulemaking includes the adoption of the January 8, 2010 federal revisions incorporating recent changes to the agreements concerning transboundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development (OECD) and the federal technical corrections published by EPA on March 18, 2010, June 4, 2010 and December 20, 2010. The vast majority of the changes to these regulations substantially codify federal regulations. On May 14, 2009, EPA published in the Federal Register a notice that the National Environmental Performance Track Program was terminated, and as result, all references to this program have been eliminated from these rules. The remaining changes reflect a reorganization of all TDEC rules in order to be more logical and user friendly. The regulatory Chapter designation is being changed from "1200-01-11" to "0400-12-01", along with correcting typos, delete obsolete language, and to make general housekeeping changes.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

These rules are promulgated under the authorities of T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All entities regulated under T.C.A. §§ 68-212-101 et seq. are affected by this rule. None of these affected entities commented on this rule change.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Board is not aware of any related Attorney General Actions or judicial ruling directly relating to the rule.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

The Department is not aware of any increase of decrease of revenues resulting from this rulemaking.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

David Moran
Division of Solid Waste Management
5th Floor, L & C Tower, 401 Church Street
Nashville, TN 37243
Phone: (615) 532-0875

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Alan M. Leiserson
Legal Services Director, Office of General Counsel
Tennessee Department of Environment and Conservation

20th Floor, L & C Tower
Nashville, TN 37243-1548

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Legal Services Director, Office of General Counsel
Tennessee Department of Environment and Conservation
20th Floor, L & C Tower
Nashville, TN 37243-1548
Alan.Leiserson@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Board is not aware of any additional information requested by the committee.