CHAPTER 46 DEPARTMENT ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

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4600 GENERAL INFORMATION

4600.1 This chapter shall establish regulations for the Hazardous Waste Permit Program under the D.C. Hazardous Waste Management Act (HWMA), D.C. Law 2-64, March 16, 1978 (D.C. Code §6-701 *et seq.*).

4600.2 The regulations in this chapter shall cover the basic Department permitting requirements, such as application requirements, permit conditions, and monitoring and reporting requirements. These regulations are part of a regulatory scheme implementing HWMA set forth in different parts of the District of Columbia Regulations.

4600.3 The HWMA permit program has separate additional regulations that contain technical requirements. These separate regulations are used by the Department to determine what requirements shall be placed in permits if they are issued. These separate regulations are located in Chapters 44 and 45.

4600.4 [Reserved]

4600.5 A permit is required for the "treatment," "storage," or "disposal" of any "hazardous waste" as identified or listed in Chapter 41.

4600.6 Owners and operators of hazardous waste management units shall have permits during the active life (including the closure period) of the unit, and, for any unit which closes after the effective date of this chapter, during any post-closure care required under §4406.16 through 4406.20 and during any compliance period specified under §4405.17 through 4405.20, including any extension of the compliance period under §§4405.17 through 4405.25.

4600.7 Owners and operators of certain facilities require HWMA permits, as well as permits under other programs for certain aspects of the facility operations. HWMA permits shall be required for the following:

(a) Treatment, storage, or disposal of hazardous waste at facilities requiring a NPDES permit. However, the owner and operator of a publicly owned treatment work receiving hazardous waste shall be deemed to have a

HWMA permit for that waste if they comply with the requirements of §4605.1(a); and

(b) Barges or vessels that dispose of hazardous waste by ocean disposal and on-shore hazardous waste treatment or storage facilities associated with an ocean disposal operation. However, the owner and operator shall be considered to have a HWMA permit for ocean disposal from the barge or vessel itself if they comply with the requirements of §4605.1(a).

4600.8 The following persons are among those who are not required to obtain a HWMA permit for treatment, storage or disposal:

(a) Generators who accumulate hazardous waste on site for less than ninety (90) days as provided in §§4202.7(a) through (e);

(b) Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulations under this section by §§4100.15 through 4100.18;

(c) Owners or operators of totally enclosed treatment facilities;

(d) Owners and operators of elementary neutralization units or waste water treatment units;

(e) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of §4202.1 at a transfer facility for a period of ten (10) days or less;

(f) Persons adding absorbent material to waste in a container 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 §§4401.31, 4408.4 and 4408.30, are complied with; and

(g) Persons who undertake treatment or containment activities during immediate response to any of the following situations:

(1) A discharge of a hazardous waste;

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

(3) A discharge of a material which, when discharged, becomes a hazardous waste.

4600.9 Any person who continues or initiates hazardous waste treatment or containment activities after immediate response is over is subject to all applicable requirements of this chapter for those activities.

4600.10 The Department may issue or deny a permit for one (1) 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 shall not be affected by the issuance or denial of a permit to any other unit at the facility.

4600.11 Permits shall be issued in a manner and shall contain conditions consistent with requirements of applicable laws. These laws shall include the following:

(a) The Wild and Scenic Rivers Act, 16 U.S.C. 1273 *et seq.*, §7 of the Act prohibits the Director from assisting by license or otherwise the construction of any water resources project that would have a direct, adverse effect on the values for which a national wild and scenic river was established;

(b) The National Historic Preservation Act of 1966, 16 U.S.C. 80 *et seq.*, §106 of the Act and implementing regulations (36 CFR Part 800) require the Director, before issuing a license, to adopt measures when feasible to mitigate potential adverse effects of the licensed activity on properties listed or eligible for listing in the *National Register of Historic Places*. The Act's requirements are to be implemented in cooperation with District of Columbia Historic Preservation Officers and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation;

(c) The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, §7 of the Act and implementing regulations (50 CFR Part 402) require the Director to ensure, in consultation with the Secretary of the Interior or Commerce, that any action authorized by the Department is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat;

(d) The Coastal Zone Management Act, 16 U.S.C. 161 *et seq.*, §307(c) of the Act and implementing regulations (15 CFR Part 930) prohibit the Department from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the proposed activity complies with the District Coastal Zone Management Program, and the District or its designated agency concurs with the certification (or the Secretary of Commerce overrides the District's non-concurrence;

(e) The Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*, requires that the Director, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion, or other control or modification of any body of water, consult with the appropriate District of Columbia agency exercising jurisdiction over wildlife resources to conserve those resources;

(f) District of Columbia laws; and

(g) Executive orders.

4600.12 Compliance with HWMA permit during its term shall constitute compliance, for purposes of enforcement, with HWMA, except for those requirements not included in the permit which become effective by statute.

4600.13 The issuance of a permit shall not convey any property rights of any sort, or any exclusive privilege.

4600.14 The issuance of a permit shall not authorize any injury to persons or property or invasion of other private rights, or any infringement of District of Columbia law or regulations.

AUTHORITY: Unless otherwise noted, the authority for this chapter is §6 of the District of Columbia Hazardous Waste Management Act of 1977, as amended, D.C. Law 2-64, D.C. Code §6-701 *et seq.* (1995 Repl. Vol.), Mayor's Order 78-185 dated September 19, 1978.

SOURCE: Final Rulemaking published at 43 DCR 1077 (March 1, 1996), incorporating by reference the text of Chapters 40 through 54.

4601 PERMIT APPLICATION

4601.1 Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Director as described in this section and §4606. Persons currently authorized with interim status shall apply for permits when required by the Director. Persons covered by HWMA permits-by-rule (see §4605.1) need not apply. Procedures for applications, issuance and administration of emergency permits are found exclusively in §§4605.2 and 4605.3.

4601.2 When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, except that the owner shall also sign the permit application.

4601.3 The Director shall not issue a permit before receiving a complete application for a permit except for permits by rule, or emergency permits. An application for a permit is complete when the Director receives an application form and any supplemental information which are complete to his or her satisfaction.

4601.4 All applicants for HWMA permits shall provide information set forth in §4601.23 and applicable §§4601.24 through 4601.31 to the Director, using the application form provided by the Director.

4601.5 Owners and operators of existing hazardous waste management facilities or of hazardous waste management facilities in existence on the effective date of statutory or regulatory amendments under HWMA that render the facility subject to the permit requirements, shall submit Part A of their permit application to the Director no later than six (6) months after the date of publication of regulations which first require them to comply with the standards set forth in Chapter 44 or 45, or thirty (30) days after the date they first become subject to the standards set forth in Chapters 44 or 45, which ever first occurs.

4601.6 The Director may, by publication in the *District of Columbia Register*, extend the date by which owners and operators of specified classes of existing hazardous waste management facilities shall submit Part A of their permit application if he or she finds that there has been substantial confusion as to whether the owners and operators of the facilities were required to file a permit application and the confusion is attributed to ambiguities in Chapter 40, 41, 44, or 45, of this subtitle.

4601.7 The Director may by compliance order issued under §12(a) HWMA (D.C. Code §6-711(a), 1981) extend the date by which the owner and operator of an existing hazardous waste management facility shall submit Part A of their permit application.

4601.8 At any time after promulgation of these regulations the owner and operator of an existing HWM facility may be required to submit Part B of their permit application. Any owner or operator shall be allowed at least six (6) months from the date of request to submit Part B of the application. Any owner or operator of an existing HWM facility may voluntarily submit Part B of the application at any time.

4601.9 Failure to furnish a requested Part B application on time, or to furnish in full the information required by the Part B application, is grounds for revocation of interim status under Chapter 47.

4601.10 No person shall begin physical construction of a new HWM facility without having submitted Part A and Part B of the permit application and having received a finally effective HWMA permit.

4601.11 An application for a permit for a new HWM facility (including both Part A and Part B) may be filed any time. The application shall be filed with the Director. All applications shall be submitted at least one hundred eighty (180) days before physical construction is expected to commence.

4601.12 The Director may require a permittee or an applicant to submit information in order to establish permit conditions under §4602.5.

4601.13 If any owner or operator of a HWM facility has filed Part A of a permit application and has not yet filed Part B, the owner or operator shall file an amended Part A application as follows:

(a) With the Director no later than the effective date of regulatory provisions listing or designating wastes as hazardous in addition to those listed or designated previously if the facility is storing, treating, or disposing of any of those newly listed or designated wastes; or

(b) As necessary to comply with provisions of §§4606.6 through 4606.10 for changes during interim status. Revised Part A applications necessary to comply with §§4606.6 through 4606.10 shall be filed with the Director.

4601.14 The owner or operator of a facility who fails to comply with the updating requirements of §4601.13 shall not receive interim status as to the wastes not covered by duly filed Part A applications.

4601.15 Any HWM facility with an effective permit shall submit a new application at least one hundred eighty (180) days before the expiration date of the effective permit, unless permission for a later date has been granted by the Director. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit).

4601.16 Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under §§4601.4 and 4601.23 through 4601.31 a period of at least three (3) years from the date of the application is signed.

4601.17 All permit applications shall be signed as follows:

(a) For a corporation, by 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 has been assigned or delegated authority to sign documents for the corporation;

(b) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(c) For a Federal or District of Columbia or other public agency: by either a principal executive officer or ranking elected official.

4601.18 All reports required by permits and other information requested by the Director shall be signed by a person described in §4601.17, or by a duly authorized

representative of that person. A person is a duly authorized representative only if:

(a) The authorization is made in writing by a person described in §4601.17;

(b) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(c) The written authorization is submitted to the Director.

4601.19 If an authorization under §4601.18 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of §4601.18 shall be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

4601.20 Any person signing a document under §4601.17 or 4601.18 shall make the following certification:

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

4601.21 In accordance with 1 DCMR §406, any information submitted to the Department pursuant to this chapter may be claimed as confidential by the submitter. Any such claim shall be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the Department may make the information available to the public without further notice. If a claim is asserted, the information shall be treated in accordance with the procedures in 1 DCMR §406.

4601.22 Claims of confidentiality for the name and address of any permit applicant or permittee shall be denied.

4601.23 Part A of the HWMA application shall include the following information:

(a) The activities conducted by the applicant which require it to obtain a permit under HWMA;

(b) Name, mailing address, and location, including latitude and longitude of the facility for which the application is submitted;

(c) Up to four (4) SIC codes which best reflect the principal products or services provided by the facility;

(d) The operator's name, address, telephone number, ownership status, and status as private, public, and other entity;

(e) The name, address, and phone number of the owner of the facility;

(f) Whether the facility is located on Indian lands;

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

(h) For existing facilities:

(1) A scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas; and

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

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

(j) A specification of the hazardous wastes listed or designated under Chapter 41 to be treated, stored, or disposed of at the facility, an estimate of the quantity of such wastes to be treated, stored, or disposed annually, and a general description of the processes to be used for such wastes;

(k) A listing of all permits or construction approvals received or applied for under any of the following programs:

(1) Hazardous Waste Management program under RCRA;

(2) UIC program under the SDWA;

(3) NPDES program under the CWA;

(4) Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

(5) Non-attainment program under the Clean Air Act;

(6) National Emission Standards for Hazardous Air Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

(7) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

(8) Dredge or fill permits under §4304 of the CWA; and

(9) Other relevant environmental permits, including District of Columbia permits;

(l) A topographic map (or other map if a topographic map is unavailable) extending one (1) 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 one-quarter (1/4) mile of the facility property boundary; and

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

4601.24 Part B of the permit application shall consist of the general information requirements of this section, and the specific information requirements in §§4601.24 through 4601.31 applicable to the facility. The Part B information requirements presented in §§4601.24 through 4601.31 reflect the standards promulgated in Chapter 44. These information requirements are necessary in order for the Department to determine compliance with the Chapter 44 standards. If owners and operators of HWM facilities can demonstrate that the information prescribed in Part B can not be provided to the extent required, the Director may make allowance for submission of the information on a case-by-case basis.

4601.25 Information required in Part B shall be submitted to the Director and signed in accordance with requirements in §§4601.17 through 4601.20. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer.

4601.26 The following information is required for all HWM facilities, except as §§4400.1 through 4400.7 provides otherwise:

(a) A general description of the facility;

(b) Chemical and physical analyses of the hazardous waste to be handled at the facility. At a minimum, these analyses shall contain all the information which shall be known to treat, store, or dispose of the wastes properly in accordance with Chapter 44;

(c) A copy of the waste analysis plan required by §4401.12 and, if applicable by §4401.13;

(d) A description of the security procedures and equipment required by §§4401.14 through 4401.16, or a justification demonstrating reasons for requesting a waiver of this requirement.

(e) A copy of the general inspection schedule required by §§4401.18 through 4401.20; include where applicable, as part of the inspection schedule, specific requirements in §§4408.7, 4409.24, through 4409.26, 4410.10 through 4410.12, and 4420.3;

(f) A justification of any request for a waiver(s) of the preparedness and prevention requirements of §4402;

(g) A copy of the contingency plan required by §4403;

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

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

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

(3) Prevent contamination of water supplies;

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

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

(i) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with §§4401.30 through 4401.32, including documentation demonstrating compliance with §4401.32;

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

(k) Facility location information:

(1) The District of Columbia does not require a demonstration for compliance with a seismic standard;

(2) Owners and operators of all facilities shall provide an identification of whether the facility is located within a one-hundred-year (100-yr.) floodplain. This identification shall 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 one-hundred year (100 yr.) flood level and other special flooding factors (e.g., wave action) which shall be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a one-hundred year (100 yr.) flood;

(3) Owners and operators of facilities located in the one-hundred year (100 yr.) floodplain shall provide the following information:

(A) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as consequence of a one-hundred year (100 yr.) flood;

(B) 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 shall prevent washout;

(C) If applicable, and in lieu of §4601.26(k)(3)(C)(i) a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including the following:

(i) Timing of the movement relative to flood levels, including estimated time to move the waste, to show that the movement can be completed before floodwaters reach the facility;

(ii) A description of the location(s) to which the waste shall be moved and demonstration that those facilities shall

be eligible to receive hazardous waste in accordance with the regulations under Chapters 44 through 47;

(iii) The planned procedures, equipment, and personnel to be used and the means to ensure that such resources shall be available in time for use; and

(iv) The potential for accidental discharges of the waste during movement;

(4) Existing facilities not in compliance with §4401.34 shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance;

(l) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the HWM facility in a safe manner as required to demonstrate compliance with §§4401.23 through 4401.29. A brief description of how training shall be designed to meet actual job tasks in accordance with requirements in §4401.25;

(m) A copy of the closure plan and post-closure plan required by §§4406.2 through 4406.10 and 4406.21 through 4406.24; include, where applicable, specific requirements in §§4408.17 and 4408.18, 4409.32 through 4409.34, 4410.17 through 4410.20, 4420.2 and 4420.4;

(n) The most recent closure cost estimate for the facility prepared in accordance with §§4407.5 through 4407.11 plus a copy of the financial assurance mechanism adopted in compliance with §4407.12. For a new facility, a copy of the required documentation may be submitted sixty (60) days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B;

(o) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with §§4407.13 through 4407.16 plus a copy of the documentation required to demonstrate financial assurance under §§4407.17 through 4407.18. For a new facility, a copy of the required documentation may be submitted sixty (60) days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B;

(p) Where applicable, a copy of the insurance policy or other documentation which consists of compliance with the requirements of §§4407.19 through 4407.19(h). For a new facility, documentation showing the amount of insurance meeting the specification of §4407.19(b) that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in §4407.19(c);

(q) A topographic map showing a distance of one thousand feet (1,000 ft.) around the facility at a scale of two and five tenths (2.5) centimeters (1 inches) equal to not more than sixty-one (61.0) meters (200 feet). Contours shall be shown on the map. The contour interval shall be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. (For example, contours with an interval of one and five tenths (1.5) meters (5 feet), or an interval of six tenths (0.6) meters (2 feet), if relief is less than six and one tenths

(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:

(1) Map scale and date;

(2) One-hundred-year (100-yr.) floodplain area;

(3) Surface waters including intermittent streams;

(4) Surrounding land uses (residential, commercial, agricultural, recreational);

(5) A wind rose (i.e., prevailing wind speed and direction);

(6) Orientation of the map (north arrow);

(7) Legal boundaries of the HWM facility site.;

(8) Access control (fences, gates);

(9) Injection and withdrawal wells both on-site and off-site;

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

(11) Barriers for drainage or flood control; and

(12) Location of operational units within the HWM facility site, where hazardous waste is (or shall be) stored, (include equipment cleanup areas);

(r) Applicants may be required to submit such information as may be necessary to enable the Director to carry out his or her duties under other Federal laws as required in §4600.11; and

(s) For hazardous waste disposal units that have been closed, documentation that notices required under §§4406.26 through 4406.28 have been filed.

4601.27 The following additional information regarding protection of ground-water is required from owners or operators of hazardous waste, facilities containing a regulated unit, except as provided in §4405.3:

(a) A summary of the ground-water monitoring data obtained during the interim status period where applicable;

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

(c) On the topographic map required under paragraph §4601.26(q) of this section, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under §4405.15,

the proposed location of ground-water monitoring wells as required under §§4405.20 through 4405.28, and, to the extent possible, the information required in paragraph (b) of this subsection;

(d) A description of any plume of contamination that has entered the ground-water from a regulated unit at the time that the application was submitted that:

(1) Delineates the extent of the plume on the topographic map required under §4601.26(q) of this section; and

(2) Identifies the concentration of each Appendix IX, of 40 CFR Part 264, constituent throughout the plume or identifies the maximum concentrations of each Appendix IX constituent in the plume;

(e) Detailed plans and an engineering report describing the proposed ground-water monitoring program to be implemented to meet the requirements of §§4405.20 through 4405.28;

(f) If the presence of hazardous constituents has not been detected in the ground-water at the time of permit application, the owner or operator shall submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of §§4405.29 through 4405.40. This submission shall address the following items specified under §§4405.29 through 4405.40:

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

(2) A proposed ground-water monitoring system;

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

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

(g) If the presence of hazardous constituents has been detected in the ground-water at the point of compliance at the time of the permit application, the owner or operator shall submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of §§4405.41 through 4405.53. Except as provided in §§4405.37(e) through 4405.40, the owner or operator shall also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of §4405.54, unless the owner or operator obtains written authorization in advance from the Director to submit a proposed permit schedule for submittal of a plan. To demonstrate compliance with §§4405.41 through 4405.53, the owner or operator shall address the following items:

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

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

(3) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with §§4405.20 through 4405.28 and 4405.41 through 4405.53;

(4) Proposed concentration limits for each hazardous constituent, based on the criteria set forth in §4405.12, including a justification for establishing any alternate concentration limits;

(5) Detailed plans and an engineering report describing the proposed ground-water monitoring system, in accordance with the requirements of §§4405.20 through 4405.28; and

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

(h) If hazardous constituents have been measured in the ground-water which exceed the concentration limits established under §4405.12 Table I, the owner or operator shall submit sufficient information, supporting data, the analyses to establish a corrective action program which meets the requirements of §4405.54. However, an owner or operator is not required to submit information to establish a corrective action program if he or she demonstrates to the Director that alternate concentration limits will protect human health and the environment after considering the criteria listed in §4405.13. An owner or operator who is not required to establish a corrective action program for this reason shall instead submit sufficient information to establish a compliance monitoring program which meets the requirements of §§4405.41 through 4405.53, and paragraph (f) of this subsection. To demonstrate compliance with §4405.54, the owner operator shall address, at a minimum, the following items:

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

(2) The concentration limit for each hazardous constituent found in the ground-water as set forth in §§4405.12 through 4405.14;

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

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

(5) The permit may contain a schedule for submittal of the information required in paragraphs (h)(3) and (h)(4) of this subsection; Provided, that the owner or operator obtains written authorization from the Director prior to submittal of the complete permit application; and

(i) The information requirements for solid waste management units shall be as follows:

(1) The following information shall be required for each solid waste management unit at a facility seeking a permit:

(A) The location of the unit on the topographic map required under §4601.26(q);

(B) Designation of type of unit;

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

(D) When the unit was operated; and

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

(2) The owner or operator of any facility containing one (1) or more solid waste management units shall submit all available information pertaining to any release of hazardous waste or hazardous constituents from the unit or units; and

(3) The owner/operator shall conduct and provide the results of sampling and analysis of ground-water, land surface and subsurface strata, surface water, or air, which may include the installation of wells, where the Director ascertains it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

4601.28 Except as otherwise provided in §4408.1, owners or operators of facilities that store containers of hazardous waste shall provide the following additional information:

(a) A description of the containment system to demonstrate compliance with §§4408.8 through 4408.12 and show at least the following:

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

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

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

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

(5) How accumulated liquids can be analyzed and removed to prevent overflow;

(b) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with §4408.10, including the following:

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

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

(c) Sketches, drawings, or data demonstrating compliance with §4408.12 (location of buffer zone and containers holding ignitable or reactive wastes) and §4408.16 (location of incompatible wastes), where applicable; and

(d) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with §§4401.31, 4401.32, 4408.13, and 4408.14.

4601.29 Except as otherwise provided in §§4409.1 through 4409.3, owners and operators of facilities that use tanks to store or treat hazardous waste shall provide the following additional information:

(a) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under §§4409.4 through 4409.14;

(b) Dimensions and capacity of each tank;

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

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

(e) A description of materials and equipment used to provide external corrosion protection, as required under §4409.8(c)(2);

(f) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with §§4409.9 through 4409.12;

(g) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of §§4409.15 through 4409.20(d);

(h) For tank systems for which a variance from the requirements of §4409.15 is sought (as provided by §4409.21):

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

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

(i) Description of controls and practices to prevent spills and overflows, as required under §4409.25; and

(j) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of §§4409.35 through 4409.38.

4601.30 Except as otherwise provided in §§4400.1 through 4400.7, owners and operator of facilities that store or treat hazardous waste in waste piles shall provide the following additional information:

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

(b) If an exemption is sought to §§4410.3 through 4410.9 and §4405 as provided by §4410.2 or 4405.3 an explanation of how the standards of §4410.2 will be complied with or detailed plans and an engineering report describing how the requirements of §4405.3 will be met;

(c) Detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated and maintained to meet the requirements of §§4410.3 through 4410.9. This submission shall address the following items as specified in §§4410.3 through 4410.9:

(1) The liner system (except for an existing portion of a pile). If an exemption from the requirement for a liner is sought, the owner or operator shall submit detailed plans and engineering and hydro-geologic reports, as applicable, 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;

(2) Control of run-on;

(3) Control of run-off;

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

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

(d) A description of how each waste pile, including the liner and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of §§4410.10 and 4410.11. This information shall be included in the inspection plan submitted under §4601.26(e);

(e) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of §4410.13 will be complied with;

(f) If incompatible wastes, or incompatible wastes and materials will be placed in a pile, and explanation of how §§4410.14 through 4410.16 will be complied with;

(g) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under §4410.17; and

(h) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026 and F027 describing how a waste pile that is not enclosed is or will be constructed, operated and maintained to meet the requirements of §§4410.21 and 4410.22.

4601.31 The Director shall not permit an incinerator that does not comply with the regulations promulgated under 20 DCMR, Chapters 40 through 48.

4601.32 - 4601.39 [Reserved]

4601.40 Except as otherwise provided in §4420.1, owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units shall provide the following additional information:

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

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

(2) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of §§4420.2 and 4420.3; and

(3) For disposal units, a detailed description of the plans to comply with the post-closure requirements of §4420.4;

(b) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of §4420.2. If the applicant can demonstrate that he or she does not violate the environmental performance standards of §4420.2 and the Director agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice;

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

(d) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data; and

(e) Any additional information determined by the director to be necessary for evaluation of compliance of the unit with the environmental performance standards of §4420.2.

SOURCE: Final Rulemaking published at 43 DCR 1077 (March 1, 1996), incorporating by reference the text of Chapters 40 through 54.

4602 PERMIT CONDITIONS

4602.1 The following conditions shall apply to all HWMA permits, and shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to this chapter shall be given in the permit:

(a) The permittee shall comply with all conditions of this permit, except that the permittee need not comply with the conditions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit. Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation and is grounds for enforcement action; for permit termination, suspension and reissuance, or modification; or for denial of a permit renewal application;

(b) If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit;

(c) 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;

(d) 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;

(e) 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;

(f) This permit may be modified, suspended and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition;

(g) The permit does not convey any property rights of any sort, or any exclusive privilege;

(h) The permittee shall furnish to the Director, within a reasonable time, any relevant information which the Director may request to determine whether cause exists for modifying, suspending and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit;

(i) The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to do the following:

(1) Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records shall be kept under the conditions of this permit;

(2) Have access to and copy, at reasonable times, any records that shall be kept under the conditions of this permit;

(3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by HWMA, any substances or parameters at any location;

(j) The permittee shall comply with the following monitoring and recording conditions:

(1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity;

(2) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, certification required by §4404.10(i), and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, certification or application. This period may be extended by request of the Director at any time. The permittee shall maintain records from all ground-water monitoring wells and associated ground-water surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well;

(3) Records for monitoring information shall include the following:

(A) The date, exact place, and time of sampling or measurements;

(B) The individual(s) who performed the sampling or measurements;

(C) The date(s) analyses were performed;

(D) The individual(s) who performed the analyses;

(E) The analytical techniques or methods used; and

(F) The results of such analyses;

(k) All applications, reports, or information submitted to the Director shall be signed and certified;

(l) The permittee shall comply with the following reporting requirements:

(1) The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility;

(2) The permittee shall give advance notice to the Director 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 treat, store, or dispose of hazardous waste; and for a facility being modified, the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility, until the permittee has submitted to the Director by certified mail or hand delivery, a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit:

(A) The Director has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(B) Within fifteen (15) days of the date of submission of the letter in §4601.30(l)(2), the permittee has not received notice from the Director of his or her intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of hazardous waste;

(3) This permit is not transferable to any person except after notice to the Director. The Director may require modification or suspension and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under HWMA;

(4) Monitoring results shall be reported at the intervals specified elsewhere in this section;

(5) Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date;

(6) The permittee shall orally report any noncompliance which may endanger health or the environment within twenty-four hours (24 hrs.) from the time the permittee becomes aware of the circumstances, including the following:

(A) Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies;

(B) Any information of a release or discharge of hazardous waste or of a fire or explosion from the HWM facility, which could threaten the environment or human health outside the facility;

(C) The description of the occurrence and its cause shall include the following:

(i) Name, address, and telephone number of the owner or operator;

(ii) Name, address, and telephone number of the facility;

(iii) Date, time, and type of incident;

(iv) Name and quantity of material(s) involved;

(v) The extent of injuries, if any;

(vi) An assessment of actual or potential hazards to the environment and human health outside the facility, where this applies; and

(vii) Estimated quantity and disposition of recovered material that resulted from the incident;

(D) A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of noncompliance. The Director may waive the five-day (5) written notice

requirement in favor of a written report within fifteen (15) days;

(7) If a significant discrepancy in a manifest is discovered, the permittee shall attempt to reconcile the discrepancy. If not resolved within fifteen (15) days, the permittee shall submit a letter report, including a copy of the manifest, to the Director (See §§4404.7 through 4404.8);

(8) An unmanifested waste report shall be submitted to the Director within fifteen (15) days of receipt of unmanifested waste (See §§4404.15 through 4404.16.);

(9) A biennial report shall be submitted by March 1st of each year covering facility activities during each preceding calendar year;

(10) The permittee shall report all instances of noncompliance not reported under §§4602.1(l)(4), (l)(5), and (l)(6) at the time monitoring reports are submitted. The reports shall contain the information listed in §4602.1(l)(6); and

(11) Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, the permittee shall promptly submit the facts or information.

4602.2 All permits shall specify the following:

(a) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

(b) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring; and

(c) Applicable reporting requirements based upon the impact of the regulated activity and as specified in Chapters 44 and 45. Reporting shall be no less frequent than specified in this subsection;

4602.3 In addition to conditions required in all permits, the Director shall establish conditions, as required on a case-by-case basis, in permits under §§4604.1 through 4604.3 (duration of permits), §§4602.9 and 4602.10 (schedules of compliance), §4602.2 (monitoring), §4602.11 (alternate schedules of compliance), and §4600.11 (considerations under Federal law).

4602.4 Each HWMA permit shall include permit conditions necessary to achieve compliance with the Act and regulations, including each of the applicable requirements specified in Chapters 44 and 45. In satisfying this provision, the Director may incorporate applicable requirements of Chapter 44 directly into the permit or establish other permit conditions that are based on these parts.

4602.5 Each permit issued under HWMA shall contain terms and conditions as the Director determines necessary to protect human health and the environment.

4602.6 For a permit issued by the Department, an applicable requirement is a statutory or regulatory requirement which takes effect prior to the issuance of the permit. Section 4700.11 provides a means for reopening the Department permit

proceedings at the discretion of the Director where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement which takes effect prior to the modification or suspension and reissuance of a permit, to the extent allowed in §§4603.2 through 4603.5.

4602.7 New or reissued permits, and to the extent allowed under §§4603.2 through 4603.5, modified or suspended and reissued permits, shall incorporate each of the applicable requirements referenced in this section and in §4602.2.

4602.8 All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements shall be given in the permit.

4602.9 The permit may, when appropriate, specify a schedule of compliance leading to compliance with the Act and regulations as follows:

(a) Any schedules of compliance under this section shall require compliance as soon as possible;

(b) Except as provided in §4602.11(a)(2), if a permit establishes a schedule of compliance which exceeds one (1) year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement:

(1) The time between interim dates shall not exceed one (1) year; and

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

4602.10 The permit shall be written to require that no later than fourteen (14) days following each interim date and the final date of compliance, the permittee shall notify the Director in writing, of its compliance or noncompliance with the interim or final requirements.

4602.11 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:

(a) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

(1) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

(2) The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit;

(b) If the decision to cease conducting regulated activities is made before issuance of a permit whose term shall include the termination date, the

permit shall contain a schedule leading to termination which shall ensure timely compliance with applicable requirements;

(c) If the permittee is undecided whether to cease conducting regulated activities, the Director may issue or modify a permit to contain two (2) schedules as follows:

(1) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

(2) One schedule shall lead to timely compliance with applicable requirements;

(3) The second schedule shall lead to cessation of regulated activities by a date which shall ensure timely compliance with applicable requirements;

(4) Each permit containing two (2) schedules shall include a requirement that after the permittee has made a final decision under §4602.11(c)(1), it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities; and

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

SOURCE: Final Rulemaking published at 43 DCR 1077 (March 1, 1996), incorporating by reference the text of Chapters 40 through 54.

4603 CHANGES TO PERMIT

4603.1 A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or suspended and reissued (under §4603.3), or a minor modification made (under §4603.6(d)), to identify the new permittee and incorporate any other requirements as may be necessary under the appropriate Act.

4603.2 When the Director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or suspension and reissuance under §4700.11 or conducts a review of the permit file), he or she may determine whether or not one or more of the causes listed in §§4603.2 through 4603.4 for modification, or suspension and reissuance or both exist. If cause exists, the Director may modify or suspend and reissue the permit accordingly, subject to the limitations of §4603.5 and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is suspended and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. If cause does not exist under this section or §4603.6, the Director shall not modify or suspend and reissue the permit. If a permit modification satisfies the criteria in §4603.6 for a minor modification, the permit may be modified without a draft permit or public review. Otherwise,

a draft permit shall be prepared and other procedures in Chapter 47 shall be followed.

4603.3 The following are causes for modification, but not suspension and reissuance, of permits. The following may be causes for suspension and reissuance, as well as modification, when the permittee requests or agrees:

(a) There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

(b) Permits may be modified during their terms when the Director has received information that indicates a modification is required. This information shall be accepted only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance;

(c) The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

(1) The standards or regulations on which the permit was based have been changed by statute or amended standards or regulations;

(2) The permittee may request modification when:

(A) The permit condition requested to be modified was based on a promulgated regulation under Chapters 40 through 45;

(B) The Department has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based; or

(C) A permittee requests modification in accordance with §4700.11 within ninety (90) days after *District of Columbia Register* notice of the action on which the request is based;

(3) For judicial decisions, a court of competent jurisdiction has remanded and stayed the Department promulgated regulations if the remand and stay concern that portion of the regulations on which the permit condition was based and a request is filed by the permittee in accordance with §4700.11 within ninety (90) days of judicial remand.

(d) The Director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy;

(e) The Director may also modify a permit:

(1) When modification of a closure plan is required under §4406.2 through 4406.10 or 4406.21;

(2) After the Director receives the notification of expected closure under §§4406.10 through 4406.12, when the Director determines that extension of the ninety to one-hundred-eighty-day (90 to 180) periods under §§4406.10 through 4406.12, modification of the thirty-year (30-yr.) post-closure period under §4406.17 or continuation of security requirements under §4406.19;

(3) When the permittee has filed a request under §4407.19(c) for a variance to the level of financial responsibility or when the Director demonstrates under §4407.19(d) that an upward adjustment of the level of financial responsibility is required;

(4) When the corrective action program specified in the permit under §4405.54 has not brought the regulated unit into compliance with the ground-water protection standard within a reasonable period of time;

(5) To include a detection monitoring program meeting the requirements §4405.29, when the owner or operator has been conducting a compliance monitoring program under §4405.41 or a corrective action program under §4405.54 and compliance period ends before the end of the post-closure care period for the unit;

(6) When a permit requires a compliance monitoring program under §4405.41, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the ground-water protection standard; and

(7) To include conditions applicable to units at a facility that were not previously included in the facility's permit.

4603.4 The following are causes to modify or, alternatively, suspend and reissue a permit:

(a) Cause exists for termination under §§4603.7 through 4603.8, and the Director determines that modification or suspension and reissuance is appropriate; and

(b) The Director has received notification of a proposed transfer of the permit as required under §4601.1(l)(3);

4603.5 Suitability of the facility location shall not be considered at the same time of permit modification or suspension and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

4603.6 Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of Chapter 47. Any permit modification not processed as a minor modification under this section shall be made for cause and with Chapter 47 draft permit and public notice as required in §§4603.2 through 4603.5. Minor modifications may only include the following:

(a) Correct typographical errors;

(b) Require more frequent monitoring or reporting by the permittee;

(c) Change an interim compliance date in a schedule of compliance; Provided, that the new date is not more than one hundred twenty (120) days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

(d) Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary; Provided, that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director. Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised permit application no later than ninety (90) days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of §4407 (Financial Requirements), until the new owner or operator has demonstrated to the Director that he or she is complying with the requirements of the that section. The new owner or operator shall demonstrate compliance with §4407 requirements within six (6) months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the Director by the new owner or operator of compliance with §4407, the Director shall notify the old owner or operator in writing that he or she no longer needs to comply with §4407 as of the date of demonstration;

(e) Change the lists of facility emergency coordinators or equipment in the permit's contingency plan;

(f) Change estimates of maximum inventory under §4406.3;

(g) Change estimates of expected year of closure or schedules for final closure; and

(h) Approve periods longer than ninety (90) days or one hundred eighty (180) days under §§4406.11 and 4406.12;

4603.7 The following are causes for terminating a permit during its term, or for denying a permit renewal application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

4603.8 The Director shall follow the applicable procedures in Chapter 47 procedures in terminating any permit under this section.

SOURCE: Final Rulemaking published at 43 DCR 1077 (March 1, 1996), incorporating by reference the text of Chapters 40 through 54.

4604 EXPIRATION AND CONTINUATION OF PERMITS

4604.1 HWMA permits shall be effective for a fixed term not to exceed ten (10) years.

4604.2 Except as provided in §§4604.4 through 4604.6, the term of a permit shall not be extended by modification beyond the maximum duration specified in this section.

4604.3 The Director may issue any permit for a duration that is less than the full allowable term under this section.

4604.4 The conditions of an expired permit shall continue in force until the effective date of a new permit if:

(a) The permittee has submitted a timely application under §§4601.24 through 4601.27 and the applicable sections in §§4601.28 through 4601.31 which is a complete application (under §4601.3) for a new permit; and

(b) The Director through no fault of the permittee, does not issue a new permit with an effective date under §4700.10 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

4604.5 Permits continued under this section remain fully effective and enforceable.

4604.6 When the permittee is not in compliance with the conditions of the expiring or expired permit, the Director may choose to do any or all of the following:

(a) Initiate enforcement action based upon the permit which has been continued;

(b) Issue a notice of intent to deny the new permit under §4700.12. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(c) Issue a new permit under Chapter 47 with appropriate conditions; or

(d) Take other actions authorized by this chapter.

SOURCE: Final Rulemaking published at 43 DCR 1077 (March 1, 1996), incorporating by reference the text of Chapters 40 through 54.

4605 SPECIAL FORMS OF PERMITS

4605.1 Notwithstanding any other provision of this section or Chapter 47 the following shall be deemed to have a HWMA permit by rule if the conditions listed are met:

(a) The owner or operator of a barge or other vessel which accepts hazardous waste for ocean disposal, if the owner or operator:

(1) Has a permit for ocean dumping issued under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1420 *et seq.*);

(2) Complies with the conditions of that permit; and

(3) Complies with the following hazardous waste regulations;

(A) Section 4401.3, EPA Identification Number;

(B) Sections 4404.4 through 4404.6, Use of manifest system;

(C) Sections 4404.7 through 4404.8, Manifest discrepancies;

(D) Sections 4404.9 and 4404.10(a), Operating record;

(E) Section 4404.14, Biennial report; and

(F) Sections 4404.15, Unmanifested waste report;

(b) The owner or operator of a Publicly Owned Treatment Works (POTW) which accepts for treatment hazardous waste, if the owner or operator:

(1) Has an NPDES permit;

(2) Complies with the conditions of that permit; and

(3) Complies with the following regulations:

(A) Section 4401.3, EPA Identification Number;

(B) Sections 4404.4 through 4404.6, Use of manifest system;

(C) Sections 4404.7 through 4404.8, Manifest discrepancies;

(D) Sections 4404.9 and 4404.10(a), Operating record;

(E) Section 4404.14, Biennial report;

(F) Section 4404.15, Unmanifested waste report; and

(G) For NPDES permits issued after November 8, 1984, §§4405.55 through 4405.57; and

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

4605.2 Notwithstanding any other provision of this section or this chapter, if the Director finds an imminent and substantial endangerment to human health or the environment the Director may issue a temporary emergency permit:

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

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

4605.3 An emergency permit:

(a) May be oral or written. If oral, it shall be followed in five (5) days by a written emergency permit;

(b) Shall not exceed ninety (90) days in duration;

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

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

(e) Shall be accompanied by a public notice published under §§4700.15 through 4700.18 including the following:

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

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

(3) A brief description of the wastes involved;

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

(5) Duration of the emergency permit; and

(f) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter and Chapters 44 and 45.

4605.4 The Administrator 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 the experimental activity have not been promulgated under Chapters 44 or 45. All permits shall include the terms and conditions as will assure protection of human health and the environment. The permits:

(a) Shall provide for the construction of the facilities as necessary, and for operation of the facility for not longer than one (1) year unless renewed as provided in §4605.7;

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

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

4605.5 For the purpose of expediting review and issuance of permits under §4605.4, the Director may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in Chapters 46 and 47 except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

4605.6 The Director may order an immediate termination of all RD&D operations at the facility at any time he or she determines that termination is necessary to protect human health and the environment.

4605.7 Any permit issued under §4605.4 may be renewed not more than three (3) times. Each renewal shall be for a period of not more than one (1) year.

SOURCE: Final Rulemaking published at 43 DCR 1077 (March 1, 1996), incorporating by reference the text of Chapters 40 through 54.

4606 INTERIM STATUS

4606.1 Any person who owns or operates an "existing HWM facility" or a facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a hazardous waste permit shall have interim status and shall be treated as having been issued a permit to the extent he or she has complied with the requirements of §3010 of RCRA pertaining to notification of hazardous waste activity and the requirements of §§4601.1 through 4601.17 governing submission of Part A applications.

4606.2 If the Department has reason to believe upon examination of a Part A application that the application fails to meet the requirements of §4601.23, the Department shall notify the owner or operator in writing of the apparent deficiency. The notice shall specify the grounds for the District's belief that the application is deficient. The owner or operator shall have thirty (30) days from receipt to respond to a notification and to explain or cure the alleged deficiency in his or her Part A application. If, after notification and opportunity for response, the District determines that the application is deficient it may take appropriate enforcement action.

4606.3 Section 4606.1 shall not apply to any facility which has previously been denied a hazardous waste permit or if authority to operate under a hazardous waste permit has been previously terminated.

4606.4 During the interim status period the facility shall not:

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

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

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

4606.5 During interim status, owners or operators shall comply with the interim status standards in Chapter 44.

4606.6 New hazardous wastes not previously identified in Part A of the permit application may be treated, stored, or disposed of at a facility if the owner or operator submits a revised Part A permit application prior to the change.

4606.7 Increases in the design capacity of processes used at a facility may be made if the owner or operator submits a revised Part A permit application prior the change (along with a justification explaining the need for the change) and the Director approves the change because of a lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities.

4606.8 Changes in the processes for the treatment, storage, or disposal of hazardous waste may be made at a facility or additional processes may be added 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 Director approves the change for the following reasons:

(a) It is necessary to prevent a threat to human health or the environment because of an emergency situation; or

(b) It is necessary to comply with Federal regulations or District of Columbia laws and regulations.

4606.9 Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised Part A permit application no later than ninety (90) days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of §4407, until the new owner or operator has demonstrated to the Director that it is complying with that section. The new owner or operator shall demonstrate compliance with §4407 requirements within six (6) months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the Director by the new owner or operator of compliance with §4407, the Director shall notify the old owner or operator in writing that he or she no longer needs to comply with that section as of the date of demonstration.

4606.10 In no event shall changes be made to an HWM facility during interim status which amount to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent (50%) of the capital cost of a comparable entirely new HWM facility. Changes prohibited under this subsection do not include changes to treat or store in containers or tanks hazardous wastes subject to land disposal restrictions imposed by 40 CFR Part 268; Provided, that the changes are made solely for the purpose of complying with Chapter 53.

4606.11 Interim status terminates when the following occurs:

(a) Final administrative disposition of a permit application is made; or

(b) Interim status is terminated as provided in §4601.9.

SOURCE: Final Rulemaking published at 43 DCR 1077 (March 1, 1996), incorporating by reference the text of Chapters 40 through 54.