RULE 1200-1-11-.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 1200-1-11-.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 1200-1-11-.02. The terms "treatment", "storage", "disposal" and “hazardous waste” are defined in Rule 1200-1-11-.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, l982, or that certified closure (according to Rule 1200-1-11-.05(7)(f)) after January 26, l983, 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 1200-1-11-.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 1200-4-6 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 1200-1-11-.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 1200-1-11-.02(1)(d) and (e) (exclusions or small generator exemption);

(iii) Owners or operators of totally enclosed treatment facilities as defined in Rule 1200-1-11-.01(2)(a);

(iv) Owners or operators of one of the following units, as defined in Rule 1200-1-11-.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 1200-1-11-.07(7).

(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 1200-1-11-.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 1200-1-11-.06(2)(h)2 and Rule 1200-1-11-.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 1200-1-11-.02(1)(f) and Rule 1200-1-11-.09;

(viii) Farmers who dispose of hazardous waste pesticides from their own use as provided in Rule 1200-1-11-.02(1)(d)2(ii)(II);

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(ix) Universal waste handlers and universal waste transporters (as defined in Rule 1200-1-11-.01(2)(a)) managing the wastes listed in Rule 1200-1-11-.12(1)(a). These handlers are subject to regulation under Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06 removal standards were met. If the Commissioner believes that Rule 1200-1-11-.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 1200-1-11-.06 closure standards.

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(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 1200-1-11-.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 1200-1-11-.07(7)(e) 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 1200-1-11-.05 closure to a Rule 1200-1-11-.06 closure. The Commissioner will give public notice, published by the owner or operator, as provided for in Rule 1200-1-11-.07(7)(e) 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 1200-1-11-.05 closure met Rule 1200-1-11-.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 1200-1-11-.06 standards, he/she will provide the owner/operator with a written statement of the reasons why the closure failed to meet Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.08(1)(d), no permit or other authorization shall be issued or renewed by the Division of Solid Waste Management pursuant to Rule Chapter 1200-1-11 or 1200-1-14 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]

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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 1200-1-11-.06(5)(b) (Use of Manifest System);

II. Rule 1200-1-11-.06(5)(c) (Manifest Discrepancies);

III. Rule 1200-1-11-.06(5)(d)1 and 2(i) (Operating Record);

IV. Rule 1200-1-11-.06(5)(f) (Annual Report); and

V. Rule 1200-1-11-.06(5)(g) (Unmanifested Waste Report);

VI. Rule 1200-1-11-.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 1200-4-6 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 1200-1-11-.06(5)(b) (Use of Manifest System);

II. Rule 1200-1-11-.06(5)(c) (Manifest Discrepancies);

III. Rule 1200-1-11-.06(5)(d)1 and 2(i) (Operating Record);

IV. Rule 1200-1-11-.06(5)(f) (Annual Report);

V. Rule 1200-1-11-.06(5)(g) (Unmanifested Waste Report);

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VI. Rule 1200-1-11-.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 1200-1-11-.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, l984:

I. Complies with Rule 1200-1-11-.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 1200-1-11-.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 1200-4-1 through 1200-4-5 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 1200-1-11-.06(5)(b) (Use of Manifest System);

II. Rule 1200-1-11-.06(5)(c) (Manifest Discrepancies);

III. Rule 1200-1-11-.06(5)(f) (Annual Report); and

IV. Rule 1200-1-11-.06(5)(g) (Unmanifested Waste Report); and

(IV) Complies with the requirements set out in part (2)(h)2 of Rule 1200-1-11-.06 if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in Rule 1200-1-11-.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 1200-1-11-.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 constitutents 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 1200-1-11-.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 1200-1-11-.12, including, but not limited to, the provisions of paragraph (8).

Note: A small or large quantity handler who crushes his own lamps on site may operate without a Permit-by-Rule pursuant to Rule 1200-1-11-.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.

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(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 wastes hazardous characteristics (Rules 1200-1-11-.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

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(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 1200-1-11-.07(7)(e) 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 1200-1-11-.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 CR 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 1200-1-11-.06 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. 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.

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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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(15)(d) based on his engineering judgment.

2. For the purposes of determining feasibility of compliance with the performance standards of Rule 1200-1-11-.06(15)(d) and of determining adequate operating conditions under Rule 1200-1-11-.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 (e)2(ii) of this Rule 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 1200-1-11-.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 1200-1-11-.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.

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(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.

(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.

(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.

(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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(15)(f); and

(IV) The information sought in items (e)2(v)(I) and (II) of this Rule 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

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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 1200-1-11-.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 1200-1-11-.06(15)(d)2.

(VI) A computation of particulate emissions, in accordance with Rule 1200-1-11-.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 1200-1-11-.06(15)(d) and to establish the operating conditions required by Rule 1200-1-11-.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. 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.

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(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 1200-1-11-.06(15)(f). The permit modification shall proceed according to part (9)(c)5 of this Rule.

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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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(15)(d) based on his engineering judgment.

4. For the purpose of determining feasibility of compliance with the performance standards of Rule 1200-1-11-.06(15)(d) and of determining adequate operating conditions under Rule 1200-1-11-.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)-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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(13)(c), he will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in

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compliance with Rule 1200-1-11-.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.

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(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 1200-1-11-.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, 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, 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 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 1200-1-11-.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.

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(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 do not apply. The requirements of this part do apply, however, if the Commissioner determines certain provisions are necessary to ensure compliance with subpart 5(i) and item 5(ii)(III) of this subparagraph 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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.09(8)(e) through (h) during this period. This statement should include, at a minimum, restrictions on the applicable operating requirements identified in Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.09(8)(e) through (h) and determining adequate operating conditions under Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.09(8)(e) through (h). This statement should include, at a minimum, restrictions on the operating requirements provided by Rule 1200-1-11-.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 1200-1-11-.09(8)(e) through (h) based on his/her engineering judgment.

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(iv) Final Permit Period

For the final period of operation, the Commissioner will develop operating requirements in conformance with Rules 1200-1-11-.09(8)(c)5 that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of Rules 1200-1-11-.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.

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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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.09(8)(e) through (h);

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

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(III) The trial burn will help the Commissioner to determine operating requirements to be specified under Rule 1200-1-11-.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 1200-1-11-.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

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hazardous waste analysis, their concentrations or mass in the hazardous waste feed, and, for hazardous waste containing or derived from wastes listed in Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.09(8)(e);

(iii) When a trial burn for chlorinated dioxins and furans is required under Rule 1200-1-11-.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 1200-1-11-.09(8)(f), .09(8)(g)3 or 4 or .09(8)(h)2(ii) or 3, 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 1200-1-11-.09(8)(e)1, .09(8)(g)3 or 4 or .09(8)(h)2(ii) or 3, 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 1200-1-11-.09(8)(e) through .09(8)(h) and to establish the operating conditions required by Rule 1200-1-11-.09(8)(c)5 as necessary to meet those performance standards.

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7. Interim Status Boilers and Industrial Furnaces

For the purpose of determining feasibility of compliance with the performance standards of Rules 1200-1-11-.09(8)(e) through .09(8)(h) and of determining adequate operating conditions under Rule 1200-1-11-.09(8)(d), applicants owning or operating existing boilers or industrial furnaces operated under the interim status standards of Rule 1200-1-11-.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 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.

(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.

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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 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) 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, upon information 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 1200-1-11-.05 or 1200-1-11-.09; or

(ii) Thirty days after the date they first became subject to the standards set forth in Rules 1200-1-11-.05 or 1200-1-11-.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.

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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 1200-1-11-.01, 1200-1-11-.02, or 1200-1-11-.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 1200-1-11-.07(2)(c)3(i) 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 1200-1-11-.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.

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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.

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(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 1200-1-11-.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 1200-1-11-.07(2)(c)3(i) 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); 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

1. If the Commissioner concludes, based on one or more of the factors listed in subpart 1(i) of this subparagraph 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 heath 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 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);

(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;

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(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 1200-1-11-.03(2) pertaining to notification of hazardous waste activity.

(Comment: Some existing facilities may not be required to file a notification under Rule 1200-1-11-.03(2). These facilities may qualify for interim status by meeting subpart 1(ii) of this subparagraph.)

(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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.05(8), the Commissioner shall notify the old owner or operator in writing that he no longer needs to comply with Rule 1200-1-11-.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.

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(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.

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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 1200-1-11-.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 inpoundments 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 1200-1-11-.10 or federal RCRA section 3004, provided that such changes are made solely for the purpose of complying with Rule 1200-1-11-.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 1200-1-11-.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

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(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;

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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 1200-1-11-.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 information requirements presented in this paragraph reflect the standards promulgated in Rule 1200-1-11-.06. These information requirements are deemed necessary in order for the Department to determine compliance with those standards. If owners and operators of hazardous waste management facilities can demonstrate to the satisfaction of the Commissioner that any information prescribed in this paragraph can not be provided to the extent required or is unnecessary, inapplicable, or otherwise irrelevant to his facility, the Commissioner may make allowance for submission of such information on a case-by-case basis. Information required in this paragraph shall be submitted to the Commissioner and signed in accordance with parts (2)(a)7 through 10 of this Rule. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a qualified Professional Engineer. For post-closure permits, only the information specified in part (b)14 of this paragraph is required in Part B of the permit application. Part B of the permit application includes the following:

(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 1200-1-11-.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 1200-1-11-.06.

(iii) A copy of the waste analysis plan required by Rule 1200-1-11-.06(2)(d)2 and, if applicable Rule 1200-1-11-.06(2)(d)3.

(iv) A description of the security procedures and equipment required by Rule 1200-1-11-.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 1200-1-11-.06(2)(f)2. Include, where applicable, as part of the inspection schedule, specific requirements in Rules 1200-1-11-.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 1200-1-11-.06(3).

(vii) A copy of the contingency plan required by Rule 1200-1-11-.06(4). Note: Include, where applicable, as part of the contingency plan, specific requirements in Rules 1200-1-11-.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 1200-1-11-.06(2)(h) including documentation demonstrating compliance with Rule 1200-1-11-.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 1200-1-11-.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.

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(Comment: If the county or election district is not listed in Appendix VI of Rule 1200-1-11-.06, no further information is required to demonstrate compliance with Rule 1200-1-11-.06(2)(i)1.)

(II) If the facility is proposed to be located in an area listed in Appendix VI of Rule 1200-1-11-.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 with 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.)

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(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.

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(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, 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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(2)(g). A brief description of how training will be designed to meet actual job tasks in accordance with requirements in Rule 1200-1-11-.06(2)(g)1(iii).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by Rule 1200-1-11-.06(7)(c), (7)(i) and (10)(h). Include, where applicable, as part of the plans, specific requirements in Rules 1200-1-11-.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 1200-1-11-.07(7)(j) have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with Rule 1200-1-11-.06(8)(c) and a copy of the documentation required to demonstrate financial assurance under Rule 1200-1-11-.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 1200-1-11-.06(8)(e) plus a copy of the documentation required to demonstrate financial assurance under Rule 1200-1-11-.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 1200-1-11-.06(8)(k). For a new facility, documentation showing the amount of insurance meeting the specification of Rule 1200-1-11-.06(8)(k)1 and, if applicable, 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 1200-1-11-.06(8)(k)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:

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(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 1200-1-11-.10(1)(e) or a petition has been approved under Rule 1200-1-11-.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).

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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(9)(g) (location of buffer zone and containers holding ignitable or reactive wastes) and Rule 1200-1-11-.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 1200-1-11-.06(9)(h)1 and 2, and Rules 1200-1-11-.06(2)(h)2 and 3; and

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

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

Except as otherwise provided in Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(10)(d)1, 2, 3, 4, 5, and 6;

(viii) For tank systems for which a variance from the requirements of Rule 1200-1-11-.06(10)(d) is sought (as provided by Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(2)(j);

(V) Proposed action leakage rate, with rationale, if required under Rule 1200-1-11-.06(2)(c), and response action plan, if required under Rule 1200-1-11-.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 1200-1-11-.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;

(iv) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under Rule 1200-1-11-.06(11)(g)3. For new units, the owner or operator must submit a statement by a qualified engineer that he will

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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 1200-1-11-.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;

(vi) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under Rule 1200-1-11-.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 1200-1-11-.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;

(vii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(11)(l). This submission must address the following items as specified in Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(2)(b) and Rule 1200-1-11-.06(6) as provided by Rule 1200-1-11-.06(12)(a)3 or Rule 1200-1-11-.06(6)(a)2(ii), an explanation of how the standards of Rule 1200-1-11-.06(12)(a)3 will be complied with or detailed plans and an engineering report describing how the requirements of Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(12)(b)1. If an exemption from the requirement for a liner is sought as provided by Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(2)(j); and

V. Proposed action leakage rate, with rationale, if required under Rule 1200-1-11-.06(12)(c), and response action plan, if required under Rule 1200-1-11-.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

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to meet the requirements of Rule 1200-1-11-.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;

(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 1200-1-11-.06(12)(g) will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials will be place in a waste pile, an explanation of how Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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; 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 1200-1-11-.06(12)(a)3) is or will be designed, constructed, operated, and maintained to meet the requirements of Rule 1200-1-11-.06(12)(j). This submission must address the following items as specified in Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.02(4), because it is ignitable (Hazard Code I) or corrosive (Hazard Code C) or both; or

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(II) Documentation that the waste is listed as a hazardous waste in Rule 1200-1-11-.02(4), solely because it is reactive (Hazard Code R) for characteristics other than those listed in Rule 1200-1-11-.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 1200-1-11-.02(3); or

(IV) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in Rule 1200-1-11-.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 1200-1-11-.02, Appendix VIII, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Rule 1200-1-11-.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 1200-1-11-.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.

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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. 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 1200-1-11-.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 1200-1-11-.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, 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 1200-1-11-.06(15)(f)) operating conditions that will ensure that the performance standards in Rule 1200-1-11-.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 limitation 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 1200-1-11-.06 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. 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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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;

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VII. The justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for such selection in Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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;

(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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(13)(k)1(viii) and Rule 1200-1-11-.06(13)(k)3(ii). This information should be included in the closure plan and,

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where applicable, the post-closure care plan submitted under subpart (5)(a)1(xiii) of this Rule;

(vii) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of Rule 1200-11-.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 1200-1-11-.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 1200-1-11-.06(13)(n). This submission must address the following items as specified in Rule 1200-1-11-.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 attentuative 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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(14)(b)1. If an exemption from the requirement for a liner is sought as provided by Rule 1200-1-11-.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;

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II. The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(2)(j);

V. Proposed action leakage rate, with rationale, if required under Rule 1200-1-11-.06(14)(c), and response action plan, if required under Rule 1200-1-11-.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 1200-1-11-.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;

(iv) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of Rule 1200-1-11-.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;

(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 1200-1-11-.06(14)(k)1, and a description of how each landfill will be maintained and monitored after closure in accordance with Rule 1200-1-11-.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;

(vi) If ignitable or reactive wastes will be landfilled, an explanation of how the standards of Rule 1200-1-11-.06(14)(m) will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials, will be landfilled, an explanation of how Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(14)(r). This submission must address the following items as specified in Rule 1200-1-11-.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, 2006, 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 63.4540(d) documenting compliance with all applicable requirements of 40 CFR 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 5(i) and item 5 (ii)(III) of this subparagraph 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 the subparagraphs (8)(f), (8)(g), and (8)(h) of Rule 1200-1-11-.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 1200-1-11-.09(8)(e), standards to control particulate matter provided by Rule 1200-1-11-.09(8)(f), standards to control metals emissions provided by Rule 1200-1-11-.09(8)(g), or standards to control hydrogen chloride or chlorine gas emissions provided by Rule 1200-1-11-.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 1200-1-11-.09(8)(e) through (8)(h) and items (i)(II) through (i)(V) of this part; and

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

(II) Waiver of trial burn for DRE

I. Boilers operated under special operating requirements. When seeking to be permitted under Rules 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 using procedures provided by Rule 1200-1-11-.09(8)(j)1(ii)(II).

D. Results of emissions dispersion modeling for emissions identified in section (i)(II)II C of this part using modeling procedures prescribed by Rule 1200-1-11-.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 quantified in conformance with section (i)(II)II D of this part does not exceed the allowable ambient level established in Appendix IV or V of Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.09(8)(g)2(iii) through 2(v);

V. Documentation of compliance with the provisions of Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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.

(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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.09(8)(h)2(iii);

V. Documentation of compliance with the provisions of Rule 1200-1-11-.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 1200-1-11-.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

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The owner or operator may seek an exemption from the trial burn requirements to demonstrate conformance with Rules 1200-1-11-.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 1200-1-11-.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 1200-1-11-.09(8)(c)) operating conditions that will ensure conformance with Rule 1200-1-11-.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 1200-1-11-.09(8)(e)1. This analysis should specify the constituents in Appendix VIII of Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.09(8)(g)6, the owner or operator must submit documentation specifying how the approach ensures compliance with the metals emissions standards of Rule 1200-1-11-.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 1200-1-11-.09(8)(l) directly to the boiler or industrial furnace shall submit information supporting

conformance with the standards for direct transfer provided by Rule 1200-1-11-.09(8)(l).

(vi) Residues

Owners and operators that claim that their residues are excluded from regulation under the provisions of Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(27)(b). If the applicant can demonstrate that he does not violate the environmental performance standards of Rule 1200-1-11-.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 1200-1-11.06(27)(b).

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

Except as otherwise provided in Rule 1200-1-11-.06(1)(b), owners and operators of facilities that have process vents to which Rule 1200-11-.06(30) applies must provide the following additional information:

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(i) For facilities that cannot install a closed-vent system and control device to comply with the provisions of Rule 1200-1-11-.06(30) on the effective date that the facility becomes subject to the provisions of Rule 1200-1-11-.06 or Rule 1200-1-11-.05(27), an implementation schedule as specified in Rule 1200-1-11-.06(30)(d)1(ii).

(ii) Documentation of compliance with the process vent standards in Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(30)(f)2(iii).

(iv) Documentation of compliance with Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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

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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 1200-1-11-.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.

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

Except as otherwise provided in Rule 1200-1-11-.06(1)(b), owners and operators of facilities that have equipment to which Rule 1200-1-11-.06(31) applies must provide the following additional information:

(i) For each piece of equipment to which Rule 1200-1-11-.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 1200-1-11-.06(31) on the effective date that the facility becomes subject to the provisions of Rule 1200-1-11-.06 or Rule 1200-1-11-.05(28), an implementation schedule as specified in Rule 1200-1-11-.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 1200-1-11-.06(30)(f)2(iii).

(iv) Documentation that demonstrates compliance with the equipment standards in Rules 1200-1-11-.06(31)(c) to (31)(j). This documentation shall contain the records required under Rule 1200-1-11-.06(31)(o). The Commissioner may request further documentation before deciding if compliance has been demonstrated.

(v) Documentation to demonstrate compliance with Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(6), as provided by Rule 1200-1-11-.06(6)(a), detailed plans and an engineering report describing how the requirements of Rule 1200-1-11-.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 1200-1-11-.06(26)(d), including the as-built drawings and specifications. This submission must address the following items as specified in Rule 1200-1-11-.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 1200-1-11-.06(26)(d). This information should be included in the inspection plan submitted under subpart (5)(a)1(v) of this Rule;

(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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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.

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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 1200-1-11-.06(1)(b), owners and operators of tanks, surface impoundments, or containers that use air emission controls in accordance with the requirements of Rule 1200-1-11-.06(32) shall provide the following additional information:

(I) Documentation for each floating roof cover installed on a tank subject to Rule 1200-1-11-.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 1200-1-11-.06(32)(e)5(i) or 6(i).

(II) Identification of each container area subject to the requirements of Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(32)(f)3(i).

(V) Documentation for each closed-vent system and control device installed in accordance with the requirements of Rule 1200-1-11-.06(32)(h) that includes design and performance information as specified in subpart 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 1200-1-11-.05(29) cannot comply with Rule 1200-1-11-.06(32) by the date of permit issuance, the schedule of implementation required under Rule 1200-1-11-.05(29)(c).

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

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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.

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(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 1200-1-11-.06(6)(a):

1. A summary of the ground-water monitoring data obtained during the interim status period under Rule 1200-1-11-.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 1200-1-11-.06(6)(f), the proposed location of ground-water monitoring wells as required under Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(6)(i). This submission must address the following items specified under Rule 1200-1-11-.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.

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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 1200-1-11-.06(6)(j). Except as provided in Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(6)(h) and (j);

(iv) Proposed concentration limits for each hazardous constituent, based on the criteria set forth in Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(6)(e), or if ground water monitoring conducted at the time of permit application under Rules 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(6)(j) and part 6 of this subparagraph. To demonstrate compliance with Rule 1200-1-11-.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 1200-1-11-.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.

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(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.

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4. A draft permit shall contain (either expressly or by reference) all applicable terms and conditions from subparagraphs (8)(a)-(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;

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(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 Rule 1200-1-11-.07; or

(V) Interim status closures pursuant to Rule 1200-1-11-.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.

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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), (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

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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).

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(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

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permit, the certification required by Rule 1200-1-11-.06(5)(d)2(ix), and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, 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;

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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 1200-1-11-.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 1200-1-11-.06(5)(g).)

(ix) Annual report

An annual report must be submitted covering facility activities during the previous calendar year. (See Rule 1200-1-11-.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)-(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 1200-1-11-.06, .07, .09 and .10. In satisfying this provision, the Commissioner may incorporate applicable requirements of Rules 1200-1-11-.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 1200-1-11-.06 or Rule 1200-1-11-.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.

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.

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(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 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 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 1200-1-11-.06 and .09. Reporting shall be no less frequent than specified in the above regulations.

(f) (Reserved)

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(g) Effect of a Permit [40 CFR 270.4]

1. 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 1200-1-11-.10 restricting the placement of hazardous wastes in or on the land;

(iii) Are promulgated under Rule 1200-1-11-.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 1200-1-11-.05(27), (28), or (29) limiting air emissions.

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 application has been finally determined by the Commissioner 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

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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)-(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), 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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(8), the Commissioner shall notify the old owner or operator that he or she no longer needs to comply with Rule 1200-1-11-.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.

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(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.

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(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), 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 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 1200-1-11-.06(7)(c)2 or (h)2.

(vi) After the Commissioner receives the notification of expected closure under Rule 1200-1-11-.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 1200-1-11-.06(7)(h)1, continuation of security requirements under Rule 1200-1-11-.06(7)(h)2, or permission to disturb the integrity of the containment system under Rule 1200-1-11-.06(7)(h)3 are unwarranted.

(vii) When the corrective action program specified in the permit under Rule 1200-1-11-.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 1200-1-11-.06(6)(i), when the owner or operator has been conducting a compliance monitoring program under Rule 1200-1-11-.06(6)(j) or a corrective action program under Rule 1200-1-11-.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 1200-1-11-.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.

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(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 1200-1-11-.06(8)(p)4 for a variance to the level of financial responsibility or the Commissioner demonstrates under Rule 1200-1-11-.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.

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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 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)-(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 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 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)-(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;

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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 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 1200-1-11-.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, 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, or a temporary authorization under section (ii)(VI)I D or II D of this part, 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.

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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, 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 1200-1-11-.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 for the following reasons:

I. The modification request is incomplete;

II. The requested modification does not comply with the appropriate requirements of Rule 1200-1-11-.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:

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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 1200-1-11-.07(7)(e)3(i)(II)-(V). 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 1200-1-11-.07(7)(e)3 and (7)(e)4(i).

(iii) Class 3 Modifications

(I) For Class 3 modifications listed in Appendix I 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)-(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;

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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 1200-1-11-.07(7)(e) 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 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 in paragraph (10) of this Rule and the following criteria:

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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 1200-1-11-.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)-(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 1200-1-11-.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 1200-1-11-.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

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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 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.

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(vii) Newly Regulated Wastes and Units

(I) The permittee is authorized to continue to manage wastes listed or identified as hazardous under Rule 1200-1-11-.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 1200-1-11-.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 1200-1-11 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 1200-1-11-.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 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 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 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 (l)10 of Appendix I to Rule 1200-1-11-.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) Performance Track member facilities

The following procedures apply to Performance Track member facilities that request a permit modification under part (o)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 1200-1-11-.06 in order to request a permit modification under this subparagraph.

(II) The Performance Track member facility should consider the application approved if the Commissioner 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 environmental 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.

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(10) APPENDIX [40 CFR 270.42 APPENDIX]

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Appendix I to Rule 1200-1-11-.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).	[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.	[1]1
3. Changes in statistical procedure for determining whether a statistically significant change in ground-water quality between upgradient and downgradient wells has occurred, with prior approval of the Commissioner.	[1]1
4. Changes in point of compliance.	2
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):	

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(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 1200-1-11-.06(6)(i)10 unless otherwise specified in this appendix.	2
7. Compliance monitoring program:	
(i) Addition of compliance monitoring program as required by Rule 1200-1-11-.06(6)(j).	3
(ii) Changes to a compliance monitoring program as specified in this appendix.	2
8. Corrective action program:	
(i) Addition of a corrective action program as required by Rule 1200-1-11-.06(6)(k).	3
(ii) Changes to a corrective action program as required by Rule 1200-1-11-.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.	[1]1
(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.	[1]1
(iii) Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Commissioner.	[1] 1
(iv) Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Commissioner.	[1]1
(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 1200-1-11-.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

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(iii) Waste piles that do not comply with Rule 1200-1-11-.06(12)(a)3.	3
(iv) Waste piles that comply with Rule 1200-1-11-.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.	[1]1
(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).	[1]1
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:	

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(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).	[1]1
(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.	[1]1
(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).	[1]1
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:	

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(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).	[1]1
(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 1200-1-11-.10(1)(e). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1

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(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 1200-1-11-.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 1200-1-11-.06(11)(b)3, (11)(c), (11)(d) and (11)(g)4.	[1]1
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 1200-1-11-.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 1200-1-11-.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

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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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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

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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 1200-1-11-.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]1
16. Changes to allow a second land treatment demonstration to be conducted	[1]1

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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.

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 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. 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 3

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Commissioner will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	
(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.	[1]1
(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.	[1]1
(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.	[1]1
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 1200-1-11-.07(9)(c)5(x) are followed.	[1]1

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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 1200-1-11-.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 1200-1-11-.06(22)(c).	3
2. Approval of a temporary unit or time extension for a temporary unit pursuant to Rule 1200-1-11-.06(22)(d).	2
3. Approval of a staging pile or staging pile operating term extension pursuant to Rule 1200-1-11-.06(22)(e).	2
(o) Burden Reduction	
1. Approval of reduced inspection frequency for Performance Track member facilities for:	
(i) Tanks systems pursuant to Rule 1200-1-11-.06(10)(f).	[1]1
(ii) Containers pursuant to Rule 1200-1-11-.06(9)(e).	[1]1
(iii) Containment buildings pursuant to Rule 1200-1-11-.06(33)(b)3(iv).	[1]1
(iv) Areas subject to spills pursuant to Rule 1200-1-11-.06(2)(f)2(iv).	[1]1
2. Development of one contingency plan based on Integrated Contingency Plan Guidance pursuant to Rule 1200-1-11-.06(4)(c)2.	[1]1

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3. Changes to recordkeeping and reporting requirements pursuant to Rules 1200-1-11-.06(4)(g), (15)(d)1, (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 1200-1-11-.06(10)(f)2.	[1]1
5. Changes to detection and compliance monitoring program pursuant to Rules 1200-1-11-.06(6)(i)4, (i)7(ii) and 7(iii), (j)6 and (j)7.	1

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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 1200-1-11-.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 1200-1-11-.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. (RESERVED) [40 CFR 270.81]

3. (RESERVED) [40 CFR 270.82]

4. (RESERVED) [40 CFR 270.83]

5. (RESERVED) [40 CFR 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]

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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.)

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(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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.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 subpart (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 1200-1-11-.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 1200-1-11-.06, .09, and .10 into the RAP or establish site-specific conditions as required or allowed by Rules 1200-1-11-.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 1200-1-11-.07(7)(e) 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

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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.

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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, 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, 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.

(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) 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.

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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. 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, 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 (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, he may modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in Rules 1200-1-11-.-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)

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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.

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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.)

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(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.)

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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 1200-1-11-.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 1200-1-11-.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 1200-1-11-.06(8) to the Commissioner, the Commissioner will notify you that you no longer need to comply with Rule 1200-1-11-.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

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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 1200-1-11-.06(2)(i)1);

Note: Sites located in political jurisdictions other than those listed in Appendix VI of Rule 1200-1-11-.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 1200-1-11-.06(6)(l); and

(II) Application of Rule 1200-1-11-.06(1)(b)9 in lieu of paragraphs (2), (3) and (4) of Rule 1200-1-11-.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 1200-1-11-.06 and part (8)(a) of Rule 1200-1-11-.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.

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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 1200-1-11-.06 and part (8) (a) 2 of Rule 1200-1-11-.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 1200-1-11-.06 or subpart (i) and item (ii) (III) of part (8) (c) 5 of Rule 1200-1-11-.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

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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 1200-1-11-.06 and part (8) (a) 2 of Rule 1200-1-11-.09.

2. Interim status facilities

(i) Interim status operations

In compliance with subparagraph (15) (a) of Rule 1200-1-11-.05 and part (8) (a) 2 of Rule 1200-1-11-.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 1200-1-11-.05 or 1200-1-11-.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:

(I) RCRA option

Under this option, the owner or operator continues to comply with the interim status emission standards and operating requirements of Rule 1200-1-11-.05 or Rule 1200-1-11-.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

(II) CAA Option

Under this option, the owner or operator is exempt from the interim status standards of Rule 1200-1-11-.05 or Rule 1200-1-11-.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 furnance that is operating under the interim status standards of Rule 1200-1-11-.05 or Rule 1200-1-11-.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.

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