

**New York State Department of Environmental Conservation  
Division of Environmental Remediation**

# **Amendments to Hazardous Waste Management Regulations**

**6 NYCRR Parts 370-373, 376 and Subparts 374-1 and 374-3**

**Rule making Reference: FedReg5**

**Draft for Public Consideration**

**Released: February 4, 2015**

**Written Comments Accepted Through April 6, 2015**

## 6 NYCRR PART 370 EXPRESS TERMS

(Subdivisions 370.1(a)(1) and (2) remain unchanged.)

Paragraph 370.1(a)(3) is deleted:

**[(3) Persons subject to this Part are also subject to Part 378 of this Title.]**

(Subdivision 370.1(b) through paragraph 370.1(e)(1) remain unchanged.)

Paragraph 370.1(e)(2) is revised to read as follows:

(2) Code of Federal Regulations (CFR).

(i) 29 CFR - title 29 of the Code of Federal Regulations (Labor), revised as of July 1, [2002] 2013.

('a') parts 1900 through End.

(ii) 33 CFR - title 33 of the Code of Federal Regulations (Navigation and Navigable Waters), revised as of July 1, [2002] 2014.

('a') parts 1 through 199.

(iii) 40 CFR - title 40 of the Code of Federal Regulations (Protection of Environment) revised as of July 1, [2002] 2014.

('a') parts 1 through 80;

('b') parts 100 through 259;

('c') parts 260 through 299, except Subpart H- Transfrontier Shipments of Hazardous Waste for Recovery within the OECD of 40 CFR Part 262;

('d') parts 300 through 399;

('e') parts 700 through End.

(iv) 49 CFR - title 49 of the Code of Federal Regulations (Transportation), revised as of October 1, [2002] 2013.

('a') parts 100 through 199.

(v) 40 CFR - title 40 of the Code of Federal Regulations (Protection of Environment) Part 268 revised as of July 1, 1990, for the purposes of paragraph 376.4(a)(9) of this Title.

(vi) 40 CFR - title 40 of the Code of Federal Regulations (Protection of Environment) Part 63 revised as of July 1, 2009, for the purposes of paragraph 373-1.7(j)(1) of this Title.

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 or  
<http://www.gpoaccess.gov/>

(Paragraphs 370.1(e)(3) through (7) remain unchanged.)

Subparagraph 370.1(e)(8)(i) is revised to read as follows:

(i) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 (Third Edition, (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), **[and]** IIIA (April 1998), and IIIB (June 2005) document number 955-001-00000-1)

(Subparagraph 370.1(e)(8)(ii) through subparagraph 370.1(e)(8)(vii) remain unchanged.)

New subparagraph 370.1(e)(8)(viii) is adopted to read as follows:

(viii) "Estimating Exposures to Dioxin-like Compounds," U.S. EPA (Environmental Protection Agency), 2010, Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds. Risk Assessment Forum, Washington, DC. EPA/600/R-10/005.

Note at the end of paragraph 370.1(e)(8) is revised to read as follows:

Note: (8)(i) **[can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.]** is available online at <http://www.epa.gov/osw/hazard/testmethods/sw846/index.htm>. 8(i) **[- (vi)]** through (viii) can be obtained from:

National Technical Information Service  
5285 Port Royal Road  
Springfield, VA 22161

(Subparagraph 370.1(e)(8)(ii) through paragraph 370.1(e)(9) remain unchanged.)

Subdivision 370.1(f) is revised to read as follows:

(f) Any laboratory tests or sample analyses [required under Article 27 of the ECL or Parts 370 through 374 and 376] for which the commissioner of the New York State Department of Health issues certificates of approval, which are required under Article 27 of the ECL or Parts 370 through 374 and 376, must be performed by a laboratory certified to perform such tests or analyses pursuant to the New York State Department of Health (NYSDOH) Environmental

Laboratory Approval Program (ELAP). The certificate of approval must have been issued by the NYSDOH Commissioner pursuant to Section 502 of the Public Health Law, and the certificate must be valid and current as provided for under the ELAP.

(Subdivision 370.2(a) through paragraph 370.2(b)(5) remain unchanged.)

Paragraph 370.2(b)(6) is revised to read as follows:

(6) "Acute hazardous waste" means any waste listed in section 371.4(d)(5) of this Title and any waste listed in section 371.4(b) [and 371.4(c)] with "H" Hazard Code.

(Paragraph 370.2(b)(7) through 370.2(b)(15) remain unchanged.)

Paragraph 370.2(b)(16) is deleted.

**[(16) "Bedrock" means cemented or consolidated earth materials exposed on the earth's surface or the solid rock underlying unconsolidated earth materials , including those portions exposed at the earth's surface. ]**

Paragraphs 370.2(b)(17) through (19) are renumbered 370.2(b)(16) through (18).

New paragraph 370.2(b)(19) is adopted to read as follows:

(19) "Cathode ray tube" or "CRT" means a vacuum tube, composed primarily of glass, which is a visual or video display component of an electronic device.

(i) A used, intact CRT means a CRT whose vacuum has not been released.

(ii) A used, broken CRT means glass that has been removed from the housing or casing of a CRT from which the vacuum has been released.

(Paragraphs 370.2(b)(20) through (29) remain unchanged.)

Paragraph 370.2(b)(30) is deleted.

**[(30) "Composting facility" means any facility used to provide aerobic, thermophilic decomposition of the solid organic constituents of solid waste to produce a stable, humus-like material.]**

Paragraphs 370.2(b)(31) through (39) are renumbered 370.2(b)(30) through (38).

Existing paragraphs 370.2(b)(40) through (42) are renumbered 370.2(b)(43) through (45).

New paragraphs 370.2(b)(39) through (42) are adopted to read as follows:

(39) "CRT collector" means a person who receives used, intact CRTs for recycling, repair,

resale, or donation.

(40) "CRT exporter" means any person in the United States who initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for such export.

(41) "CRT glass manufacturer" means a party that conducts an operation or part of an operation that uses a furnace to manufacture CRT glass.

(42) "CRT processing" means conducting the following activities:

(i) Receiving broken or intact CRTs; and

(ii) Managing the CRTs by

(‘a’) Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and/or

(‘b’) Sorting or otherwise managing glass removed from CRT monitors.

Existing paragraphs 370.2(b)(43) through (45) are renumbered 370.2(b)(46) through (48).

New paragraph 370.2(b)(49) is adopted to read as follows:

(49) "Dioxins and furans (D/F)" means tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

Existing paragraphs 370.2(b)(46) through (61) are renumbered 370.2(b)(50) through (65).

Existing paragraph 370.2(b)(62) is deleted.

**[(62) "Evidence of security" means a surety bond or a policy of insurance with the appropriate endorsement attached.]**

Existing paragraphs (b)(63) through (70) are renumbered (b)(66) through (73)

Existing paragraph 370.2(b)(74) is deleted.

**[(74) "Final authorization" means approval by EPA of a State program which has met the requirements of section 3006(b) of RCRA and the applicable requirements of 40 CFR part 271, Subpart A (see section 370.1(e) of this Part).]**

Existing paragraphs 370.2(b)(71) through (84) are renumbered (b)(74) through (87)

Newly renumbered paragraph 370.2(b)(74) is revised to read as follows:

(74) "Facility mailing list" means the [mailing] contact list for a facility maintained by the department for communicating in accordance with paragraph [621.7(i)(6)] 621.7(i)(7) of this Title.

Existing paragraphs 370.2(b)(72) through (103) are renumbered 370.2(b)(75) through (105).

Existing paragraphs 370.2(b)(106) and (107) are deleted.

**[(106) "Interim Authorization" means approval by EPA of a State hazardous waste program which has met the requirements of section 3006(g)(2) of RCRA and applicable requirements of 40 CFR part 271, subpart B (see section 370.1(e) of this Part).**

**(107) "Intermediate cover" means a compacted layer of at least twelve inches of cover material.]**

Existing paragraphs 370.2(b)(104) through (105) are renumbered 370.2(b)(106) through (107)

(Existing paragraphs 370.2(b)(108) through (115) remain unchanged.)

Existing paragraph 370.2(b)(116) is deleted.

**[(116) "Lift" means the vertical thickness of a compacted volume of hazardous waste and the cover material immediately above it.]**

Existing paragraphs 370.2(b)(117) and (118) are renumbered 370.2(b)(116) and (117).

Paragraph 370.2(b)(119) is deleted.

**[(119) "Lower explosive limit" ("LEL") means the lowest percentage by volume of a mixture of explosive gases which would propagate a flame in air at 25 degrees C and atmospheric pressure.]**

Existing paragraphs 370.2(b)(120) through (122) are renumbered 370.2(b)(118) through (120).

New paragraph 370.2(b)(121) is adopted to read as follows:

(121) "Mercury-containing equipment" means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

Existing 370.2(b)(123) through (125) are renumbered 370.2(b)(122) through (124).

Paragraph 370.2(b)(126) is deleted.

**[(126) "Monofill" means a specific type of landfill where the waste provides the fill and daily cover, forms the liner and, in some cases, forms the final cap.]**

Existing paragraph 370.2(b)(127) is renumbered 370.2(b)(125).

Existing paragraph 370.2(b)(128) is deleted.

**[(128) "National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits, and imposing the enforcing pretreatment requirements under sections 301, 302, 306, 307, 318, 402, and 405 of the Clean Water Act (see section 370.1(e) of this Part). The term includes an approved program.]**

Existing paragraphs 370.2(b)(129) through (172) are renumbered 370.2(b)(126) through (169).

Existing paragraph 370.2(b)(173) is renumbered 370.2(b)(170) and is revised to read as follows:

[(173)] (170) "Small quantity generator" means:

(i) a generator who generates less than a total of 1000 kilograms of [non-acute] hazardous waste in a month, of which less than one kilogram or 100 kilograms is acute hazardous waste as defined in subparagraphs 371.1(f)(5)(i) or (ii) of this Title, respectively; and

(ii) a generator who stores less than 6000 kilograms of [this] hazardous waste at any one time, of which less than one kilogram or 100 kilograms is acute hazardous waste as defined in subparagraphs 371.1(f)(5)(i) or (ii) of this Title, respectively [; or a generator who generates less than one kilogram of acute hazardous waste in a month and stores less than one kilogram of this waste at one time].

Existing paragraphs 370.2(b)(174) through (188) are renumbered 370.2(b)(171) through (185).

New paragraph 370.2(b)(186) is adopted to read as follows:

( 186) "TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin. U.S. EPA (Environmental Protection Agency), 2010, Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds. Risk Assessment Forum, Washington, DC. EPA/600/R-10/005. Incorporated by reference in 370.1(e)(8)(viii).

Existing paragraphs 370.2(b)(189) through (193) are renumbered 370.2(b)(187) through (191).

Paragraph 370.2(b)(194) is deleted.

**[(194) "Transit country" means any foreign country, other than a receiving country, through which a hazardous waste is transported.]**

Paragraphs 370.2(b)(195) through (221) are renumbered 370.2(b)(192) through (218).

Newly renumbered subparagraph 370.2(b)(204)(iii) is revised to read as follows:

(iii) [**Thermostats**] Mercury-containing equipment as described in subdivision 374-3.1(d) of this Title; and

(Subdivision 370.2(c) through paragraph 370.3(c)(4) introductory language remain unchanged.)

Clause 370.3(c)(4)(i)(a) is revised to read as follows:

(a) the petitioner must demonstrate that the waste does not contain the constituent or constituents (as defined in Appendix 22 of this Title) that caused the commissioner to list the waste [, **using the appropriate test methods prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Part**]; or

(Clause 370.3(c)(4)(i)(b) through paragraph 370.3(e)(1) remains unchanged.)

Paragraph 370.3(e)(2) is revised to read as follows:

(2) The [commissioner] department may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

(i) how economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;

[(ii) the prevalence of the practice on an industry-wide basis;]

[(iii) (ii) the extent to which the materials is handled before reclamation to minimize loss;

[(iv) (iii) the time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;

[(v) (iv) the location of the reclamation operation in relation to the production process;

[(vi) (v) whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the

process in substantially its original form;

[(vii)] (vi) whether the person who generates the material also reclaims it; and

[(viii)] (vii) other relevant factors.

(Paragraph 370.3(e)(3) through section 370.5 remain unchanged.)

## 6 NYCRR PART 371 EXPRESS TERMS

(Subdivision 371.1(a) introductory paragraph remains unchanged.)

Paragraph 371.1 (a)(1) is revised to read as follows:

(1) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that -- during the calendar year (commencing on January 1) -- the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g. slags from a single smelting process) that is recycled in the same way (i.e. from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under section[~~372.1(e)(7)~~] 371.1(e)(3) of this Title are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation by recycling, however.

(Paragraph 371.1(a)(2) through clause 371.1(c)(4)(ii)('a') remain unchanged.)

Clause 371.1(c)(4)(ii)('b') and subparagraph 371.1(c)(4)(iii) are revised to read as follows:

(b) However, commercial chemical products listed in section 371.4(d) of this Part are not solid wastes if they are themselves fuels.

(iii) Reclaimed materials noted with an asterisk in column 3 of Table 1 are solid wastes when reclaimed (except as provided under subparagraph 371.1(e)(1)(xxii) of this section). Materials noted with a "- " in column 3 of Table 1 are not solid wastes when reclaimed.

(Subparagraph 371.1(c)(4)(iv) through paragraph 371.1(c)(6) remain unchanged.)

Paragraph 371.1(c)(7) is revised to read as follows:

(7) (i) Parties who raise a claim that a [**certain**] material intended to be reclaimed, recycled or reused is not a solid or hazardous waste, or who raise a claim that such material is exempt or conditionally exempt from regulation, [**based on the intent to reclaim, recycle or reuse,**] must maintain documentation of the basis for this exemption or exclusion onsite and must notify the Department, in writing, before utilizing the exemption or exclusion. Such notification shall give the names and locations of the generating and receiving facilities, [if different,] identify all exemptions or exclusions that the party is claiming, and describe the activity or activities which are believed to qualify for such exemptions or exclusions. Claims of exemption or exclusion are subject to subparagraph (ii) of this paragraph. This subparagraph does not apply to:

(a) dental amalgam as defined and regulated under subpart 374-4 of this title;

\_\_\_\_\_ (b') precious metals regulated under section 374-1.6 of this Title;

\_\_\_\_\_ (c') used lead acid batteries regulated under section 374-1.7 or Subpart 374-3 of this Title; or

\_\_\_\_\_ (d') used electronics directed for dismantling and recycling, meeting the conditions of clause 371.1(g)(1)(iii)(b') or subparagraph 371.1(e)(1)(xxi) of this section.

(ii) Documentation of claims that materials are not solid wastes or are exempt or conditionally exempt from regulation. Respondents in actions to enforce regulations, implementing Article 27, who raise a claim that a certain material is not a solid or hazardous waste, or is exempt or conditionally exempt from regulation[, **when intended for reclamation, recycling, or reuse,**] must demonstrate:

**[(i) for on-site reclamation, recycling, or reuse, that the party meets the terms of the exclusion or exemption; or**

**(ii) for off-site reclamation, recycling, or reuse:]**

(a) that there is a known market or disposition for the material; and

(b) that the owner or operator of the receiving facility has the necessary equipment and capacity to process the entire volume of material offered; and

(c) through appropriate documentation, such as contracts, that the receiving party will reclaim, recycle, use, or reuse the material in such a manner as to qualify it for the exemption or exclusion.

Subdivision 371.1(c) Table 1 is revised to read as follows:

	Use Constituting Disposal	Energy Recovery/ Fuel	Reclamation	Speculative Accumulation
	(1)	(2)	(3)	(4)
Spent materials	(*)	(*)	(*)	(*)
Sludges listed in 371.4(b) and (c)	(*)	(*)	(*)	(*)
Sludges exhibiting a characteristic of hazardous waste	(*)	(*)	--	(*)
By-products listed in 371.4(b) and (c)	(*)	(*)	(*)	(*)
By-products exhibiting a characteristic of hazardous waste	(*)	(*)	--	(*)
Commercial chemical products listed in 371.4(d)	(*)	(*)	--	--
Scrap Metal <b>[other than excluded scrap metal (see 371.1(a)(9)) that is not excluded under 371.1(e)(1)(xiii)]</b>	(*)	(*)	(*)	(*)

(Paragraph 371.1(d)(1) introductory language through clause 371.1(d)(1)(ii)(d) introductory language remains unchanged.)

Subclauses 371.1(d)(1)(ii)(d)(1) and (2) are revised to read as follows:

(1) One or more of the following spent solvents listed in section 371.4(b)- benzene, carbon tetrachloride, tetrachloroethylene, trichloroethylene or the scrubber waters derived from the combustion of these solvents-provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed **[1 mg/l;]1 part per million**, or that the total measured concentration of these solvents entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act, as

amended at 40 CFR parts 60, 61, or 63, as incorporated by reference and implemented by section 200.10 of this Title, or at facilities subject to an enforceable limit in a State operating permit that minimizes fugitive emissions), does not exceed 1 part per million on an average weekly basis. Any facility that uses benzene as a solvent and claims this exemption must use an aerated biological wastewater treatment system and must use only lined surface impoundments or tanks prior to secondary clarification in the wastewater treatment system. Facilities that choose to monitor concentration levels must file a copy of their quality assurance project plan with the Department. A facility must file a copy of a revised quality assurance project plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The quality assurance project plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that its quality assurance project plan has been received by the Department. The Department may reject the quality assurance project plan if the Department finds that the quality assurance project plan fails to include the above information; or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Department rejects the quality assurance project plan or if the Department finds that the facility is not following the quality assurance project plan, the Department shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected; or

(2) One or more of the following spent solvents listed in section 371.4(b)-methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents, 2-ethoxyethanol, or scrubber waters derived-from the combustion of these spent solvents-provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed [**25 mg/l;**] 25 parts per million or the total measured concentration of these solvents entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act, as amended at 40 CFR parts 60, 61, or 63, as incorporated by reference and implemented by section 200.10 of this Title, or at facilities subject to an enforceable limit in a State operating permit that minimizes fugitive emissions), does not exceed 25 parts per million on an average weekly basis. Facilities that choose to monitor concentration levels must file a copy of their quality assurance project plan with the Department. A facility must file a copy of a revised quality assurance project plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The quality assurance project plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the quality assurance project plan has been received by the Department. The Department may reject the quality assurance project plan if the Department finds that the quality assurance project plan fails to include the above information; or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Department rejects the quality assurance project plan or if the Department finds that the facility is not following the quality assurance project plan, the Department shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected; or

(Subclause 371.1(d)(1)(ii)(‘d’)(‘3’) remains unchanged.)

Subclause 371.1(d)(1)(ii)(‘d’)(‘4’) is revised to read as follows:

(‘4’) a discarded hazardous waste, commercial chemical product, or chemical intermediate listed in **[section]** subdivisions 371.4(b) through 371.4(d) of this Part, arising from "de minimis" losses of these materials. **[from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process.]** For purposes of this **[subparagraph]** subclause 371.1(d)(ii)(‘d’)(‘4’), "de minimis" **[means unintentional and minor losses of hazardous materials which occur unavoidably as a result of normal manufacturing processes]** losses are inadvertent releases to a wastewater treatment system. "De minimis" losses include**[ing]** minor losses resulting from normal material handling operations (e.g. spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing[; or] . Any manufacturing facility that claims an exemption for *de minimis* quantities of wastes listed in subdivisions 371.4(b) through 371.4(d) of this Part or any nonmanufacturing facility that claims an exemption for *de minimis* quantities of wastes listed section 371.4 of this Part must either have eliminated the discharge of wastewaters or have included in its State Pollution Discharge Elimination System (SPDES) permit application, pursuant to Part 750 of this Title, or submission to its pretreatment control authority, the constituents for which each waste was listed (in Part 371 appendix 22 of this Part) and the constituents in the table "Treatment Standards for Hazardous Wastes" in Part 376.4 of this Title for which each waste has a treatment standard (*i.e.*, Land Disposal Restriction constituents). A facility is eligible to claim the exemption once the permit writer or the control authority has been notified of possible *de minimis* releases via the SPDES permit application or the pretreatment control authority submission. A copy of the SPDES permit application or the submission to the pretreatment control authority must be placed in the facility’s on-site files; or

(Subclause 371.1(d)(1)(ii)(‘d’)(‘5’) remains unchanged.)

Subclause 371.1(d)(1)(ii)(‘d’)(‘6’) through clause 371.1(d)(1)(ii)(‘e’) introductory language are revised to read as follows:

(‘6’) One or more of the following wastes listed in subdivision 371.4(c) of this Part-wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste No. K157) Provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or is recovered, *i.e.*, what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilution[s] into the headworks of the facility's wastewater treatment system does not exceed a total of 5 **[mg/l;]** parts per million by weight or the total measured concentration of these chemicals entering the headworks of the facility’s wastewater treatment system (at facilities subject to regulation under

the Clean Air Act as amended, at 40 CFR Parts 60, 61 or 63 as incorporated by reference and implemented by section 200.10 of this Title, or at facilities subject to an enforceable limit in a State operating permit that minimizes fugitive emissions), does not exceed 5 parts per million on an average weekly basis. Facilities that choose to monitor concentration levels must file a copy of their quality assurance project plan with the Department. A facility must file a copy of a revised quality assurance project plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The quality assurance project plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the quality assurance project plan has been received by the Department. The Department may reject the quality assurance project plan if the Department finds that the quality assurance project plan fails to include the above information; or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Department rejects the quality assurance project plan or if the Department finds that the facility is not following the quality assurance project plan, the Department shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected; or

(7) Wastewaters derived from the treatment of one or more of the following wastes listed in subdivision 371.4(c) of this Part-organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste No. K156).-Provided, that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 milligrams per liter or the total measured concentration of these chemicals entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act as amended, at 40 CFR parts 60, 61, or 63 as incorporated by reference and implemented by section 200.10 of this Title, or at facilities subject to an enforceable limit in a State operating permit that minimizes fugitive emissions), does not exceed 5 milligrams per liter on an average weekly basis. Facilities that choose to monitor concentration levels must file a copy of their quality assurance project plan with the Department. A facility must file a copy of a revised quality assurance project plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The quality assurance project plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the quality assurance project plan has been received by the Department. The Department may reject the quality assurance project plan if the Department finds that the quality assurance project plan fails to include the above information; or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Department rejects the quality assurance project plan or if the Department finds that the facility is not following the quality assurance project plan, the Department shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected.

(e) Rebuttable presumption for used oil. Used oil containing more than 1000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in section 371.4. Persons may rebut this presumption by

demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Third Edition, as incorporated by reference in subparagraph 370.1(e)(8)(i) of this Title, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in appendix 23). **[EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954, 202-783-3238 (document number 955-001-00000-1).]**

(Subclause 371.1(d)(1)(ii)(e)(1) remains unchanged.)

Subclause 371.1(d)(1)(ii)(e)(2) is revised to read as follows:

(2) The rebuttable presumption does not apply to used oils contaminated with **[chlorofluorocarbons]** chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(Paragraph 371.1(d)(2) through subparagraph 371.1(e)(1)(v) remain unchanged.)

Subparagraph 371.1(e)(1)(vi) is revised to read as follows:

(vi) black liquor that is reclaimed in a **[Kraft]** pulping liquor recovery furnace and then used in the **[Kraft]** process unless it is accumulated speculatively as defined in paragraph 371.1(a)(1) of this Part;

(Subclause 371.1(e)(1)(vii) through subclause 371.1(e)(1)(ix)(c)(4) remain unchanged.)

Subclause 371.1(e)(1)(ix)(c)(5) is revised to read as follows:

(5) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the **[Commissioner]** department a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." This notification satisfies the requirement to submit a notification pursuant to subparagraph (c)(7)(i) of this section. The plant must maintain a copy of that document in its on-site records [for a period of no less than 3 years from the date specified in the notice] until closure of the facility. The exclusion applies [only] so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the **[Commissioner]** department for reinstatement. The **[Commissioner]** department may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions, that the violations have been settled, and that the violations are not likely to recur.

(Subparagraph 371.1(e)(1)(x) through subparagraph 371.1(e)(1)(xviii) remain unchanged.)

New subparagraphs 371.1(e)(1)(xix) through (xxii) are adopted to read as follows:

(xix) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions specified are satisfied:

(‘a’) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in paragraph 371.1(a)(1) of this Part.

(‘b’) Generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must:

(‘1’) Submit a one-time notice to the Department, which contains the name, address and EPA ID number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this subparagraph.

(‘2’) Store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment including the potential for flooding, and, for liquid excluded secondary material located over a sole source aquifer as described in subparagraph 373-1.1(d)(1)(iv) introductory language, meet the secondary containment requirements of clause 373-1.1(d)(1)(iv)(f). At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and must have a floor, walls and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose must be structurally sound and, if outdoors, must have roofs or covers that prevent contact with wind and rain. Containers used for this purpose must be kept closed except when it is necessary to add or remove material, and must be managed within storage areas that:

(‘i’) have containment structures or systems sufficiently impervious to contain leaks, spills and accumulated precipitation; and

(‘ii’) provide for effective collection and management of leaks, spills and accumulated precipitation; and

(‘iii’) prevent run-on into the containment system.

(‘3’) With each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of this subparagraph.

(‘4’) Maintain at the generator’s or intermediate handler’s facility for no less than three years records of all shipments of excluded hazardous secondary materials. For each shipment these records must at a minimum contain the following information:

(‘i’) Name of the transporter and date of shipment;

(‘ii’) Name and address of the facility that received the excluded material, and documentation confirming receipt of the shipment;

(‘iii’) Type and quantity of excluded secondary material in each shipment.

(‘c’) Manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must:

(‘i’) Store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in item 371.1(e)(1)(xix)(‘b’)(‘2’) of this paragraph.

(‘ii’) Submit a one-time notification to the Department that, at a minimum, specifies the name, address, and EPA ID number of the manufacturing facility, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this subparagraph.

(‘iii’) Maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, name of transporter and date the materials were received, the quantity received and a brief description of the industrial process that generated the material.

(‘iv’) Submit to the Department an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial process(s) from which they were generated.

(‘d’) Nothing in this section preempts, overrides or otherwise negates the provision in paragraph 372.2(a)(2) of this Title, which requires any person who generates a solid waste to determine if that waste is a hazardous waste.

(‘e’) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in item (‘b’)(‘1’) of this paragraph, and that afterward will be used only to store hazardous secondary materials excluded under this paragraph, are not subject to the closure requirements of Subparts 373-2 and 373-3 of this Title.

(xx) Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under subparagraph (xix) of this paragraph, provided that:

(‘a’) The fertilizers meet the following contaminant limits:

(‘1’) For metal contaminants:

<b>Constituent</b>	<b>Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc (ppm)</b>
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

(‘2’) For dioxin contaminants, the fertilizer must contain no more than eight (8) parts per trillion of dioxin, measured as toxic equivalent (TEQ).

(‘b’) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every six months, and for dioxins no less than every twelve months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the product(s) introduced into commerce.

(‘c’) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with the requirements of clause (xx)(‘b’) of this paragraph. Such records must at a minimum include:

(‘1’) The dates and times product samples were taken, and the dates the samples were analyzed;

(‘2’) The names and qualifications of the person(s) taking the samples;

(‘3’) A description of the methods and equipment used to take the samples;

(‘4’) The name and address of the laboratory at which analyses of the samples were performed;

(‘5’) A description of the analytical methods used, including any cleanup and sample preparation methods; and

(‘6’) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subparagraph.

(xxi) Used cathode ray tubes (CRTs)

(‘a’) Used, intact CRTs as defined in subdivision 370.2(b) of this Title, are not solid wastes within the United States unless they are disposed, or unless they are speculatively accumulated as defined in paragraph 371.1(a)(1) of this section, by CRT collectors or glass processors.

(‘b’) Used, intact CRTs as defined in subdivision 370.2(b) of this Title, are not solid wastes when exported for recycling provided that they are managed in accordance with the requirements of subdivision 371.4(k) of this Part.

(‘c’) Used, broken CRTs as defined in subdivision 370.2(b) of this Title, are not solid wastes provided that they are managed in accordance with the requirements of subdivision 371.4(j) of this Part.

(‘d’) Glass removed from CRTs is not a solid waste provided that it is managed in accordance with the requirements of paragraph 371.4(j)(3) of this Part.

(xxii) Spent materials (as defined in paragraph 371.1(a)(7) of this Part) (other than hazardous wastes listed in section 371.4 of this Part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that:

(‘a’) The spent material is legitimately recycled to recover minerals, acids, cyanide, water or other values;

(‘b’) The spent material is not accumulated speculatively;

(‘c’) The spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except smelter buildings may have partially earthen floors provided the spent material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in subdivision 370.2(b) of this Title), and be manufactured of a material suitable for containment of its contents;

a container must be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate which may be subject to wind dispersal, the owner/operator must operate these units in a manner which controls fugitive dust. Tanks, containers, and buildings must be designed, constructed and operated to prevent releases to the environment of these materials including the potential for flooding. For liquid spent material located over a sole source aquifer as described in subparagraph 373-1.1(d)(1)(iv) introductory language, the secondary containment requirements of clause 373-1.1(d)(1)(iv)(f) must be met.

(‘d’) Solid mineral processing spent material may not be placed on pads, rather than in tanks, containers or buildings.

(‘e’) The owner or operator provides notice to the Department providing the following information: The types of materials to be recycled; and the type and location of the storage units and recycling processes. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.

(‘f’) For purposes of subparagraph 371.1(e)(2)(vi) of this subdivision, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by nonmineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

(Paragraph 371.1(e)(2) introductory language through subclause 371.1(e)(2)(vi)(b)(20) remain unchanged.)

Subclause 371.1(e)(2)(vi)(b)(21) is deleted.

**[(21) Air pollution control dust/sludge from lightweight aggregate production.]**

(Clause 371.1(e)(2)(vi)(c) through subparagraph 371.1(e)(2)(xii) remain unchanged.)

Paragraph 371.1(e)(2)(xiii) is revised to read as follows:

(xiii) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:

(a) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, **[and]** K178, and K181 if these wastes had been generated after the effective date of the listing;

(b) The solid wastes described in clause (2)(xiii)(a) of this subdivision were disposed prior to the effective date of the listing;

(c) The leachate or gas condensate does not exhibit any characteristic of hazardous waste nor is derived from any other listed hazardous waste;

(d) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the federal Clean Water Act and the State Pollution Discharge Elimination System (SPDES), Parts 750 through 757 of this Title.

(e) As of February 13, 2001, leachate or gas condensate derived from K169 - K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. **[After]** As of November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 **[will]** is no longer [be] exempt if it is stored or managed in a surface impoundment prior to discharge. As of February 26, 2007, leachate or gas condensate derived from K181 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this clause (2)(xiii)(e) after the emergency ends.

(Paragraphs 371.1(e)(3) through clause 371.1(e)(4)(v)(h) remain unchanged.)

Clause 371.1(e)(4)(v)(i) introductory language is revised to read as follows:

(i) The facility prepares and submits a report to the **[commissioner]** department by March 15 of each year, that **[estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and]** includes the following information for the previous calendar year:

(Subclause 371.1(e)(4)(v)(i)(1) through paragraph 371.1(f)(1) remain unchanged.)

Paragraph 371.1(f)(2) is revised to read as follows:

(2) Except for those wastes identified [as provided] in paragraphs (5), (6), (7), and (10) of this subdivision, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under Part 372 through Subpart **[374-3]** 373-3, Subpart 374-1, and Part 376 of this Title and the notification requirements of section 3010 of RCRA (see section 370.1(e) of this Title), provided the generator complies with the requirements of paragraphs (5), (6), (7) and (10) of this subdivision;

(Paragraph 371.1(f)(3) introductory language through subparagraph 371.1(f)(3)(v) remain unchanged.)

Subparagraph 371.1(f)(3)(vi) is revised and new subparagraph 371.1(f)(3)(vii) is adopted to read as follows:

(vi) is universal waste managed under 371.1(j) and 374-3[.];

(vii) is a hazardous waste that is an unused commercial chemical product (listed in section 371.4 of this Part or exhibiting one or more characteristics in section 371.3 of this Part) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to paragraph 372.2(e)(13) of this Title. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in paragraph 372.2(e)(1) of this Title.

(Paragraph 371.1(f)(4) remains unchanged.)

Paragraphs 371.1(f)(5) through subparagraph 371.1(f)(6)(ii) are revised to read as follows:

(5) If a conditionally exempt small quantity generator generates acute hazardous waste **[in quantities greater than that set forth below]** in a calendar month in quantities greater than set forth below, all quantities of that acute hazardous waste are subject to full regulation under **[Parts] Part 372[, 373, 374]** through 374-1, and 376 of this Title, and the notification requirements of section 3010 of RCRA (see section 370.1(e) of this Title):

(i) a total of one kilogram of acute hazardous waste listed in sections 371.4(b) **[, (c)]** and (d)(5) of this Title; or

(ii) a total of 100 kilograms of any residue or contaminated soil, waste or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in section 371.4(b) **[, (c)]** and (d)(5) of this Title;

Note to paragraph (5): “Full regulation” means those regulations applicable to generators of 1,000 kg or greater of hazardous waste in a calendar month.

(6) **[A]** In order for acute hazardous wastes generated by a conditionally exempt small quantity generator **[who generates]** of acute hazardous wastes in quantities equal to or less than those set forth in subparagraphs (5)(i) or (5)(ii) of this subdivision to **[may]** be excluded from full regulation under this subdivision, the generator must comply with **[if]** the following requirements **[are complied with]:**

(i) paragraph 372.2(a)(2) of this Title;

(ii) the conditionally exempt small quantity generator may accumulate acute hazardous waste on-site. If acutely hazardous wastes are accumulated at any time in quantities greater than those set forth in subparagraphs (5)(i) or (5)(ii) of this subdivision, all of those accumulated wastes are subject to regulation under Parts 372 through **[374]** 374-1, and 376 of this Title and the notification requirements of section 3010 of RCRA (see section 370.1(e) of this Title). The time period **[for accumulation of wastes on-site given in]** of subparagraph 372.2(a)(8)(ii) of this Title, for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit;

(Subparagraphs 371.1(f)(6)(iii) and (iv) remain unchanged.)

Paragraph 371.1(f)(7) introductory language through subparagraph 371.1(f)(7)(ii) are revised to

read as follows:

(7) In order for non-acute hazardous waste generated by a conditionally exempt small quantity generator in quantities of 100 kilograms or less of hazardous waste [less than] during a calendar month to be excluded from full regulation under this section, the generator must comply with the following requirements:

(i) comply with paragraph 372.2(a)(2) of this Title;

(ii) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If **[he or she]** this generator accumulates at any time [more than a total of] 1000 kilograms or greater of **[their own]** hazardous wastes generated on this site, all of those accumulated wastes are subject to regulation under the special provisions of Part 372 of this Title applicable to generators of greater than 100 kg and less than 1000 kg of hazardous waste [between 100 and 1000 kg of hazardous waste] in a calendar month as well as the requirements of Parts 373, 374 and 376 of this Title, and the applicable notification requirements of section 3010 of RCRA. The time period of 372.2(a)(8)(iii) for accumulation of wastes on-site begins for a conditionally exempt small quantity [generators] generator when the accumulated wastes equal or exceed 1000 kilograms;

(Subparagraph 371.1(f)(7)(iii) through paragraph 371.1(f)(9) remain unchanged.)

Paragraph 371.1(f)(10) through subparagraph 371.1(g)(1)(iii) introductory language are revised to read as follows:

(10) If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to Part 360, Part 613 and Subpart 374-2 of this Title **[if it is destined to be burned for energy recovery]**. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated **[if it is destined to be burned for energy recovery]**.

(g) Requirements for recyclable materials.

(1) (i) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of paragraphs (2) and (3) of this subdivision, except for the materials listed in subparagraph (ii) of this subdivision. Hazardous wastes that are recycled will be known as “recyclable materials.”

(ii) The following recyclable materials are not subject to the requirements of this subdivision but are regulated under sections 374-1.3 through 374-1.8, Subpart 374-2 and all applicable provisions in Subpart 373-1 and Parts 376, 621 and 624 of this Title.

(‘a’) Recyclable materials used in a manner constituting disposal (see section 374-1.3);

(‘b’) Hazardous wastes burned **[for energy recovery]** (as defined in subdivision

374-1.8(a) of this Title in boilers and industrial furnaces that are not regulated under sections 373-2.15 and 373-3.15 of this Title (see section 374-1.8);

(‘c’) reserved;

(‘d’) Recyclable materials from which precious metals are reclaimed (see section 374-1.6); and

(‘e’) Spent lead-acid batteries that are being reclaimed (see section 374-1.7).

(iii) The following recyclable materials, or the following hazardous wastes burned for energy recovery, are not subject to regulation under Parts 372 through 374 and 376 of this Title, and are not subject to the notification requirements of section 3010 of RCRA (see section 370.1(e) of this Title), provided that the waste is transported by a hauler complying with any applicable waste hauler permit requirements in Part 364 of this Title:

(Clause 371.1(g)(1)(iii)(‘a’) through clause 371.1(g)(1)(iii)(‘d’) remain unchanged.)

Subparagraph 371.1(g)(1)(iv) through subparagraph 371.1(h)(2)(i) is revised to read as follows:

(iv) Used oil that is recycled, or burned for energy recovery, and is also a hazardous waste solely because it exhibits a hazardous waste characteristic is not subject to the requirements of Parts 370 through 373, Subpart 374-1 and Part 376 of this Title, but is regulated under Part 364 and Subparts 360-14 and 374-2 of this Title. Used oil that is recycled includes any used oil which is reused, following its original use, for any purpose (including the purpose for which the oil was originally used). Such term includes, but is not limited to, oil which is re-refined, reclaimed, **[burned for energy recovery,]** or reprocessed.

(v) Hazardous waste, that is exported to or imported from designated member countries of the Organization for Economic Cooperation and Development (OECD) (as defined in paragraph 372.5(h)(1) of this Title) for purpose of recovery is subject to the requirements of section 372.5 of this Title, if it is subject to either the manifesting requirements of Part 372 of this Title, or to the universal waste management standards of Subpart 374-3 of this Title.

(2) Generators and transporters of recyclable materials and generators and transporters of hazardous wastes burned for energy recovery are subject to the applicable requirements of Part 372 of this Title and the notification requirements under section 3010 of RCRA (see section 370.1(e) of this Title), except as provided in paragraph (1) of this subdivision.

(3) (i) Owners or operators of facilities that store recyclable materials before they are recycled, or store hazardous wastes prior to being burned for energy recovery, are regulated under all applicable provisions of Subpart 373-1, sections 373-2.1 through 373-2.12, 373-2.27 through 373-2.29, [Subpart 373-1,] sections 373-3.1 through **[373-3.13]** 373-3.12 , 373-3.27 through 373-3.29, Subpart 374-1, Parts [374], 376, 621 and 624 of this Title, **[sections 373-2.27, 373-2.28, 373-2.29, 373-3.27, 373-3.28, and 373-3.29 of this Title,]** and the notification requirements under section 3010 RCRA (see section 370.1(e) of this Title), except as provided in paragraph (1)

of this subdivision. (The recycling process itself is exempt from regulation except as provided in paragraph (4) of this subdivision.)

(ii) Owners or operators of facilities that recycle recyclable materials without storing them before they are subject to the following requirements, except as provided in paragraph (1) of this subdivision:

(‘a’) notification requirements under section 3010 of RCRA (see section 370.1(e) of this Title).

(‘b’) sections 373-2.5 and 373-3.5, and subdivision 373-3.5(b) (dealing with the use of the manifest and manifest discrepancies) of this Title.

(‘c’) paragraph 371.1(g)(4) of this Title.

(4) Owners or operators of facilities subject to RCRA permitting requirements with hazardous waste management units that recycle hazardous wastes are subject to the requirements of sections 373-2.27, 373-2.28, 373-3.27 and 373-3.28 of this Title.

(h) Residues of hazardous waste in empty containers.

(1) (i) Any hazardous waste remaining in either an empty container or an inner liner removed from an empty container, as defined in paragraph (2) of this subdivision, is not subject to regulation under Parts 371 through [373] 374, and Part 376 of this Title, or to the notification requirements of section 3010 of RCRA (see section 370.1(e) of this Title). (Note: The discarding of the empty drum or inner liner itself may be subject to the disposal requirements of Part 360 and the transportation requirements of Part 364 of this Title).

(ii) Any hazardous waste in either a container that is not empty or an inner liner removed from a container that is not empty, as defined in paragraph (2) of this subdivision, is subject to regulation under Parts 371 through [373] 374, and Parts 376 of this Title, or to the notification requirements of section 3010 of RCRA (see section 370.1(e) of this Title).

(2) (i) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in [sections] section 371.4(b) [through] or paragraph (d)(5) [(d)] of this Part, is empty if:

(Clause 371.1(h)(2)(i)(‘a’) through subparagraph 371.1(h)(2)(ii) remain unchanged.)

Subparagraph 371.1(h)(2) (iii) is revised to read as follows:

(iii) A container or an inner liner removed from a container that has held an acute hazardous waste listed in [sections] section 371.4(b)[, (c)] or paragraph 371.4(d)(5) of this Part is empty if:

(Clause 371.1(h)(2)(iii)(‘a’) through subparagraph 371.1(j)(1)(ii) remain unchanged.)

Subparagraph 371.1(j)(1)(iii) is revised to read follows:

(iii) [**Thermostats**] Mercury-containing equipment as described in subdivision 374-3.1(d) of this Title; and

(Subparagraph 371.1(j)(1)(iv) through 371.3(b)(1) introductory language remain unchanged.)

Subparagraph 371.3(b)(1)(i) is revised to read as follows:

(i) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60 degrees Celsius (140 degrees F)[. **Flash point must be**], as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in the American Society for Testing Materials (ASTM) Standard D-93-79 or D-93-80; or a Setaflash Closed Cup Tester, using the test method specified in [the American Society for Testing Materials (ASTM) and the ASTM test method specified in ASTM Standard D-3278-78[; or a determined by an equivalent test method approved by the commissioner as set forth in 6NYCRR 370.3(b) (see] , as incorporated by reference in subdivision [section] 370.1(e) of this Title. [)]

(Subparagraph 371.3(b)(1)(ii) remains unchanged.)

Subparagraphs 371.3(b)(1)(iii) and (iv) are revised as follows :

(iii) It is an ignitable compressed gas, as defined in [**49 CFR 172**] 40 CFR 261.21(a)(3) (see section 370.1(e) of this Title) [, **and as determined by the test methods described in that regulation or equivalent test methods approved by the commissioner as set forth in section 370.3(b) of this Title**].

(iv) It is an oxidizer as defined in [**49 CFR 173.127**] 40 CFR 261.21(a)(4) (see section 370.1(e) of this Title).

(Paragraph 371.3(b)(2) through paragraph 371.1(3)(c)(1) introductory language remain unchanged.)

Subparagraphs 371.3(c)(1)(i) and (ii) are revised to read as follows:

(i) It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter using Method [**9040**] 9040C in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA publication number SW-846, as incorporated by reference in subdivision 370.1(e) of this Title.

(ii) It is a liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm (0.250 inch) per year at a test temperature of 55 degrees C (130 degrees F) as determined by [**the test method specified in the National Association of Corrosion Engineers (NACE) Standard TM-01-69 as standardized**] Method 1110A in "Test Methods for Evaluating Solid Waste, Physical/Chemical

Methods", EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title.

(Paragraph 371.3(c)(2) through subparagraph 371.3(d)(1)(vii) remain unchanged.)

Subparagraph 371.3(d)(1)(viii) is revised to read as follows:

(viii) It is a forbidden explosive[, **a Class A explosive or a Class B explosive**] as defined in 49 CFR [**173.51 and 173.53**] 173.54, or is a Division 1.1, 1.2 or 1.3 explosive as defined in 49 CFR 173.50 and 173.53 (see section 370.1(e) of this Title).

(Paragraph 371.3(d)(2) remains unchanged.)

Paragraph 371.3(e)(1) is revised to read as follows:

**(e) Toxicity characteristic.**

- (1) Except as provided in subparagraph (i) of this paragraph, a solid waste exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure, Test Method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title, the extract from a representative sample of the waste contains any of the contaminants listed in Table 1 at a concentration equal to or greater than the respective value given in that Table. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Method 1311, is considered to be the extract for the purpose of this subdivision.

(i) Manufactured Gas Plant (MGP) related remediation waste exhibiting the Toxicity Characteristic for benzene is not a hazardous waste based on toxicity if the following conditions are met:

(‘a’) This exemption only applies to remediation wastes from former MGP sites being remediated under an order, agreement or State assistance contract with the Department, or under the oversight of the EPA.;

(‘b’) This exemption only applies to soil or sediment contaminated with coal tar related residuals that will be thermally treated (as in a combustion boiler unit or in a thermal desorber) at an off-site facility permitted to receive non-hazardous contaminated soil or at an on-site facility. MGP site remediation waste meeting the applicability requirements that is being sent out of state must comply with the rules and regulations of the receiving state; and

(‘c’) This exemption does not apply to coal tar contaminated materials which contain significant quantities of purifier wastes or any quantity of other hazardous wastes. A significant quantity of purifier waste is defined as any quantity that would cause the MGP site remediation waste mixture, sent for thermal treatment, to contain in excess of 3.5 % sulfur by weight.

(371.3(e) Table 1 through paragraph 371.4(a)(3) remain unchanged.)

Paragraph 371.4(a)(4) is revised to read as follows:

(4) The following hazardous wastes listed in subdivision[s] (b) **[and (c)]** of this section are subject to the exclusion limits for acutely hazardous waste established in subdivision 371.1(f) of this Title: EPA Hazardous Waste Number F020, F021, F022, F023, F026, and F027.

Paragraph 371.4(b)(1), the listing for F019 is revised to read as follows:

F019 Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed on the land prior to shipment to a landfill for disposal and are either: disposed in a Part 360 municipal or industrial landfill unit that is equipped with at least a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in Part 360 of this Chapter and subdivisions 373-2.15(c) and 373-3.14(j) of this Title. For the purposes of this listing, motor vehicle manufacturing is defined in clause 371.4(b)(2)(iv)('a'); and clause ('b') of this section describes the recordkeeping requirements for motor vehicle manufacturing facilities.

Paragraph 371.4(b)(1), Table 1, Footnote \* is revised to read as follows:

\* (I,T) should be used to specify mixtures **[containing]** that are ignitable and contain toxic constituents.

(Subparagraphs 371.4(b)(2)(i) through (iii) remain unchanged.)

New subparagraph 371.4(b)(2)(iv) is adopted to read as follows:

(iv) For the purposes of the F019 listing, the following apply to wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process.

('a') Motor vehicle manufacturing is defined to include the manufacture of automobiles and light trucks/utility vehicles (including light duty vans, pick-up trucks, minivans, and sport utility vehicles). Facilities must be engaged in manufacturing complete vehicles (body and chassis or unibody) or chassis only.

('b') Generators must maintain in their on-site records documentation and information sufficient to prove that the wastewater treatment sludges to be exempted from the F019 listing meet the conditions of the listing. These records must include: the volume of waste generated and disposed of offsite; documentation showing when the waste volumes were generated and sent offsite; the name and address of the receiving facility; and documentation confirming receipt of the waste by the receiving facility. Generators must maintain these

documents on site for no less than three years. The retention period for the documentation is automatically extended during the course of any enforcement action or as requested by the Department.

371.4(c) Introductory language is revised to read as follows:

(c) Hazardous Wastes from specific sources.

(1) The following solid wastes are listed hazardous waste from specific sources unless excluded under sections 370.3(a) and 370.3(c) of this Title and listed in Appendix 24.

(Newly numbered listings from the beginning of the list through Inorganic Chemicals listings remain unchanged.)

Newly numbered 371.4(c)(1) Organic Chemicals listings: new listing for K181 is adopted to read as follows:

K181 Nonwastewaters from the production of dyes and/or pigments (including nonwastewaters commingled at the point of generation with nonwastewaters from other processes) that, at the point of generation, contain mass loadings of any of the constituents identified in paragraph (3) of this subdivision, that are equal to or greater than the corresponding paragraph (3) levels, as determined on a calendar year basis. These wastes will not be hazardous if the nonwastewaters are: (i) disposed in a Part 360 landfill unit subject to the design criteria in Part 360 of this Title or disposed in a 40 CFR Subtitle D landfill unit subject to the design criteria in 40 CFR 258.40, as incorporated by reference in subdivision 370.1(e) of this Title, (ii) disposed in a Part 373 landfill unit subject to either sections 373-2.14 or 373-3.14 of this Title or disposed in a 40 CFR Subtitle C landfill unit subject to either 40 CFR 264.301 or 40 CFR 264.301, as incorporated by reference in subdivision 370.1(e) of this Title, (iii) disposed in other Part 360 landfill units that meet the design criteria in Part 360, 373-2.14 or 373-3.14 of this Title or disposed in other 40 CFR Subtitle D landfill units that meet the design criteria in 40 CFR 258.40, 264.301, or 265.301, or (iv) treated in a combustion unit that is permitted under Part 373 or 40 CFR Subtitle C, as incorporated by reference in subdivision 370.1(e) of this Title, or an on-site combustion unit that is permitted under the Clean Air Act at 40 CFR parts 60, 61, or 63, as incorporated by reference by section 200.10 of this Title. For the purposes of this listing, dyes and/or pigments production is defined in subparagraph (2)(i) of this subdivision. Paragraph (4) of this subdivision describes the process for demonstrating that a facility's nonwastewaters are not K181. This listing does not apply to wastes that are otherwise identified as hazardous under subdivisions 371.3(b),(c), (d) and 371.4(b), (c) and (d) of this Part, at the point of generation. Also, the listing does not apply to wastes generated before any annual mass loading limit is met. (T)

Newly numbered paragraph 371.4(c)(1) Listings from Primary Copper through Ferroalloys are revised to read as follows:

**[Primary Copper:**

**K064 Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production. (T)**

**Primary Lead:**

**K065 Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities. (T)**

**Primary Zinc:**

**K066 Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production. (T)]**

Primary Aluminum:

K088 Spent potliners from primary aluminum reduction. (T)

**[Ferroalloys:**

**K090 Emission control dust or sludge from ferrochromium-silicon production. (T)**

**K091 Emission control dust or sludge from ferrochromium production. (T)]**

(New numbered paragraph 371.4(c)(1) Listings from Secondary lead through Petroleum refining remain unchanged.)

New paragraphs 371.4(c)(2) through (4) are adopted to read as follows:

(2) Listing Specific Definitions: (i) For purposes of the K181 listing, dyes and/or pigments production is defined to include manufacture of the following product classes: dyes, pigments, or FDA certified colors that are classified as azo, triarylmethane, perylene or anthraquinone classes. Azo products include azo, monoazo, diazo, triazo, polyazo, azoic, benzidine, and pyrazolone products. Triarylmethane products include both triarylmethane and triphenylmethane products. Wastes that are not generated at a dyes and/or pigments manufacturing site, such as wastes from the offsite use, formulation, and packaging of dyes and/or pigments, are not included in the K181 listing.

(3) K181 Listing Levels. Nonwastewaters containing constituents in amounts equal to or exceeding the following levels during any calendar year are subject to the K181 listing, unless the conditions in the K181 listing are met.

<u>Constituent</u>	<u>Chemical abstracts No.</u>	<u>Mass levels (kg/yr)</u>
<u>Aniline</u>	<u>62-53-3</u>	<u>9,300</u>

<u>o-Anisidine</u>	<u>90-04-0</u>	<u>110</u>
<u>4-Chloroaniline</u>	<u>106-47-8</u>	<u>4,800</u>
<u>p-Cresidine</u>	<u>120-71-8</u>	<u>660</u>
<u>2,4-Dimethylaniline</u>	<u>95-68-1</u>	<u>100</u>
<u>1,2-Phenylenediamine</u>	<u>95-54-5</u>	<u>710</u>
<u>1,3-Phenylenediamine</u>	<u>108-45-2</u>	<u>1,200</u>

(4) Procedures for demonstrating that dyes and/or pigment nonwastewaters are not K181. The procedures described in subparagraphs (4)(i) through (4)(iii) and (4)(v) of this subdivision establish when nonwastewaters from the production of dyes/pigments would not be hazardous (these procedures apply to wastes that are not disposed in landfill units or treated in combustion units as specified in paragraph (1) of this subdivision). If the nonwastewaters are disposed in landfill units or treated in combustion units as described in paragraph (1) of this subdivision, then the nonwastewaters are not hazardous. In order to demonstrate that it is meeting the landfill disposal or combustion conditions contained in the K181 listing description, the generator must maintain documentation as described in subparagraph (4)(iv) of this subdivision.

(i) Determination based on no K181 constituents. Generators that have knowledge (e.g., knowledge of constituents in wastes based on prior sampling and analysis data and/or information about raw materials used, production processes used, and reaction and degradation products formed) that their wastes contain none of the K181 constituents (see paragraph (3) of this subdivision) can use their knowledge to determine that their waste is not K181. The generator must document the basis for all such determinations on an annual basis and keep each annual documentation for three years.

(ii) Determination for generated quantities of 1,000 MT/yr or less for wastes that contain K181 constituents. If the total annual quantity of dyes and/or pigment nonwastewaters generated is 1,000 metric tons or less, the generator can use knowledge of the wastes (e.g., knowledge of constituents in wastes based on prior analytical data and/or information about raw materials used, production processes used, and reaction and degradation products formed) to conclude that annual mass loadings for the K181 constituents are below the listing levels of paragraph (3) of this subdivision. To make this determination, the generator must:

(‘a’) Each year document the basis for determining that the annual quantity of nonwastewaters expected to be generated will be less than 1,000 metric tons.

(‘b’) Track the actual quantity of nonwastewaters generated from January 1 through December 31 of each year. If, at any time within the year, the actual waste quantity exceeds 1,000 metric tons, the generator must comply with the requirements of subparagraph (4)(iii) of this subdivision for the remainder of the year.

(‘c’) Keep a running total of the K181 constituent mass loadings over the course of

the calendar year.

(‘d’) Keep the following records on site for the three most recent calendar years in which the hazardous waste determinations are made:

(‘1’) The quantity of dyes and/or pigment nonwastewaters generated.

(‘2’) The relevant process information used.

(‘3’) The calculations performed to determine annual total mass loadings for each K181 constituent in the nonwastewaters during the year.

(iii) Determination for generated quantities greater than 1,000 MT/yr for wastes that contain K181 constituents. If the total annual quantity of dyes and/or pigment nonwastewaters generated is greater than 1,000 metric tons, the generator must perform all of the steps described in clauses ((4)(iii)(‘a’) through (4)(iii)(‘k’) of this subdivision) in order to make a determination that its waste is not K181.

(‘a’) Determine which K181 constituents (see paragraph (3) of this subdivision) are reasonably expected to be present in the wastes based on knowledge of the wastes (e.g., based on prior sampling and analysis data and/or information about raw materials used, production processes used, and reaction and degradation products formed).

(‘b’) If 1,2-phenylenediamine is present in the wastes, the generator can use either knowledge or sampling and analysis procedures to determine the level of this constituent in the wastes. For determinations based on use of knowledge, the generator must comply with the procedures for using knowledge described in subparagraph (4)(ii) of this subdivision and keep the records described clause (4)(ii)(‘d’) of this subdivision. For determinations based on sampling and analysis, the generator must comply with the sampling and analysis and recordkeeping requirements described below in this subdivision.

(‘c’) Develop a waste sampling and analysis plan (or modify an existing plan) to collect and analyze representative waste samples for K181 constituents reasonably expected to be present in the wastes. At a minimum, the plan must include:

(‘1’) A discussion of the number of samples needed to characterize the wastes fully;

(‘2’) The planned sample collection method to obtain representative waste samples;

(‘3’) A discussion of how the sampling plan accounts for potential temporal and spatial variability of the wastes.

(‘4’) A detailed description of the test methods to be used, including sample preparation, clean up (if necessary), and determinative methods.

(‘d’) Collect and analyze samples in accordance with the waste sampling and analysis plan.

(‘1’) The sampling and analysis must be unbiased, precise, and representative of the wastes.

(‘2’) The analytical measurements must be sufficiently sensitive, accurate and precise to support any claim that the constituent mass loadings are below the listing levels of paragraph (3) of this subdivision.

(‘e’) Record the analytical results.

(‘f’) Record the waste quantity represented by the sampling and analysis results.

(‘g’) Calculate constituent-specific mass loadings (product of concentrations and waste quantity).

(‘h’) Keep a running total of the K181 constituent mass loadings over the course of the calendar year.

(‘i’) Determine whether the mass of any of the K181 constituents listed in paragraph (3) of this subdivision generated between January 1 and December 31 of any year is below the K181 listing levels.

(‘j’) Keep the following records on site for the three most recent calendar years in which the hazardous waste determinations are made:

(‘1’) The sampling and analysis plan.

(‘2’) The sampling and analysis results (including QA/QC data).

(‘3’) The quantity of dyes and/or pigment nonwastewaters generated.

(‘4’) The calculations performed to determine annual mass loadings.

(‘k’) Nonhazardous waste determinations must be conducted annually to verify that the wastes remain nonhazardous.

(‘1’) The annual testing requirements are suspended after three consecutive successful annual demonstrations that the wastes are nonhazardous. The generator can then use knowledge of the wastes to support subsequent annual determinations.

(‘2’) The annual testing requirements are reinstated if the manufacturing or waste treatment processes generating the wastes are significantly altered, resulting in an increase of the potential for the wastes to exceed the listing levels.

(‘3’) If the annual testing requirements are suspended, the generator must keep records of the process knowledge information used to support a nonhazardous determination. If testing is reinstated, a description of the process change must be retained.

(iv) Recordkeeping for the landfill disposal and combustion exemptions. For the purposes of meeting the landfill disposal and combustion condition set out in the K181 listing description, the generator must maintain on site for three years documentation demonstrating that each shipment of waste was received by a landfill unit that is subject to or meets the landfill design standards set out in the listing description, or was treated in combustion units as specified in the listing description.

(v) Waste holding and handling. During the interim period, from the point of generation to completion of the hazardous waste determination, the generator is responsible for storing the wastes appropriately. If the wastes are determined to be hazardous and the generator has not complied with the requirements of Parts 370 through 374-4 and Part 376 of this Title during the interim period, the generator is in violation and could be subject to an enforcement action for improper management.

(Subdivision 371.4(d) introductory language through paragraph 371.4(d)(5) introductory language remain unchanged.)

Paragraph 371.4(d)(5) listing for P194 is revised to read as follows:

P194            23135-22-0    **[Ethanimidothioc]** Ethanimidothioic acid, 2-(dimethylamino)-N-(((methylamino) carbonyl)oxy)-2-oxo-, methyl ester.

(Paragraph 371.4(d)(6) introductory language remains unchanged.)

Paragraph 371.4(d)(6) table listings are revised to read as follows:

U164	56-04-2	<b>[Mitomycin C]</b> <u>Methylthiouracil</u>
U010	<u>50-07-7</u>	<u>Mitomycin C</u>

.....

**[U202            <sup>1</sup>81-07-2    Saccharin, & salts]**

.....

U011	61-82-5	1H-1,2,4-Triazol-3-amine
U226	71-55-6	<u>1,1,1-Trichloroethane</u>
U227	79-00-5	1,1,2-Trichloroethane

(Paragraph 371.4(e)(1) introductory language through listing for B001 remain unchanged.)

Paragraph 371.4(e)(1), listing for B002 is revised to read as follows:

B002 Petroleum oil or other liquid containing 50 ppm or greater of PCBs, but less than 500 ppm PCBs. This includes oil from electrical equipment whose PCB concentration is unknown, except for circuit breakers, reclosers, rectifiers and cable.

(Paragraph 371.4(e)(1), listing for B003 remains unchanged.)

Paragraph 371.4(e)(1), listing for B004 is revised to read as follows:

B004 PCB Articles containing 50 ppm or greater of PCBs, but less than 500 ppm PCBs, excluding small capacitors. This includes oil-filled electrical equipment whose PCB concentration is unknown, except for circuit breakers, reclosers, rectifiers and cable.

(Paragraph 371.4(e)(1), listing for B005 through paragraph 371.4(e)(2) remain unchanged.)

Subparagraph 371.4(e)(3)(i) is revised to read as follows:

(i) "PCB Article" means any manufactured article, other than a PCB container, that contains PCBs and whose surface(s) has been in direct contact with PCBs. "PCB Article" includes capacitors, transformers, electric motors, circuit breakers, reclosers, rectifiers, voltage regulators, switches (including sectionalizers and motor starters), electromagnets, cable, hydraulic machines, pumps, pipes, and any other manufactured item which is formed to a specific shape or design during manufacture, has end use function(s) dependent in whole or in part upon its shape or design during end use, and has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the PCB Article.

(Subparagraph 371.4(e)(3)(ii) through clause 371.4(f)(2)(i)(c) introductory language remain unchanged.)

Subclauses 371.4(f)(2)(ii)(c)(1) and (2) are revised to read as follows:

(1) Rinses must be tested [**in accordance with SW-846, Method 8290**] by using an appropriate method.

(2) "Not detected" means at or below the following lower method calibration [**limit (MCL) in SW-846, Method 8290, Table 1**] limits (MCLs): The 2,3,7,8-TCDD-based MCL-0.01 parts per trillion (ppt), sample weight of 1000 g, IS spiking level of 1 ppt, final extraction volume of 10-50  $\mu$ L (microlitre). For other congeners-multiply the values by 1 for TCDF/PeCDD/PeCDF, by 2.5 for HxCDD/HxCDF/HpCDD/HpCDF, and by 5 for OCDD/OCDF.

(Clause 371.4(f)(2)(ii)(d) through paragraph 371.4(i)(1) remain unchanged.)

Paragraph 371.4(i)(2) is revised to read as follows:

(2) Synthesis gas fuel specification.--Synthesis gas fuel (i.e., syngas fuel) that is generated from

hazardous waste must:

- (i) Have a minimum Btu value of 100 Btu/Scf;
- (ii) Contain less than 1 ppmv of total halogen;
- (iii) Contain less than 300 ppmv of total nitrogen other than diatomic nitrogen (N<sub>2</sub>);
- (iv) Contain less than 200 ppmv of hydrogen sulfide; and
- (v) Contain less than 1 ppmv of each hazardous constituent in the target list of Appendix 23 constituents.

Table 1 to subdivision 371.4(i)

Detection and Detection Limit Values for Comparable Fuel Specification

Table 1 to 40 CFR section 261.38, as of [July 1, 2002] July 1, 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

(Paragraph 371.4(i)(3) introductory language through clause 371.4(i)(3)(ii)(c) remain unchanged.)

New clause 371.4(i)(3)(ii)(d) is adopted to read as follows:

(d) Gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.

(Subparagraphs 371.4(i)(3)(iii) through (vi) remain unchanged.)

Subparagraph 371.4(i)(3)(vii) introductory language is revised to read as follows:

(vii) Waste analysis plans. The generator of a comparable/syngas fuel shall develop and follow a written waste analysis plan which describes the procedures for sampling and analysis of the hazardous waste to be excluded. **[The waste analysis plan shall be developed in accordance with the applicable sections of the "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), as incorporated by reference in subdivision 370.1(e) of this Title.]** The plan shall be followed and retained at the facility excluding the waste.

(Clause 371.4(i)(3)(vii)(a) through subparagraph 371.4(i)(3)(xii) introductory language remain unchanged.)

Clause 371.4(i)(3)(xii)(a) is revised to read as follows:

(a) Certifying that the comparable/syngas fuel will only be burned in an industrial furnace or boiler, utility boiler, or hazardous waste incinerator, as required under **[paragraph**

(c)(2)] subparagraph (3)(ii) of this section;

(Clause 371.4(i)(3)(xii)(b') through subparagraph 371.4(i)(3)(xiii) remain unchanged.)

New subdivisions 371.4(j), (k) and (l) are adopted to read as follows:

**Subdivision 371.4(j) Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.**

Used, broken CRTs are not solid wastes if they are managed in accordance with the following criteria. If the criteria are not met, the used, broken CRTs are solid waste, and hazardous waste if the definition of hazardous waste is met.

(1) Prior to processing: These materials must be destined for recycling and the following requirements met:

(i) Storage. The broken CRTs must be either:

(‘a’) Stored in a building with a roof, floor, and walls, or

(‘b’) Placed in a container (i.e., a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials or their constituents).

(ii) Labeling. Each container in which the used, broken CRT is contained must be labeled or marked clearly with one of the following phrases: “Used cathode ray tube(s)-contains leaded glass” or “Leaded glass from televisions or computers.” It must also be labeled: “Do not mix with other glass materials.”

(iii) Transportation. The used, broken CRTs must be transported in a container meeting the requirements of clause 371.4(j)(1)(i)(‘b’) and subparagraph 371.4(j)(1)(ii) of this subdivision.

(iv) Speculative accumulation and use constituting disposal. The used, broken CRTs are subject to the limitations on speculative accumulation as defined in paragraph 371.1(a)(1) of this Part. If they are used in a manner constituting disposal, they must comply with the applicable requirements of section 374-1.3 of this Title instead of the requirements of this subdivision.

(v) Exports. In addition to the applicable conditions specified in subparagraph (1)(i) through (iv) of this subdivision, exporters of used, broken CRTs must comply with the requirements of 40 CFR 261.39(a)(5) as implemented by USEPA (incorporated by reference in subdivision 370.1(e) of this Title).

(‘a’) Notification of intent to export, required to be submitted to USEPA under 40 CFR 261.39(a)(5), must also be submitted to the Department.

(2) Requirements for used CRT processing: Used, broken CRTs undergoing CRT processing as

defined in subdivision 370.2(b) of this Title must be managed in accordance with the following criteria:

(i) Storage. Used, broken CRTs undergoing CRT processing are subject to the requirement of subparagraph (1)(iv) of this subdivision.

(ii) Processing.

(‘a’) All activities specified in subparagraphs (ii) and (iii) of the definition of “CRT processing” in subdivision 370.2(b) of this Title must be performed within a building with a roof, floor, and walls; and

(‘b’) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.

(3) Processed CRT glass sent to CRT glass making or lead smelting: Glass from used CRTs that is destined for recycling at a CRT glass manufacturer or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in paragraph 371.1(a)(1) of this Part.

(4) Use constituting disposal: Glass from used CRTs that is used in a manner constituting disposal must comply with the requirements of section 374-1.3 of this Title, instead of the requirements of this subdivision.

#### **371.4(k) Conditional Exclusion for Used, Intact Cathode Ray Tubes (CRTs) Exported for Recycling**

Used, intact CRTs exported for recycling are not solid wastes if they meet the notice and consent conditions of subparagraph (j)(1)(v) of this section, and if they are not speculatively accumulated as defined in paragraph 371.1(a)(1) of this Part.

#### **371.4(l) Notification and Recordkeeping for Used, Intact Cathode Ray Tubes (CRTs) Exported for Reuse.**

CRT exporters who export used, intact CRTs for reuse must comply with the notification and recordkeeping requirements of 40 CFR 261.41 as implemented by USEPA (incorporated by reference in subdivision 370.1(3) of this Title). Notification of intent to export, required to be submitted to EPA under 40 CFR 261.41(a), must be submitted to the Department.

Appendix 19 is revised to read as follows:

### APPENDIX 19

#### Representative Sampling Methods

Appendix I to 40 CFR Part 261, as of July 1, 2013 is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

**[The methods and equipment used for sampling waste materials will vary with the form**

**and consistency of the waste materials to be sampled. Samples collected using the sampling protocols listed below, for sampling waste with properties similar to the indicated materials, will be considered by the Department to be representative of the waste.**

**Extremely viscous liquid--ASTM Standard D140-70 Crushed or powdered material--ASTM Standard D346-75 Soil or rock-like material--ASTM Standard D420-69 Soil-like material--ASTM Standard D1452-65 Fly Ash-like material--ASTM Philadelphia, PA 19103) (See 6 NYCRR subdivision 370.1(e)).**

**Containerized liquid waste--"COLIWASA" [described in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, U.S. Environmental Protection Agency, 26 W. St. Clair St., Cincinnati, Ohio 45268)**

**Liquid waste in pits, ponds, lagoons, and similar reservoirs.--"Pond Sampler" described in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods." These methods are also described in "Samplers and Sampling Procedures for Hazardous Waste Streams," EPA 600/2-80-018, January 1980. (See 6 NYCRR Part 370.1(e)).**

**This manual also contains additional information on application of these protocols.]**

Appendices 20 and 21 are removed and reserved.

Appendix 22 is revised by deleting the entries K064, K065, K066, K090, and K091.

Appendix 22 is revised by adding the following entry in alphanumeric order (by first column) to read as follows:

K181 Aniline, o-anisidine, 4-chloroaniline, p-cresidine, 2,4-dimethylaniline, 1,2-phenylenediamine, 1,3-phenylenediamine.

Appendix 23 is revised by adding in alphabetical sequence of common name the following entries:

o-Anisidine (2-methoxyaniline)

p-Cresidine

2,4-dimethylaniline (2,4-xylidine)

1,2 phenylenediamine

1,3-phenylenediamine

Appendix 23 is revised by deleting the following entry:

**[Saccharin and salts (1,2-Benzothiazolin-3-one, 1,1-dioxide, and salts)]**

## 6 NYCRR PART 372 EXPRESS TERMS

(Subdivision 372.1(a) through paragraph 372.1(e)(6) remain unchanged.)

Paragraphs 372.1(e)(7) and (8) are revised to read as follows:

(7) **[Hazardous wastes which are exempt from certain regulation.**

**(i) A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment manufacturing unit, is not subject to regulation under this Part until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage of transportation of product or raw materials.] Reserved.**

(8) Exemption for service stations. Used engine lubricating oil retention facilities accepting **[waste] used oil[ pursuant to] in compliance with** ECL 23-2307 are exempt from this Part for that oil.

(Paragraph 372.1(e)(9) remains unchanged.)

New paragraph 372.1(e)(10) is adopted to read as follows:

(10) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of subdivision 372.2(e) of this section are not subject to (for purposes of this paragraph, the terms “laboratory” and “eligible academic entity” shall have the meaning as defined in paragraph 372.2(e)(1) this Part):

(i) The requirements of paragraphs 372.2(a)(2) or 372.2(a)(8) of this Part, for large quantity generators and small quantity generators, except as provided in section 372.2(e) of this Part, and

(ii) The conditions of paragraph 371.1(f)(2) of this Title, for conditionally exempt small quantity generators, except as provided in section 372.2(e) of this Part.

(Subdivision 372.1(f) through subparagraph 372.2(a)(2)(iii) remain unchanged.

372.2(a)(2)(iv) is amended to read as follows:

(iv) If the waste is determined to be hazardous, the generator must refer to Parts 370 through 374 and 376 of this Title, for possible exclusions or restrictions pertaining to management of the specific waste. Hazardous waste annual reporting requirements are set forth in paragraph 372.2(c)(2) of this Part. Hazardous waste annual reports must also be filed by facilities subject to ECL Section 72-0402.

Subparagraph 372.2(a)(3)(i) is revised to read as follows:

(3) EPA identification numbers.

(i) A generator must not treat, store, dispose of, transport or offer for transportation, hazardous waste without having received an EPA identification number as defined in section 370.2(b) of this Title. (To obtain an EPA identification number, use the Notification of Regulated Waste Activity form (EPA Form 8700-12), available at <http://www.epa.gov>.)

(Subparagraph 372.2(a)(3)(ii) through paragraph 372.2(a)(8) introductory language remains unchanged.)

Subparagraphs 372.2(a)(8)(i) and 372.2(a)(8)(ii) are revised to read as follows:

(i) ('a') A generator may accumulate **[up to]** as much as 55 gallons of non-acute hazardous waste, or as much as one quart of acutely hazardous waste listed in **[section] subdivision 371.4(b)[, (c) and (d)(5)] or paragraph 371.4(d)(5)** of this Title, in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with **[subparagraph] subparagraphs (ii) or (iii)** of this paragraph provided the generator:

(1) complies with section 373-3.9(b)-(d) of this Title; and

(2) marks the containers with the words "Hazardous Waste" and with other words that identify the contents of the containers.

(b') A generator who accumulates<sup>[:]</sup> either non-acute hazardous waste, or acutely hazardous waste listed in **[section] subdivision 371.4(b)[, (c) and (d)(5)] or paragraph 371.4(d)(5) of this Title**, in excess of the amounts listed in clause ('a') of this subparagraph at or near any point of generation must, with respect to that amount of excess waste, **[must]** comply within three days<sup>[,]</sup> with subparagraph (ii) of this paragraph or other applicable provisions of this Title. During the three day period, the generator must continue to comply with **[subparagraph (i)] clause (i)(‘a’)(‘1’)** and **clause (i)(‘a’)(‘2’)** of this paragraph. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(ii) Except as provided in subparagraphs (iii), (iv), and (v) of this paragraph, a generator may accumulate hazardous waste on-site of generation for a period of 90 days or less under the provisions of subparagraphs 373-1.1(d)(1)(iii), (iv), (xix) and (xx) of this Title. The date upon which each period of accumulation begins must be clearly marked and visible for inspection on all containers<sup>[, tanks, or storage areas]</sup>.

(Subparagraph 372.2(a)(8)(ii) Note through clause 372.2(a)(8)(iii)(‘c’) remain unchanged.)

Clause 372.2(a)(8)(iii)('d') is revised to read as follows:

(d) the generator complies with the requirements of subclauses 373-1.1(d)(1)(iii)('c')('2') - ('3'), the requirements of section 373-3.3, and **[the requirements of subparagraph 376.1(g)(1)(v)]** all applicable requirements of Part 376 of this Title; and

(Clause 372.2(a)(8)(iii)('e') through subparagraph 372.2(a)(8)(iv) remain unchanged.)

Subparagraph 372.2(a)(8)(v) is revised to read as follows:

(v) A generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6,000 kilograms or accumulates hazardous waste for more than 180 days (or for more than 270 days if they must transport their waste, or offer their waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of Part 373 of this Title unless the generator has been granted an extension to **[these time limits]** the 180-day (or 270-day if applicable) period. [An] Such extension may be granted by the department if hazardous wastes must remain on-site for longer **[periods]** than 180-days (or 270-day if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the department on a case-by-case basis.

(Subparagraph 372.2(a)(8)(vi) introductory language through subclause 372.2(a)(8)(vi)('d')('4') remain unchanged.)

Subclause 372.2(a)(8)(vi)('d')('5') is revised to read as follows:

(5) The generator complies with the requirements for owners or operators in sections 373-3.3 and 373-3.4, subdivision 373-3.2(g), and **[the requirements of subparagraph 376.1(g)(1)(v)]** with all applicable requirements of Part 376 of this Title.

(Subparagraph 372.2(a)(8)(vii) through subparagraph 372.2(b)(3)(iii) remain unchanged.)

New subparagraph 372.2(b)(3)(iv) is adopted to read as follows:

(iv) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility (following the procedures of subparagraph 373-2.5(b)(1)(v) or 373-3.5(b)(1)(v) of this Title), the generator must:

(a) Sign either:

\_\_\_\_\_ ('1') Item 20 of the new manifest if a new manifest is used for the returned shipment; or

\_\_\_\_\_ ('2') Item 18c of the original manifest if the original manifest is used for the returned shipment;

(‘b’) Provide the transporter a copy of the manifest;

(‘c’) Within 10 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator and send one copy of the manifest form to the generator State and send one copy of the manifest form to the destination State (if different from the generator State), making legible photocopies as necessary. Send the Department copy to: New York State Department of Environmental Conservation, Division of Environmental Remediation, Manifest Section, 625 Broadway, Albany, New York 12233-7252. Generators do not need to distribute manifest copies to states other than New York, if those states do not require such a copy be submitted to them; and

(‘d’) Retain at the generator’s site a copy of each manifest for at least three years from the date of delivery.

(Paragraph 372.2(b)(4) through paragraph 372.2(c)(2) remain unchanged.)

Paragraph 372.2(c)(3) is revised to read as follows:

(3) Exception reporting.

(i)A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date [of shipment must immediately] the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated [disposal] facility to determine the status of the [shipment] hazardous waste. [If within 45 days of the date of shipment the generator has not received a signed copy of the manifest, an exception report must be submitted to the Department and, in the case of interstate shipments, submitted to the state in which the shipment was to be received, and any states in which the shipment may have been delivered. In the case of states which do not have EPA approved hazardous waste programs, notification must be sent to EPA]. [A] The generator must submit an exception report to the Department if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter and, in the case of interstate shipments, submitted to the state in which the shipment was to be received, and any states in which the shipment may have been delivered. In the case of states which do not have EPA approved hazardous waste programs, notification must be sent to EPA. The exception report must include:

[(i) (‘a’) a legible copy of the manifest for which the generator does not have confirmation of delivery; and

[(ii) (‘b’) a cover letter signed by the generator or the generator's authorized representative explaining the efforts taken to locate the hazardous waste and the results of those

efforts.

(ii) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of clauses 373-2.5(b)(v)(‘a’) through (‘f’) of this Title or 373-3.5(b)(v)(‘a’) through (‘f’) of this Title, the generator must comply with the requirements of subparagraph (i) of this paragraph for the shipment forwarding the material from the designated facility to the alternate facility instead of the shipment from the generator to the designated facility. For the purposes of subparagraph (i) of this paragraph for a shipment forwarding such waste to an alternate facility by a designated facility:

(‘a’) The copy of the manifest received by the generator must have the handwritten signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility, and

(‘b’) The 35/45-day time frames begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

(Paragraph 372.2(c)(4) remains unchanged.)

Subdivision 372.2(d) is deleted and reserved.

New subdivision 372.2(e) is adopted to read as follows:

**(e) Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities**

(1) Definitions for this subdivision

The following definitions apply to this subdivision:

(i) “Central accumulation area” means an on-site hazardous waste accumulation area subject to either: paragraph 372.2(a)(8)(ii) of this section, 373-1.1(d)(1)(iii)(‘e’) of this Title or 373-1.1(d)(1)(iv)(‘h’) of this Title (large quantity generators); or subparagraphs 372.2(a)(8)(iii) through 372.2(a)(8)(v) of this section (small quantity generators). A central accumulation area at an eligible academic entity that chooses to be subject to this subdivision must also comply with paragraph 372.2(e)(11) of this section when accumulating unwanted material and/or hazardous waste.

(ii) “College/University” means a private or public, post-secondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the U.S. Department of Education.

(iii) “Eligible academic entity” means a college or university, or non-profit research

institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

(iv) “Formal written affiliation agreement” for a non-profit research institute means a written document that establishes a relationship between institutions for the purposes of research and/or education and is signed by authorized representatives, as defined in subdivision 370.2(b) of this Title, from each institution. A relationship on a project-by-project or grant-by-grant basis is not considered a formal written affiliation agreement. A “formal written affiliation agreement” for a teaching hospital means a master affiliation agreement and program letter of agreement, as defined by the Accreditation Council for Graduate Medical Education, with an accredited medical program or medical school.

(v) “Laboratory” means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also considered laboratories.

(vi) “Laboratory clean-out” means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or that have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (e.g., at the end of a semester or academic year) or as a result of a renovation, relocation, or change in laboratory supervisor/occupant. A regularly scheduled removal of unwanted material as required by paragraph 372.2(e)(9) of this subdivision, does not qualify as a laboratory clean-out.

(vii) “Laboratory worker” means a person who handles chemicals and/or unwanted material in a laboratory and may include, but is not limited to, faculty, staff, post-doctoral fellows, interns, researchers, technicians, supervisors/managers, and principal investigators. A person does not need to be paid or otherwise compensated for his/her work in the laboratory to be considered a laboratory worker. Undergraduate and graduate students in a supervised classroom setting are not laboratory workers.

(viii) “Non-profit research institute” means an organization that conducts research as its primary function and files as a non-profit organization under the tax code of 26 U.S.C. 501(c)(3).

(ix) “Reactive acutely hazardous unwanted material” means an unwanted material that is one of the acutely hazardous commercial chemical products listed in subdivision 371.4(d) of this Title for reactivity.

(x) “Teaching hospital” means a hospital that trains students to become physicians, nurses

or other health or laboratory personnel.

(xi) “Trained professional” means a person who has completed the applicable training requirements of subdivision 373-3.2(g) of this Title for large quantity generators, or is knowledgeable about normal operations and emergencies in accordance with subclause 372.2(a)(8)(iii)(‘e’)(‘3’) of this section for small quantity generators and conditionally exempt small quantity generators. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

(xii) “Unwanted material” means any chemical, mixtures of chemicals, products of experiments or other material from a laboratory that is no longer needed, wanted or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to subdivision 371.1(c), or a hazardous waste pursuant to subdivision 371.1(d) of this Title. If an eligible academic entity elects to use another equally effective term in lieu of “unwanted material”, as allowed by clause 372.2(e)(7)(i)(‘a’) of this subdivision, the equally effective term has the same meaning and is subject to the same requirements as “unwanted material” under this subdivision.

(xiii) “Working container” means a small container (i.e., two gallons or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

## (2) Applicability of this subdivision.

(i) Large quantity generators and small quantity generators. This subdivision provides alternative requirements to the requirements in paragraph 372.2(a)(2) and clause 372.2(a)(8)(i)(‘a’) of this section for the hazardous waste determination and accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subdivision, provided that they complete the notification requirements of paragraph 372.2(e)(4) of this subdivision.

(ii) Conditionally exempt small quantity generators. This subdivision provides alternative requirements to the conditional exemption in paragraph 371.1(f)(2) of this Title, for the accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subdivision, provided that they complete the notification requirements of paragraph 372.2(e)(4) of this subdivision.

## (3) Electing options.

(i) Large quantity generators and small quantity generators: Eligible academic entities may elect to comply with this subdivision with respect to their laboratories, as an alternative to complying with the requirements of paragraph 372.2(a)(2) and clause 372.2(a)(8)(i)(‘a’) of this section.

(ii) Conditionally exempt small quantity generators. Eligible academic entities may elect to comply with this subdivision with respect to their laboratories, as an alternative to complying with the conditional exemption of paragraph 371.1(f)(2) of this Title.

(4) How an eligible academic entity elects to be subject to the requirements of this subdivision.

(i) An eligible academic entity must notify the EPA Region 2 Administrator and the Department in writing, using the RCRA Subtitle C Site Identification Form (EPA Form 8700-12), that it is electing to be subject to the requirements of this subdivision for all the laboratories owned by the eligible academic entity under the same EPA Identification Number. An eligible academic entity that is a conditionally exempt small quantity generator and does not have an EPA Identification Number must notify that it is electing to be subject to the requirements of this subdivision for all the laboratories owned by the eligible academic entity that are on-site, as defined by section 370.2 of this Title. An eligible academic entity must submit a separate notification (Site Identification Form) for each EPA Identification Number (or site, for conditionally exempt small quantity generators) that is electing to be subject to the requirements of this subdivision, and must submit the Site Identification Form before it begins operating under this subdivision.

(ii) When submitting the Site Identification Form, the eligible academic entity must, at a minimum, fill out the following fields on the form:

(‘a’) Reason for Submittal.

(‘b’) Site EPA Identification Number (except for conditionally exempt small quantity generators).

(‘c’) Site Name.

(‘d’) Site Location Information.

(‘e’) Site Land Type.

(‘f’) North American Industry Classification System (NAICS) Code(s) for the Site.

(‘g’) Site Mailing Address.

(‘h’) Site Contact Person.

(‘i’) Operator and Legal Owner of the Site.

(‘j’) Type of Regulated Waste Activity.

(‘k’) Certification.

(iii) An eligible academic entity must keep a copy of the notification on file at the eligible academic entity for as long as its laboratories are subject to this subdivision.

(iv) A teaching hospital that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the teaching hospital for as long as its laboratories are subject to this subdivision.

(v) A non-profit research institute that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the non-profit research institute for as long as its laboratories are subject to this subdivision.

(5) How an eligible academic entity indicates it will withdraw from the requirements of this subdivision.

(i) An eligible academic entity must notify the EPA Region 2 Administrator and the Department in writing, using the RCRA Subtitle C Site Identification Form (EPA Form 8700-12), that it is electing to no longer be subject to the requirements of this subdivision for all the laboratories owned by the eligible academic entity under the same EPA Identification Number and that it will comply with the requirements of paragraph 372.2(a)(2) and clause 372.2(a)(8)(i)(‘a’) of this section for small quantity generators and large quantity generators. An eligible academic entity that is a conditionally exempt small quantity generator and does not have an EPA Identification Number must notify that it is withdrawing from the requirements of this subdivision for all the laboratories owned by the eligible academic entity that are on-site and that it will comply with the conditional exemption in paragraph 371.1(f)(2) of this Title. An eligible academic entity must submit a separate notification (Site Identification Form ) for each EPA Identification Number (or site, for conditionally exempt small quantity generators) that is withdrawing from the requirements of this subdivision and must submit the Site Identification Form before it begins operating under the requirements paragraph 372.2(a)(2) and clause 372.2(a)(8)(i)(‘a’) of this section for small quantity generators and large quantity generators, or paragraph 371.1(f)(2) of this Title for conditionally exempt small quantity generators.

(ii) When submitting the Site Identification Form, the eligible academic entity must, at a minimum, fill out the following fields on the form:

(‘a’) Reason for Submittal.

(‘b’) Site EPA Identification Number (except for conditionally exempt small quantity generators).

(‘c’) Site Name.

(‘d’) Site Location Information.

(‘e’) Site Land Type.

(‘f’) North American Industry Classification System (NAICS) Code(s) for the Site.

(‘g’) Site Mailing Address.

(‘h’) Site Contact Person.

(‘i’) Operator and Legal Owner of the Site.

(‘j’) Type of Regulated Waste Activity.

(‘k’) Certification.

(iii) An eligible academic entity must keep a copy of the withdrawal notice on file at the eligible academic entity for three years from the date of the notification.

(6) Summary of the requirements of this subdivision.

An eligible academic entity that elects to be subject to this subdivision is not required to have interim status or a Part 373 permit for the accumulation of unwanted material and hazardous waste in its laboratories, provided the laboratories comply with the provisions of this subdivision and the eligible academic entity has and implements a Laboratory Management Plan (LMP) in accordance with paragraph 372.2(e)(15) that describes how the laboratories owned by the eligible academic entity will comply with the requirements of this subdivision.

(7) Labeling and management standards for containers of unwanted material in the laboratory.

An eligible academic entity must manage containers of unwanted material while in the laboratory in accordance with the requirements in this subdivision.

(i) Labeling: Label unwanted material as follows:

(‘a’) The following information must be affixed or attached to the container:

(‘1’) The words “unwanted material” or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in Part I of the Laboratory Management Plan, and

(‘2’) Sufficient information to alert emergency responders to the contents of the container. Examples of information that would be sufficient to alert emergency responders to the contents of the container include, but are not limited to:

(‘i’) The name of the chemical(s),

(‘ii’) The type or class of chemical, such as organic solvents or halogenated organic solvents.

(‘b’) The following information may be affixed or attached to the container, but must at a minimum be associated with the container:

(‘1’) The date that the unwanted material was first determined to be unwanted, and

(‘2’) Information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and hazardous waste and to assign the proper hazardous waste code(s), pursuant to paragraph 372.2(a)(2) of this section. Examples of information that would allow a trained professional to properly identify whether an unwanted material is a solid or hazardous waste include, but are not limited to:

(‘i’) The name and/or description of the chemical contents or composition of the unwanted material, or, if known, the product of the chemical reaction,

(‘ii’) Whether the unwanted material has been used or is unused,

(‘iii’) A description of the manner in which the chemical was produced or processed, if applicable.

(ii) Management of Containers in the Laboratory: An eligible academic entity must properly manage containers of unwanted material in the laboratory to assure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Proper container management must include the following:

(‘a’) Containers are maintained and kept in good condition and damaged containers are replaced, overpacked, or repaired, and

(‘b’) Containers are compatible with their contents to avoid reactions between the contents and the container; and are made of, or lined with, material that is compatible with the unwanted material so that the container’s integrity is not impaired, and

(‘c’) Containers must be kept closed at all times, except:

(‘1’) When adding, removing or bulking unwanted material, or

(‘2’) A working container may be open until the end of the procedure or work shift, or until it is full, whichever comes first, at which time the working container must

either be closed or the contents emptied into a separate container that is then closed, or

(‘3’) When venting of a container is necessary.

(‘i’) For the proper operation of laboratory equipment, such as with in-line collection of unwanted materials from high performance liquid chromatographs, or

(‘ii’) To prevent dangerous situations, such as build-up of extreme pressure.

(8) Training.

An eligible academic entity must provide training to all individuals working in a laboratory at the eligible academic entity, and notify those individuals of the availability of the Laboratory Management Plan, as follows:

(i) Training for laboratory workers and students must be commensurate with their duties so they understand the requirements in this subdivision and can implement them.

(ii) An eligible academic entity can provide training for laboratory workers and students in a variety of ways, including, but not limited to:

(‘a’) Instruction by the professor or laboratory manager before or during an experiment;

(‘b’) Formal classroom training;

(‘c’) Electronic/written training;

(‘d’) On-the-job training; or

(‘e’) Written or oral exams.

(iii) An eligible academic entity that is a large quantity generator must maintain documentation for the durations specified in paragraph 373-3.2(g)(5) of this Title, demonstrating training for all laboratory workers that is sufficient to determine whether laboratory workers have been trained. Examples of documentation demonstrating training can include, but are not limited to, the following:

(‘a’) Sign-in/attendance sheet(s) for training session(s);

(‘b’) Syllabus for training session;

(‘c’) Certificate of training completion; or

(‘d’) Test results.

(iv) A trained professional must:

(‘a’) Accompany the transfer of unwanted material and hazardous waste when the unwanted material and hazardous waste is removed from the laboratory unless it is transported off-site, and

(‘b’) Make the hazardous waste determination, pursuant to paragraph 373.2(a)(2) of this section, for unwanted material.

(9) Removing containers of unwanted material from the laboratory.

(i) Removing containers of unwanted material on a regular schedule. An eligible academic entity must either:

(‘a’) Remove all containers of unwanted material from each laboratory on a regular interval, not to exceed six months; or

(‘b’) Remove containers of unwanted material from each laboratory within six months of the time when material is determined to be unwanted material.

(ii) The eligible academic entity must specify in Part I of its Laboratory Management Plan whether it will comply with clause (i)(‘a’) or (i)(‘b’) of this paragraph for the regular removal of unwanted material from its laboratories.

(iii) The eligible academic entity must specify in Part II of its Laboratory Management Plan how it will comply with clause (i)(‘a’) or (i)(‘b’) of this paragraph and develop a schedule for regular removals of unwanted material from its laboratories.

(iv) Removing containers of unwanted material when volumes are exceeded.

(‘a’) If a laboratory accumulates a total volume of unwanted material (including reactive acutely hazardous unwanted material) in excess of 55 gallons before the regularly scheduled removal, the eligible academic entity must ensure that all containers of unwanted material in the laboratory (including reactive acutely hazardous unwanted material):

(‘1’) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that 55 gallons was exceeded; and

(‘2’) Are removed from the laboratory within ten calendar days of the date that 55 gallons was exceeded, or at the next regularly scheduled removal, whichever comes first.

(‘b’) If a laboratory accumulates more than one quart of reactive acutely hazardous unwanted material before the regularly scheduled removal, then the eligible academic entity must ensure that all containers of reactive acutely hazardous unwanted material:

(‘1’) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that one quart was exceeded; and

(‘2’) Are removed from the laboratory within ten calendar days of the date that one quart was exceeded, or at the next regularly scheduled removal, whichever comes first.

(10) Where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the laboratory.

(i) Large quantity generators and small quantity generators- an eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to paragraph 372.2(a)(2) of this section, for unwanted material in any of the following areas:

(‘a’) In the laboratory before the unwanted material is removed from the laboratory, in accordance with paragraph 372.2(e)(11) of this subdivision;

(‘b’) Within four calendar days of arriving at the on-site central accumulation area, in with paragraph 372.2(e)(12) of this subdivision; and

(‘c’) Within four calendar days of arriving at an on-site interim status facility or an on-site permitted treatment, storage or disposal facility, in accordance with paragraph 372.2(e)(13) of this subdivision.

(ii) Conditionally exempt small quantity generators-an eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant paragraph 372.2(a)(2) of this section, for unwanted material in the laboratory before the unwanted material is removed from the laboratory, in accordance with paragraph 372.2(e)(11) of this subdivision.

(11) Making the hazardous waste determination in the laboratory before the unwanted material is removed from the laboratory. If an eligible academic entity makes the hazardous waste determination, pursuant to paragraph 372.2(a)(2) of this section, for unwanted material in the laboratory, it must comply with the following:

(i) A trained professional must make the hazardous waste determination, pursuant to paragraph 372.2(a)(2) of this section, before the unwanted material is removed from the laboratory.

(ii) When an unwanted material is a hazardous waste, the eligible academic entity must:

(‘a’) Write the words “hazardous waste” on the container label that is affixed or attached to the container, before the hazardous waste may be removed from the laboratory; and

(‘b’) Write the appropriate hazardous waste code(s) on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste is transported off-site.

(‘c’) Count the hazardous waste toward the eligible academic entity’s generator status, pursuant to paragraphs 371.(f)(3) and (4) of this Title, in the calendar month that the hazardous waste determination was made.

(iii) A trained professional must accompany all hazardous waste that is transferred from the laboratory(ies) to an on-site central accumulation area, or on-site interim status facility or an on-site permitted treatment, storage or disposal facility.

(iv) When hazardous waste is removed from the laboratory:

(‘a’) Large quantity generators and small quantity generators must ensure it is taken directly from the laboratory(ies) to an on-site central accumulation area, or on-site interim status facility or an on-site permitted treatment, storage or disposal facility, or transported off-site.

(‘b’) Conditionally exempt small quantity generators must ensure it is taken directly from the laboratory(ies) to any of the types of facilities listed in paragraph 371.1(f)(6) of this Title, for acute hazardous waste, or paragraph 371.1(f)(7) of this Title for hazardous waste.

(v) An unwanted material that is a hazardous waste is subject to all applicable hazardous waste regulations when it is removed from the laboratory.

(12) Making the hazardous waste determination at an on-site central accumulation area. When an eligible academic entity makes the hazardous waste determination, pursuant to paragraph 372.2(a)(2) of this section, for unwanted material at an on-site central accumulation area, it must comply with the following:

(i) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site central accumulation area.

(ii) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site central accumulation area.

(iii) The unwanted material becomes subject to the generator accumulation regulations of paragraph 372.2(a)(8) of this section for large quantity generators or subparagraphs 372.2(a)(8)(iii) through (v) of this section, for small quantity generators or as soon as it arrives in the central accumulation area, except for the “hazardous waste” labeling requirements of

paragraph 372.2(a)(8) of this section.

(iv) A trained professional must determine, pursuant to paragraph 372.2(a)(2) of this section, if the unwanted material is a hazardous waste within 4 calendar days of the unwanted materials' arrival at the on-site central accumulation area.

(v) Upon determining that the unwanted material is a hazardous waste, the eligible academic entity must:

(‘a’) Write the words “hazardous waste” on the container label that is affixed or attached to the container, and

(‘b’) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed of on-site or transported off-site, and

(‘c’) Count the hazardous waste toward the eligible academic entity’s generator status, pursuant to paragraphs 371.1(f)(3) and (4) of this Title, in the calendar month that the hazardous waste determination was made, and

(‘d’) Manage the hazardous waste according to all applicable hazardous waste regulations.

(13) Making the hazardous waste determination at an on-site interim status facility or an on-site permitted treatment, storage or disposal facility. When an eligible academic entity makes the hazardous waste determination, pursuant to paragraph 372.2(a)(2) of this subdivision, for unwanted material at an on-site interim status facility or an on-site permitted treat, storage or disposal facility, it must comply with the following:

(i) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site interim status facility or an on-site permitted treatment, storage or disposal facility.

(ii) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site interim status facility or an on-site permitted treatment, storage or disposal facility.

(iii) The unwanted material becomes subject to the terms of the eligible academic entity’s hazardous waste permit or interim status as soon as it arrives in the on-site treatment, storage or disposal facility.

(iv) A trained professional must determine, pursuant to paragraph 372.2(a)(2) of this section, if the unwanted material is a hazardous waste within 4 calendar days of the unwanted

materials' arrival at an on-site interim status facility or an on-site permitted treatment, storage or disposal facility.

(v) Upon determining that the unwanted material is a hazardous waste, the eligible academic entity must:

(‘a’) Write the words “hazardous waste” on the container label that is affixed or attached to the container, and

(‘b’) Write the appropriate hazardous code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed on-site or transported off-site, and

(‘c’) Count the hazardous waste toward the eligible academic entity’s generator status, pursuant to paragraphs 371.1(f)(3) and (4) of this Title, in the calendar month that the hazardous waste determination was made, and

(‘d’) Manage the hazardous waste according to all applicable hazardous waste regulations.

(14) Laboratory clean-outs.

(i) One time per 12 month period for each laboratory, an eligible academic entity may opt to conduct a laboratory clean-out that is subject to all the applicable requirements of this subdivision, except that:

(‘a’) If the volume of unwanted material in the laboratory exceeds 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), the eligible academic entity must remove all unwanted materials from the laboratory within 30 calendar days from the start of the laboratory clean-out; and

(‘b’) For the purposes of on-site accumulation, an eligible academic entity is not required to count a hazardous waste that is an unused commercial chemical product (listed in section 371.4 or exhibiting one or more characteristics of section 371.3 of this Title) generated solely during the laboratory clean-out toward its hazardous waste generator status, pursuant to paragraphs 371.1(f)(3) and (4) of this Title. However, an unwanted material that was accumulated prior to the beginning of the laboratory clean-out and is still in the laboratory at the time the laboratory clean-out commences must be counted toward hazardous waste generator status, pursuant to paragraphs 371.1(f)(3) and (4) of this Title, if it is determined to be hazardous waste; and

(‘c’) For the purposes of off-site management, an eligible academic entity must count all its hazardous waste, regardless of whether the hazardous waste was counted toward

generator status under clause ('b') of this subparagraph, and if it generates more than 1 kg/month of acute hazardous waste or more than 100 kg/month of hazardous waste (i.e., the conditionally exempt small quantity generator limits of subdivision 371.1(f) of this Title), the hazardous waste is subject to all applicable hazardous waste regulations when it is transported off-site; and

('d') An eligible academic entity must document the activities of the laboratory clean-out. The documentation must, at a minimum, identify the laboratory being cleaned out, the date the laboratory clean-out begins and ends, and the volume of hazardous waste generated during the laboratory clean-out. The eligible academic entity must maintain the records for a period of three years from the date the clean-out ends; and

(ii) For all other laboratory clean-outs conducted during the same 12-month period, an eligible academic entity is subject to all the applicable requirements of this subdivision, including, but not limited to:

('a') The requirement to remove all unwanted materials from the laboratory within 10 calendar days of exceeding 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), as required by paragraph 372.2(e)(9) of this subdivision; and

('b') The requirement to count all hazardous waste, including unused hazardous waste, generated during the laboratory clean-out toward its hazardous waste generator status, pursuant to paragraphs 371.1(f)(3) and (4) of this Title.

(15) Laboratory management plan.

An eligible academic entity must develop and retain a written Laboratory Management Plan, or revise an existing written plan. The Laboratory Management Plan is a site-specific document that describes how the eligible academic entity will manage unwanted materials in compliance with this subdivision. An eligible academic entity may write one Laboratory Management Plan for all the laboratories owned by the eligible academic entity that have opted into this subdivision, even if the laboratories are located at sites with different EPA Identification Numbers. The Laboratory Management Plan must contain two parts with a total of nine elements identified in subparagraphs (i) and (ii) of this paragraph. In Part I of its Laboratory Management Plan, an eligible academic entity must describe its procedures for each of the elements listed in subparagraph (i) of this paragraph. An eligible academic entity must implement and comply with the specific provisions that it develops to address the elements in Part I of the Laboratory Management Plan. In Part II of its Laboratory Management Plan, an eligible academic entity must describe its best management practices for each of the elements listed in subparagraph (ii) of this paragraph. The specific actions taken by an eligible academic entity to implement each element in Part II of its Laboratory Management Plan may vary from the procedures described in the eligible academic entity's Laboratory Management Plan, without constituting a violation of this subdivision. An eligible academic entity may include additional elements and best management practices in Part II of its Laboratory Management Plan if it chooses.

(i) The eligible academic entity must implement and comply with the specific provisions of Part I of its Laboratory Management Plan. In Part I of its Laboratory Management Plan, an eligible academic entity must:

(‘a’) Describe procedures for container labeling in accordance with subparagraph 372.2(e)(7)(i), as follows:

(‘1’) Identifying whether the eligible academic entity will use the term “unwanted material” on the containers in the laboratory. If not, identify an equally effective term that will be used in lieu of “unwanted material” and consistently by the eligible academic entity in lieu of “unwanted material.” The equally effective term, if used, has the same meaning and is subject to the same requirements as “unwanted material”.

(‘2’) Identifying the manner in which information that is “associated with the container” will be imparted.

(‘b’) Identify whether the eligible academic entity will comply with clauses 372.2(e)(9)(i)(‘a’) or (‘b’) of this subdivision, for regularly scheduled removals of unwanted material from the laboratory.

(ii) In Part II of its Laboratory Management Plan, an eligible academic entity must:

(‘a’) Describe its intended best practices for container labeling and management (see the required standards at paragraph 372.2(e)(7) of this subdivision).

(‘b’) Describe its intended best practices for providing training for laboratory workers and students commensurate with their duties (see the required standards at subparagraph 372.2(e)(8)(i) of this subdivision).

(‘c’) Describe its intended best practices for providing training to ensure safe on-site transfers of unwanted material and hazardous waste by trained professionals (see the required standards at clause 372.2(e)(8)(iv)(‘a’) of this subdivision).

(‘d’) Describe its intended best practices for removing unwanted material from the laboratory, including:

(‘1’) For regularly scheduled removals- Develop a regular schedule for identifying and removing unwanted materials from its laboratories (see the required standards at clauses 372.2(e)(9)(i)(‘1’) and (‘2’) of this subdivision).

(‘2’) For removals when maximum volumes are exceeded:

(‘i’) Describe its intended best practices for removing unwanted materials from the laboratory within 10 calendar days when unwanted materials have exceeded

their maximum volumes (see the required standards at subparagraph 372.2(e)(9)(iv) of this subdivision).

(‘ii’) Describe its intended best practices for communicating that unwanted materials have exceeded their maximum volumes.

(‘e’) Describe its intended best practices for making hazardous waste determinations, including specifying the duties of the individuals involved in the process (see the required standards at paragraphs 372.2(a)(2) and 372.2(e)(10) through (13) of this section).

(‘f’) Describe its intended best practices for laboratory clean-outs, if the eligible academic entity plans to use the incentives for laboratory clean-outs provided in paragraph 372.2(e)(14) of this subdivision, including:

(‘1’) Procedures for conducting laboratory clean-outs (see the required standards at clauses 372.2(e)(14)(i)(‘a’) through (‘c’) of this subdivision); and

(‘2’) Procedures for documenting laboratory clean-outs (see the required standards at clause 372.2(e)(14)(i)(‘d’) of this subdivision).

(‘g’) Describe its intended best practices for emergency prevention, including:

(‘1’) Procedures for emergency prevention, notification, and response, appropriate to the hazards in the laboratory; and

(‘2’) A list of chemicals that the eligible academic entity has, or is likely to have, that become more dangerous when they exceed their expiration date and/or as they degrade; and

(‘3’) Procedures to safely dispose of chemicals that become more dangerous when they exceed their expiration date and/or as they degrade; and

(‘4’) Procedures for the timely characterization of unknown chemicals.

(iii) An eligible academic entity must make its Laboratory Management Plan available to laboratory workers, students, or any others at the eligible academic entity who request it.

(iv) An eligible academic entity must review and revise its Laboratory Management Plan, as needed, but in no case less than every five years.

(16) Unwanted material that is not solid or hazardous waste.

(i) If an unwanted material does not meet the definition of solid waste in subdivision 371.1(c) of this Title, it is no longer subject to this subdivision or to the Parts 370 through 374 and

376 hazardous waste regulations of this Title.

(ii) If an unwanted material does not meet the definition of hazardous waste in subdivision 371.1(d) of this Title, it is no longer subject to this subdivision or to the Parts 370 through 374 and 376 hazardous waste regulations of this Title, but must be managed in compliance with any other applicable regulations and/or conditions.

(17) Non-laboratory hazardous waste generated at an eligible academic entity.

An eligible academic entity that generates hazardous waste outside of a laboratory is not eligible to manage that hazardous waste under this subdivision; and

(i) Remains subject to the generator requirements of paragraph 372.2(a)(2) and clause 372.2(a)(8)(i)(‘a’) of this section, for large quantity generators and small quantity generators (if the hazardous waste is managed in a satellite accumulation area), and all other applicable generator requirements of this Part, with respect to that hazardous waste; or

(ii) Remains subject to the conditional exemption of paragraph 371.1(f)(2) of this Title, for conditionally exempt small quantity generators, with respect to that hazardous waste.

(Section 372.3 introductory language through subparagraph 372.3(a)(7)(ii) remain unchanged.)

Subparagraph 372.3(a)(7)(iii) is revised to read as follows:

(iii) if consolidation of loads takes place by any method, including but not limited to moving containers from one transport vehicle to another or containers are removed from transport vehicles prior to being reloaded, the transfer or storage area must be designed to meet secondary containment requirements in accordance with subdivision 373-2.9 (f) of this Title.

(Paragraph 372.3(a)(8) through section 372.4 remain unchanged.)

Subdivision 372.5(a) is revised to read as follows:

(a) Applicability. This section establishes requirements applicable to imports and exports of hazardous waste. Except to the extent subdivision (h) of this section provides otherwise, a primary importer or exporter of hazardous waste must comply with the special requirements of this section and a transporter transporting hazardous waste for export must comply with applicable requirements of section 372.3 of this Part. Subdivision (h) of this section sets forth the requirements of international agreements between the United States and receiving countries which establish different notice, export, and enforcement procedures for the transportation, treatment, storage and disposal of hazardous waste for shipments of hazardous waste for recovery between the United States and those countries.

(Subdivision 372.5(b) through paragraph 372.5(c)(1) remains unchanged.)

Paragraph 372.5(c)(2) is revised to read as follows:

(2) Notifications submitted by mail should be sent to the following mailing addresses: Office of Enforcement and Compliance Assurance, Office of [**Compliance, Enforcement Planning, Targeting, and Data Division (2222A)**] Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, [401 M Street SW] 1200 Pennsylvania Ave., NW., Washington, DC 20460 and to the [**Regulatory Development**] Manifest Section, NYSDEC, 625 Broadway, Albany, NY [12233] 12233-7252. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of [**Compliance, Enforcement Planning, Targeting, and Data Division (2222A)**] Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC[,] 20004, and mailed to the [**Regulatory Development**] Manifest Section at the above address. In all cases, the following shall be prominently displayed on the front of the envelope: ``Attention: Notification of Intent to Export.".

(Paragraph 372.5(c)(3) through paragraph 372.5(d)(3) remain unchanged.)

Paragraph 372.5(d)(4) is revised to read as follows:

(4) The following statement must be added to the end of the first sentence of the certification set forth in [**Item 16**] Item 15 of the Uniform Hazardous Waste Manifest Form: "and conforms to the terms of the attached EPA Acknowledgment of Consent";

(Paragraphs 372.5(d)(5) through (9) remain unchanged.)

Subdivision 372.5(e) introductory language is revised to read as follows:

(e) Exception Reports. In lieu of the requirements of section 372.2(c)(3) of this Part, a primary exporter must file an exception report with the [Administrator] the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and the Department if any of the following occurs:

(Paragraph 372.5(e)(1) through paragraph 372.5(f)(1) remain unchanged.)

Paragraph 372.5(f)(2) is revised to read as follows:

(2) Annual reports submitted by mail should be sent to the following mailing addresses: Office of Enforcement and Compliance Assurance, [**Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, 401 M St., SW.,**] Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 and

to the [Regulatory Development] Manifest Section, NYSDEC, 625 Broadway, Albany, NY [12233] 12233-7252. Hand-delivered reports should be sent to: Office of Enforcement and Compliance Assurance, [**Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A)**,] Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC, 20004 and mailed to the [Regulatory Development] Manifest Section at the above address.

(Subdivision 372.5(g) remains unchanged.)

Paragraphs 372.5(h)(1) and (2) are revised to read as follows:

(1) Any person who exports or imports hazardous waste, except “State-only waste”, subject to manifest requirements of this Part, or subject to the universal waste management standards of Subpart 374-3 of this Title, or subject to the export requirements in the spent lead-acid battery management standards of section 374-1.7 of this Title, to or from designated member countries of the Organization for Economic Cooperation and Development (OECD) as defined in subparagraph (1)(i) of this subdivision for purposes of recovery is subject to the requirements of section 372.5 of this Part as follows: subdivision 372.5(c) does not apply, provided however, notification that must be sent to EPA pursuant to 40 CFR section 262.83 must also be sent to the State pursuant to paragraph 372.5(c)(2) of this section; paragraphs 372.5(d)(1), (2), (3), (5), and (9) apply; subdivision 372.5(e) applies; subdivision 372.5(f) does not apply, provided however that the annual report that must be sent to EPA pursuant to 40 CFR section 262.87(a) must also be sent to the State pursuant to paragraph 372.5(f)(2); subdivision 372.5 (j) applies; and subparagraphs 372.5(k)(1)(ii) through (v) apply.

(i) For the purposes of this Part, the designated OECD Member countries consist of Australia, Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, the Republic of Korea, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

(ii) For the purposes of this Part, Canada and Mexico are considered OECD [member] Member countries only for the purpose of transit.

(2) Any person who exports hazardous waste to or imports hazardous waste from: a designated OECD [member] Member country for purposes other than recovery (e.g., incineration, disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of section 372.5 of this Part.

(Subdivision 372.5(i) remains unchanged.)

Paragraph 372.5(j)(1) is revised to read as follows:

(1) Any person who imports hazardous waste from a foreign country into the United States must comply with the requirements of this Part and the special requirements of this subdivision, except to the extent subdivision (h) of this section provides otherwise.

(Paragraph 372.5(j)(2) through 372.7(d)(4) remain unchanged.)

Paragraph 372.7(d)(5) is revised to read as follows:

5) comply with testing procedures set forth in section ~~[372.4(b)(2)]~~ 373-2.5(b)(1)(ii) and 373-3.5(b)(1)(ii) of this Part and submit a manifest discrepancy report where required.

Appendix 30, I. Instructions for generators, Items 9 and 9b, are revised to read as follows:

Item 9. U.S. DOT Description (Including Identification Number, Proper Shipping Name, Hazard Class or Division, **[Identification Number,]** and Packing Group)

Item 9a. If the wastes identified in Item 9b consist of both hazardous and nonhazardous materials, then identify the hazardous materials by entering an “X” in this Item next to the corresponding hazardous material identified in Item 9b.

Item 9b. Enter the Identification Number (UN/NA), U.S. DOT Proper Shipping Name, Hazard Class or Division, **[Identification Number (UN/NA)]** and Packing Group for each waste as identified in 49 CFR 172. Include technical name(s) and reportable quantity references, if applicable. USDOT requires the word "waste" before or in the shipping name for all hazardous waste. See 49 CFR 171 thru 173 (see subdivision 370.1(e)). Contact USDOT office for description assistance.

## 6 NYCRR SUBPART 373-1 EXPRESS TERMS

(Subdivision 373-1.1(a) through subparagraph 373-1.1(b)(4)(ii) remain unchanged.)

Subparagraph 373-1.1(b)(4)(iii) is revised to read as follows:

(iii) **[Thermostats]** Mercury-containing equipment as described in subdivision 374-3.1(d) of this Title.

(Subparagraph 373-1.1(b)(4)(iv) through clause 373-1.1(d)(1)(i)(a) remain unchanged.)

Clause 373-1.1(d)(1)(i)(b) is revised to read as follows:

(b) generates in a calendar month any of the following acute hazardous waste in quantities less than the quantities of hazardous waste specified below:

(1) a total of one kilogram of acute hazardous waste listed in sections 371.4(b), (c) and (d)(5) of this Title; or

(2) notwithstanding sub-clause (1) of this clause, a total of 100 kilograms of any residue or contaminated soil, waste or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in section 371.4(b), (c) and (d)(5) of this Title;

(Subparagraph 373-1.1(d)(1)(ii) remains unchanged.)

Subparagraph 373-1.1(d)(1)(iii) introductory language is revised to read as follows:

(iii) The storage in containers or tanks of hazardous waste that is generated on-site, for a period not exceeding 90 days, other than the storage of liquid hazardous wastes in the counties of Kings, Nassau, Queens and Suffolk, or over the Schenectady/Niskayuna Aquifer System in Schenectady, Saratoga and Albany Counties and the Clinton Street-Ball Park Valley Aquifer System in Broome and Tioga Counties. **[The requirements of this subparagraph do not apply to small-quantity generators.]** Storage areas that are exempt must comply with the following requirements:

(Clause 373-1.1(d)(1)(iii)(a) remains unchanged.)

Clause 373-1.1(d)(1)(iii)(b) is revised to read as follows:

(b) **[Reserved.]** For all references to Subpart 373-3 of this Title in this

subparagraph which require retention of documentation in an operating record, the generator must maintain these records as required in Subpart 373-3 of this Title. These records must be furnished to the department upon request, postmarked within five business days of receipt of a written request. A generator must make such records available at all reasonable times for inspection by any officer, employee, or representative of the department who is duly designated by the commissioner.

(Clause 373-1.1(d)(1)(iii)(c) introductory language through subclause 373-1.1(d)(iii)(c)(4) remain unchanged.)

Subclause 373-1.1(d)(1)(iii)(c)(5) is revised to read as follows:

(5) the generator complies with the requirements for personnel training in **[section 373-3.2]** subdivision 373-3.2(g) of this Part, for preparedness and prevention in section 373-3.3 and contingency plans and emergency procedures in section 373-3.4, and with **[subparagraph 376.1(g)(1)(v)]** all applicable requirements under Part 376 of this Title.

(Subclause 373-1.1(d)(1)(iii)(c)(6) through clause 373-1.1(d)(1)(iii)(d) remain unchanged.)

Clause 373-1.1(d)(1)(iii)(e) is revised to read as follows:

(e) A generator of 1,000 kilograms or greater of hazardous waste, including acute hazardous waste, in a calendar month, or greater than 1 kilogram of acute hazardous waste listed in paragraphs 371.4(b)(1) and 371.4(d)(5) of this Title, in a calendar month, who accumulates hazardous waste or acute hazardous waste for more than 90 days in the storage area is an operator of a storage facility and is subject to the requirements of Subparts 373-2 and 373-3 of this Title and the permit requirements of section 373-1.4 of this subpart unless the generator has been granted an extension to the 90-day period. Such [An] extension [of the 90-day period] may be granted by the Department [Commissioner] if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the [Commissioner] Department on a case-by-case basis.

(Subparagraph 373-1.1(d)(1)(iv) introductory language remains unchanged.)

Clauses 373-1.1(d)(1)(iv)(a) through (c) are deleted.

**[(a) Reserved.**

**(b) Reserved.**

**(c) the facility submits a written notification to the appropriate Regional Office stating that it qualifies for this exemption;]**

Clauses 373-1.1(d)(1)(iv)(d) through (h) are renumbered clauses 373-1.1(d)(1)(iv)(a) through (e).

Renumbered clause 373-1.1(d)(1)(iv)(‘e’) is revised to read as follows:

(‘e’) A generator of 1,000 kilograms or greater of hazardous waste, including acute hazardous waste, in a calendar month, or greater than 1 kilogram of acute hazardous waste listed in paragraphs 371.4(b)(1) and 371.4(d)(5) of this Title, in a calendar month, who accumulates hazardous waste or acute hazardous waste for more than 90 days in the storage area is an operator of a storage facility and is subject to the requirements of Subparts 373-2 and 373-3 of this Title and the permit requirements of section 373-1.4 of this subpart unless the generator has been granted an extension to the 90-day period. Such [An] extension [of the 90-day period] may be granted by the Department [Commissioner] if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the [Commissioner] Department on a case-by-case basis.

(Subparagraph 373-1.1(d)(1)(v) through clause 373-1.1(d)(1)(viii)(‘a’) remain unchanged.)

Clause 373-1.1(d)(1)(viii)(‘b’) is revised to read as follows:

(‘b’) **[This exemption is not available to any units, other than boilers]** Boilers and industrial furnaces[,] that burn hazardous wastes for energy recovery are exempt from this Part only as provided in subdivisions 374-1.8(a) and 374-1.8(i) of this Title. This exemption is not available to any other units that burn hazardous wastes for energy recovery:

(Clause 373-1.1(d)(1)(viii)(‘c’) through subparagraph 373-1.1(d)(1)(xi) remain unchanged.)

Subparagraph 373-1.1(d)(1)(xii) is revised to read as follows:

(xii) Elementary neutralization units or wastewater treatment units, as defined in Part 370 of this Title, other than units that are part of commercial hazardous waste management facilities as defined in Part 370 of this Title. Elementary neutralization units and wastewater treatment units located at commercial hazardous waste management facilities that are only used to neutralize or treat hazardous waste resulting from the recycling of hazardous wastes or from the reclamation of precious metals from hazardous wastes are also exempt. Elementary neutralization units and wastewater treatment units that are used to commercially neutralize or treat hazardous wastes, generated only at geographically contiguous sites, and transported via dedicated pipeline are also exempt. Exempt units must comply with the following:

(‘a’) Except as provided in clauses (‘b’) and (‘c’) below:

[(a)] (1) the requirements for personnel training in [section 373-3.2] subdivision 373-3.2(g) of this Part, for preparedness and prevention in section 373-3.3, and for contingency plans and emergency procedures in section 373-3.4;

[(b)] (2) the units are managed in accordance with section 373-3.9 Use and Management of Containers [and subdivision 373-3.10(k)] of this Part;

[(c)] (3) all [areas,] containers and tanks used to treat hazardous waste must be marked with the words "Hazardous Waste" and other words that identify the contents. For underground tanks, the marking must be placed on a sign in the area above the tank and on the fill port; and

[(d)] for batch treatment and equalization units, the date on which each period of accumulation begins is clearly marked and visible for inspection.]

[(e)] (4) if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in subdivision 376.4(a) of this Title, Table Treatment Standards for Hazardous Wastes) or reactive (D003) waste to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in paragraphs 373-2.2(i)(2) and 373-3.2(h)(2) of this Part.

(b) Small quantity generators, as defined in subdivision 370.2(b) of this Title, must meet the requirements of 372.2(a)(8)(iii)(e) for these units, and subclauses (a)(2), (a)(3), and (a)(4) of this subparagraph.

(c) Conditionally exempt small quantity generators, as defined in 371.1(f) of this Title, must meet the requirements of subparagraph 373-1.1(d)(1)(v) of this paragraph. If the storage quantity limits of subparagraph 373-1.1(d)(1)(v) are not met, the requirements of subclauses (a)(2), (a)(3) and (a)(4) of this subparagraph apply.

(Subparagraph 373-1.1(d)(1)(xiii) through clause 373-1.1(d)(1)(xx) remain unchanged.)

Clause 373-1.1(d)(1)(xxi) is deleted.

(Paragraph 373-1.1(d)(2) through clause 373-1.4(a)(5)(iv)(a) remain unchanged.)

Clause 373-1.4(a)(5)(iv)(b) is revised to read as follows:

(b) For remedial action plans (RAPs) under section 373-1.11 of this Subpart, if the operator certifies according to clause (a) of this subparagraph, then the owner may choose to make the following certification instead of the certification in clause (a) of this subparagraph:

"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]** 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."

(Subdivisions 373-1.4(b) through (h) remain unchanged.)

New subdivision 373-1.4(i) is adopted to read as follows:

(i) If the Department concludes, based on one or more of the factors listed in paragraph (1) of this subdivision that compliance with the standards of 40 CFR part 63, subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title, alone may not be protective of human health and/or the environment, the Department shall require the additional information or assessment(s) necessary to determine whether additional controls are necessary to ensure protection of human health and the environment. This includes information necessary to evaluate the potential risk to human health and/or the environment resulting from both direct and indirect exposure pathways. The Department may also require a permittee or applicant to provide information necessary to determine whether such an assessment(s) should be required.

(1) The Department shall base the evaluation of whether compliance with the standards of 40 CFR part 63, subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title, alone is protective of human health and 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 including unique dispersion patterns, proximity to receptors (such as schools, hospitals, nursing homes, day care centers, parks, community activity centers, or other potentially sensitive receptors), and other relevant considerations ;

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

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

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

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

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

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

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

(ix) Such other factors as may be appropriate.

(2) Reserved.

Paragraph 373-1.5(a)(1) is revised to read as follows:

(a) General Requirements.

(1) The permit application consists of a completed Part A application, the general information requirements of this section, and the specific information requirements in subdivisions of this Subpart applicable to the facility. The information requirements presented in subdivisions (a) through (p) of this section reflect the standards in Subpart 373-2 of this Part. These information requirements are necessary in order for the **[commissioner]** department to determine compliance with the Subpart 373-2 standards. If the owners and operators of hazardous waste management facilities can demonstrate that the information prescribed in this paragraph, other than the Part A application, can not be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. However, the Department must determine that the information provided is sufficient to determine compliance with the Subpart 373-2 standards. Information requirements in this section must be submitted to the **[commissioner]** department and signed in accordance with requirements in paragraph 373-1.4(a)(5) of this Subpart. Certain technical data, such as design drawings and specifications, and engineering studies and reports must be certified by a professional engineer registered in New York State. The location of property boundaries must be certified by a person or firm registered to practice land surveying in the State of New York. For post-closure permits, only the information specified in subdivision 373-1.5(o) of this Subpart is required in the permit application.

(Paragraph 373-1.5(a)(2) introductory language through subparagraph 373-1.5(a)(2)(vii) remain unchanged.)

Clause 373-1.5(a)(2)(viii)(a) is revised to read as follows:

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

(a) prevent hazards in loading and unloading operations [(for example, ramps, special forklifts)] . Physical hazards may be minimized, for example, by using ramps and special forklifts. Procedures and equipment used to prevent or contain spills must take into account the

pressure and volume of the transfer lines, and the time needed for an operator to respond to a spill (e.g., failure of a transfer line or connection point);

(Clause 373-1.5(a)(2)(viii)(b) through paragraph 373-1.5(d)(10) introductory language remain unchanged.)

Subparagraph 373-1.5(d)(10)(i) is revised to read as follows:

(i) Any Part 373 permit application submitted by an owner or operator of a facility that stores, treats, or disposes **[of]** hazardous waste in a surface impoundment must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous waste or hazardous constituents through releases related to the unit. At a minimum, the information must address:

(Subparagraph 373-1.5(d)(10)(ii) through subdivision 373-1.5(e) remain unchanged.)

Subdivision 373-1.5(f) introductory text is revised to read as follows:

(f) Specific information requirements for incinerators. Except as subdivision 373-2.15(a) of this Part and paragraph (5) of this subdivision **[provides]** provide otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of paragraphs (1), (2), or (3) of this subdivision.

(Paragraph 373-1.5(f)(1) through clause 373-1.5(f)(3)(i)(b) remain changed.)

Clauses 373-1.5(f)(3)(i)(c) and (d) are revised to read as follows:

(c) an identification of any hazardous organic constituents listed in Appendix 23 of this Title that are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix 23 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 that are ELAP certified analytical methods or others as approved by the Department **[specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title, or their equivalent];**

(d) an approximate quantification of the hazardous constituents identified in the waste, within the precision produced by **[the]** appropriate analytical methods that are ELAP certified analytical methods or others as approved by the Department**[specified in "Test Methods For Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title].**

(Clause 373-1.5(f)(3)(i)(e) through paragraph 373-1.5(f)(4) remain unchanged.)

New paragraph 373-1.5(f)(5) is adopted to read as follows:

(5) (i) An owner or operator of a hazardous waste incineration unit (as described below) who demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63

Subpart EEE is exempt from the requirements of this subdivision, except for:

    ('a') those provisions the Department determines are necessary to ensure compliance with paragraphs 373-2.15(f)(1) and (3) of this Part if the owner or operator elects to comply with clause 373-1.12(a)(1)(i)(a) of this Subpart to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; and

    ('b') those provisions of this subdivision that the Department applies on a case-by-case basis, for purposes of information collection in accordance with subdivisions 373-1.4(h) and (i), and paragraph 373-1.6(c)(2) of this Subpart.

(ii) The foregoing section applies to all hazardous waste incinerator units which:

    ('a') became subject to Part 373 permit requirements after October 12, 2005, or

    ('b') existed on or before October 12, 2005 and demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) of subpart EEE, and documenting compliance with all applicable requirements of 40 CFR part 63, subpart EEE as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title).

(iii) 40 CFR Part 63 Subpart EEE is incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title (i.e., the requirement to conduct a comprehensive performance test and submit a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) of subpart EEE, and to document compliance with all applicable requirements of 40 CFR part 63, subpart EEE as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title).

(Subdivisions 373-1.5(g) and (h) remain unchanged.)

Subdivision 373-1.5(i) introductory text is adopted to read as follows:

(i) Specific information requirements for boilers and industrial furnaces burning hazardous waste.

('a') Except as follows, the requirements of this subdivision do not apply to

    ('1') an owner or operator of a cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace who became subject to Part 373 permit requirements after October 12, 2005, or

(‘2’) an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace who demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) of subpart EEE, and documenting compliance with all applicable requirements of 40 CFR part 63, subpart EEE as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title).

(‘b’) The requirements of this subdivision do apply if:

(‘1’) the Department determines certain provisions in this subdivision are necessary to ensure compliance with subparagraph 374-1.8(c)(5)(i) and clause 374-1.8(c)(5)(ii)(‘c’) of this Title if the owner or operator elects to comply with clause 373-1.12(a)(1)(i)(‘a’) of this Subpart to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; or

(‘2’) the boiler or industrial furnace is an area source and the owner or operator elects to comply with the subdivisions 374-1.8(f), (g) and (h) standards of this Title and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or

(‘3’) the Department determines certain provisions in this subdivision apply, on a case-by-case basis, for purposes of information collection in accordance with subdivisions 373-1.4(h) and (i), and paragraph 373-1.6(c)(2) of this Subpart.

(Paragraph 373-1.5(i)(1) introductory text through subclause 373-1.5(i)(1)(ii)(‘b’)(‘1’) remain unchanged.)

Subclause 373-1.5(i)(1)(ii)(‘b’)(‘2’) is revised to read as follows:

(‘2’) Results of analyses of each waste to be burned, documenting the concentrations of non metal compounds listed in Appendix 23 of this Title, 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 that are ELAP-certified analytical methods or other methods as approved by the Department [specified in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (incorporated by reference, see subdivision 370.1(e))].

(Subclause 373-1.5(i)(1)(ii)(‘b’)(‘3’) through subparagraph 373-1.5(k)(4)(ii) remain unchanged.)

Subparagraph 373-1.5(k)(4)(iii) is revised to read as follows:

(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" (incorporated by reference as specified in subdivision 370.1(e) of this Title) or other

engineering texts acceptable to the **[commissioner]** Department that present basic control device **[design]** information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in clause 373-2.27(f)(2)(iv)(c).

(Subparagraph 373-1.5(k)(4)(iv) through subparagraph 373-1.5(l)(5)(ii) remain unchanged.)

Subparagraph 373-1.5(l)(5)(iii) is revised to read as follows:

(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" (incorporated by reference as specified in subdivision 370.1(e) of this Title) or other engineering texts acceptable to the **[commissioner]** Department that present basic control device **[design]** information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in clause 373-2.27(f)(2)(iv)(c).

(Subparagraph 373-1.5(l)(5)(iv) through subparagraph 373-1.6(a)(12)(ii) introductory language remain unchanged.)

Clause 373-1.6(a)(12)(ii)(a) is revised to read as follows:

(a) the permittee has submitted to the commissioner by certified mail or hand delivery a letter signed by the permittee and a **[registered]** professional engineer registered in New York State stating that the facility has been constructed or modified in compliance with the permit; and

(Clause 373-1.6(a)(12)(ii)(b) through paragraph 373-1.6(c)(1) remain unchanged.)

Paragraph 373-1.6(c)(2) is revised to read as follows:

(2) Each permit will include permit conditions necessary to achieve compliance with RCRA and its regulations and Article 27, Title 9 of the ECL and its regulations, including each of the applicable requirements specified in Subpart 373-2 and Parts 374 and 376 of this Title. In satisfying this provision, the commissioner may incorporate applicable requirements of Subpart 373-2 and Parts 374 and 376 directly into the permit or establish other permit conditions that are based on this Part. The **[commissioner]** Department may impose permit conditions as the **[commissioner]** Department determines necessary to protect human health and the environment. If, as the result of an assessment(s) or other information, the Department determines that conditions are necessary in addition to those required under 40 CFR part 63, subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title, Subpart 373-2 of this Part, or Subpart 374-1 of this Title, to ensure protection of human health and the environment, the Department shall include those terms and conditions in a Part 373 permit for a hazardous waste combustion unit.

(Paragraph 373-1.6(c)(3) through subdivision 373-1.6(d) remain unchanged.)

Subdivision 373-1.6(e) is revised to read as follows:

**(e) Effect of a permit.** (1) Compliance with a permit issued pursuant to this Part during its term constitutes compliance, for purposes of enforcement, with Parts 370 through 374 and 376 of this Title except for those requirements not included in the permit which:

[(1)](i) Become effective by statute;

[(2)](ii) Are promulgated under Part 376 of this Title restricting the placement of hazardous wastes in or on the land;

[(3)](iii) Are promulgated under Subpart 373-2 of this Part 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 section 373-1.7 of this Part for major modifications; or

[(4)](iv) Are promulgated under sections 373-3.27, 373-3.28 or 373-3.29 of this Part limiting air emissions.

(2) A permit may be modified, revoked, and reissued, or terminated during its term for cause as set forth in subdivision 373-1.7(b).

(Subdivision 373-1.7(a) through subparagraph 373-1.7(c)(1)(vii) remain unchanged.)

New subparagraph 373-1.7(c)(1)(viii) is adopted to read as follows:

(viii) Changes to remove permit conditions that are no longer applicable or that result from the facility opting out pursuant to 373-1.7(c)(12)(iv) (i.e., because the standards upon which they are based are no longer applicable to the facility.)

(Paragraph 373-1.7(c)(2) through subparagraph 373-1.7(c)(12)(ii) remain unchanged.)

Subparagraph 373-1.7(c)(12)(iii) is revised and new subparagraph 373-1.7(c)(12)(iv) is adopted to read as follows:

(iii) Technology changes needed to meet standards under 40 CFR Part 63 (Subpart EEE -National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), as incorporated by reference and implemented by subdivisions 200.10(a) and (d) [in subdivision 370.1(e)] of this Title, provided the procedures of subdivision 373-1.7(j) of this Subpart are followed.

(iv) Transition from Part 373 permit provisions to 40 CFR Part 63 Subpart EEE. Changes to Part 373 permit provisions needed to support transition to 40 CFR part 63 Subpart EEE (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), as incorporated and implemented by subdivisions 200.10(a) and (d) of this Title, provided the procedures of subdivision 373-1.7(k) of this Subpart are followed.

(Paragraph 373-1.7(c)(13) through clause 373-1.7(c)(15)(ii)('a') remain unchanged.)

New clause 373-1.7(c)(15)(ii)('b') is adopted to read as follows:

    ('b') if a modification designated as a Class 2 modification under 40 CFR 270.42 Appendix I, as incorporated by reference in subdivision 370.1(e) of this Title, is deemed a minor modification, the requirements of 40 CFR 270.42(b), as incorporated by reference in subdivision 370.1(e) of this Title, must be met.

(Subdivision 373-1.7(d) remains unchanged.)

Subdivision 373-1.7(e) is revised to read as follows:

(e) Announcement of Determination. Upon receipt of the commissioner's determination, the permittee must send an announcement of every minor modification to all persons on the facility mailing list maintained by the commissioner under paragraph [621.7(i)(6)] 621.7(i)(7) of this Title, to any unit of local government having jurisdiction over the area where the facility is proposed to be located, and to each State agency having any authority under State law with respect to the construction or operation of such facility. This announcement must be made within 90 calendar days after the commissioner approves the request as a minor modification.

(Subdivision 373-1.7(f) through subparagraph 373-1.7(f)(2)(ii) remain unchanged.)

Subparagraph 373-1.7(f)(2)(iii) is amended to read as follows:

(iii) The permittee must send an announcement about the temporary authorization request to all persons on the facility mailing list maintained by the commissioner under paragraph [621.7(i)(6)] 621.7(i)(7) of this Title, to any unit of local government having jurisdiction over the area where the facility is proposed to be located, and to each State agency having any authority

under State law with respect to the construction or operation of such facility. This announcement must be made within seven days of submission of the authorization request.

(Paragraph 373-1.7(f)(3) through subdivision (j) introductory language remain unchanged.)

Paragraph 373-1.7(j)(1) is revised, and new paragraph 373-1.7(j)(2) and new subdivision 373-1.7(k) are adopted to read as follows:

(1) Facility owners or operators must **[comply]** have complied with the Notification of Intent to Comply (NIC) requirements of **[40 CFR 63.1211]** 40 CFR 63.1210 of Subpart EEE that were in effect prior to October 11, 2000 (see 40 CFR part 63 sections 1200 through 1499, revised as of July 1, 2000, as incorporated by reference in subdivision 370.1(e) of this Title,) in order to request **[before]** a permit modification **[can be requested]** under this Subpart for the purpose of technology changes needed to meet the standards under 40 CFR part 63, subpart EEE, sections 1203, 1204 and 1205, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title.

(2) 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) of subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title before a permit modification can be requested under this section for the purpose of technology changes needed to meet the 40 CFR part 63, subpart EEE, sections 1215, 1216, 1217, 1218, 1219, 1220, and 1221 standards, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title.

(k) Waiver of Part 373 permit conditions in support of transition to the 40 CFR part 63 subpart EEE MACT standards, as incorporated and implemented by subdivisions 200.10(a) and (d) of this Title.

(1) The owner or operator may request to have specific Part 373 operation and emissions limits waived by submitting a minor modification request under subparagraph 373-1.7(c)(12)(iv) of this section. The owner or operator must:

(i) Identify the specific Part 373 permit operating and emissions limits which the owner or operator is requesting to waive;

(ii) Provide an explanation of why the changes are necessary in order to minimize or eliminate conflicts between Part 373 permit and MACT compliance; and

(iii) Discuss how the revised provisions will be sufficiently protective.

(2) To request this modification in conjunction with MACT performance testing where the permit limits may only be waived during actual test events and pretesting, as defined under 40 CFR part 63, subpart EEE, sections 1207(h)(2)(i) and (ii), as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title, for an aggregate time not to exceed 720 hours of operation (renewable at the discretion of the Department), the owner or operator must:

(i) Submit the modification request to the Department at the same time as the submitting the test plans to the Department; and

(ii) The Department will approve or deny the request contingent upon approval of the test plans.

(Section 373-1.8( remains unchanged.)

Subdivision 373-1.9(a) is revised by adding introductory text to read as follows:

(a) Hazardous waste incinerator permits.

(1) An owner or operator of a hazardous waste incineration unit who demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63 Subpart EEE is exempt from the requirements of this subdivision except for:

(i) those provisions the Department determines are necessary to ensure compliance with paragraphs 373-2.15(f)(1) and (3) of this Part if the owner or operator elects to comply with clause 373-1.12(a)(1)(i)('a') of this Subpart to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; and

(ii) those provisions of this subdivision that the Department applies on a case-by-case basis, for purposes of information collection in accordance with subdivisions 373-1.4(h) and (i), and paragraph 373-1.6(c)(2) of this Subpart.

(2) This paragraph applies to all hazardous waste incinerator units which:

(i) became subject to the Part 373 permit requirements after October 12, 2005, or

(ii) were in existence on or before October 12, 2005 and the owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title (i.e. by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) of subpart EEE, and documenting compliance with all applicable requirements of 40 CFR part 63, subpart EEE as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title).

(Paragraph 373-1.9(a)(1) through subclause 373-1.9(a)(2)(ii)('a')('2') remain unchanged.)

Subclauses 373-1.9(a)(2)(ii)('a')('3') and ('4') are revised to read as follows:

(3) an identification of any hazardous organic constituent listed in Appendix 23 of this Title that are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix 23 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 that are ELAP-certified analytical methods or other methods as approved by the Department [specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title, or their equivalent]; and

(4) an approximate quantification of the hazardous constituents identified in the waste, within the precision produced by **[the]** appropriate analytical methods that are ELAP-certified analytical methods or other methods as approved by the Department [specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title, or their equivalent];

(Clause 373-1.9(a)(2)(ii)(b) through subdivision 373-1.9(c) remain unchanged.)

Subdivision 373-1.9(d) is revised by adding introductory text to read as follows:

(d) Permits for boilers and industrial furnaces burning hazardous waste.

(1)Except as follows, the requirements of this subdivision do not apply to

(a) an owner or operator of a cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace who became subject to the Part 373 permit requirements after October 12, 2005 or

(b) an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title (i.e. by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) of subpart EEE, and documenting compliance with all applicable requirements of 40 CFR part 63, subpart EEE as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title).

(2)The requirements of this subdivision do apply if

(a) the Department determines certain provisions are necessary to ensure compliance with subparagraph 374-1.8(c)(5)(i) and clause 374-1.8(c)(5)(ii)(c) of this Title if the owner or operator elects to comply with clause 373-1.12(a)(1)(i)(a) of this Subpart to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; or

(b) if the facility is an area source and the owner or operator elects to comply with the standards and associated requirements of subdivisions 374-1.8(f), (g) and (h) (of this Title) for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or

\_\_\_\_\_ ('c') the Department determines certain provisions of this subdivision apply, on a case-by-case basis, for purposes of information collection in accordance with subdivisions 373-1.4(h) and (i), and paragraph 373-1.6(c)(2) of this Subpart.

(Paragraph 373-1.9(d)(1) through subparagraph 373-1.9(d)(3)(ii) introductory language remain unchanged.)

Clauses 373-1.9(d)(3)(ii)('a') and ('b') are revised to read as follows:

('a') An identification of any hazardous organic constituents listed in Appendix 23 of this Title that are present in the feed stream, except that the applicant need not analyze for constituents listed in Appendix 23 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 that are ELAP-certified analytical methods or other methods as approved by the Department [specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title, or their equivalent].

('b') An approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by [the] appropriate analytical methods that are ELAP-certified analytical methods or other methods as approved by the Department [specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title, or their equivalent].

(Clause 373-1.9(d)(3)(ii)('c') through paragraph 373-1.10(a)(2) introductory language remains unchanged.)

Subparagraph 373-1.10(a)(2)(i) is revised to read as follows:

(i) "Facility mailing list" means the [mailing] contact list for a facility maintained by the Department for communicating, [in accordance with section 621.7(i)(6)] as defined in subdivision 370.2(b) of this Title.

(Paragraph 373-1.10(a)(3) through subparagraph 373-1.11(e)(1)(vi) remain unchanged.)

Subparagraph 373-1.11(e)(1)(vii) is revised to read as follows:

(vii) [If you wish t]To renew [your]an existing RAP, [you must submit] a complete application for permit renewal must be submitted at least 180 days before the expiration date of the existing RAP as required by Part 621 of this Title.

(Paragraph 373-1.11(e)(2) through subdivision 373-1.11(g) remain unchanged.)

New section 373-1.12 is adopted to read as follows:

Section 373-1.12 Integration with Maximum Achievable Control Technology (MACT) Standards

(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.

(1) Facilities with existing permits.

(i) Revisions to permit conditions after documenting compliance with MACT. The owner or operator of a Part 373-permitted incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace may request that the Department 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 paragraphs 373-2.15(a)(3) and 374-1.8(a)(2) of this Title:

(‘a’) Retain relevant permit conditions. Under this option, the Department will:

(‘1’) 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 Part 63, section 1206(c)(2) of subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title; and

(‘2’) Limit applicability of those permit conditions to the period when the facility is operating under its startup, shutdown, and malfunction plan.

(‘b’) Revise relevant permit conditions.

(‘1’) Under this option, the Department will:

(‘i’) 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.

(‘ii’) Retain or add these permit requirements to the permit to apply only when the facility is operating under its startup, shutdown, and malfunction plan.

(‘2’) Changes that may significantly increase emissions.

(‘i’) The Owner or operator must notify the Department 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. The owner or operator must notify the Department of such changes within five days of making such changes. The owner or operator 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.

(‘ii’) The Department 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’) By modifying the permit under section 373-1.7 of this Part, if warranted.

(‘c’) Remove permit conditions. Under this option:

(‘1’) The owner or operator must document that the startup, shutdown, and malfunction plan required under 40 CFR Part 63, subpart EEE, section 1206(c)(2) has been approved by the Department under 40 CFR Part 63, subpart EEE, section 1206(c)(2)(ii)(B), as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title; and

(‘2’) The Department will remove permit conditions that are no longer applicable according to paragraphs 373-2.15(a)(3) and 374-1.8(a)(2) of this Title.

(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 Department a Notification of Compliance documenting compliance with the standards of 40 CFR Part 63, subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title, may request in the application to reissue the permit for the combustion unit that the Department control emissions from startup, shutdown, and malfunction events under any of the following options:

(‘a’) Part 373 option A.

(‘1’) Under this option, the Department will:

(‘i’) Include, in the permit, conditions that ensure compliance with paragraphs 373-2.15(f)(1) and (3) of this Part or subparagraph 374-1.8(c)(5)(i) and clause 374-1.8(c)(5)(ii)(‘c’) of this Title to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, including releases from emergency safety vents; and

(‘ii’) Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.; or

(‘b’) Part 373 option B.

(‘1’) Under this option, the Department will:

(‘i’) 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

(‘ii’) Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

(‘2’) Changes that may significantly increase emissions.

(‘i’) The owner or operator must notify the Department 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. The owner or operator must notify the Department of such changes within five days of making such changes. The owner or operator 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.

(‘ii’) The Department 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’) By modifying the permit under section 373-1.7 of this Part, if warranted; or

(‘c’) CAA option. Under this option:

(‘1’) The owner or operator must document that the startup, shutdown, and malfunction plan required under 40 CFR part 63, subpart EEE, section 1206(c)(2) has been approved by the Department under 40 CFR part 63, subpart EEE, section 1206(c)(2)(ii)(B), as incorporated by reference and implemented by subdivision 200.10(a) and (d) of this Title; and

(‘2’) The Department will omit from the permit conditions that are not applicable under paragraphs 373-2.15(a)(3) and 374-1.8(a)(2) of this Title.

(2) Interim status facilities.

(i) Interim status operations. In compliance with subdivision 373-3.15(a) and paragraph 374-1.8(a)(2) of this Title, 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 Subpart 373-3 or 374-1 of this Title 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 Department a Notification of Compliance documenting compliance with the standards of 40 CFR part 63, subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title.

(‘a’) Part 373 option. Under this option, the owner or operator continues to comply with the interim status emission standards and operating requirements of Subpart 373-3 or 374-1 of this Title relevant to control of emissions from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events; or

(‘b’) CAA option. Under this option, the owner or operator is exempt from the interim status standards of Subpart 373-3 or 374-1 of this Title relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the Department that the startup, shutdown, and malfunction plan required under 40 CFR part 63, subpart EEE, section 1206(c)(2), as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title has been approved by the Department under 40 CFR part 63, subpart EEE, section 1206(c)(2)(ii)(B), as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title .

(ii) Operations under a subsequent Part 373 permit. When an owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is operating under the interim status standards of Subpart 373-3 or 374-1 of this Title submits a Part 373 permit application, the owner or operator

may request that the Department control emissions from startup, shutdown, and malfunction events under any of the options provided by clauses (1)(ii)(‘a’), (‘b’) or (‘c’) of this subdivision.

(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] became subject to Part 373 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 part 63, subpart EEE section 1206(c)(2) as incorporated by reference and implemented by subdivision 200.10(a) and (d) of this Title; or

(ii) Request to include in the Part 373 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 Department will specify that these permit conditions apply only when the facility is operating under its startup, shutdown, and malfunction plan.

## 6 NYCRR SUBPART 373-2 EXPRESS TERMS

(Paragraphs 373-2.1(a)(1) through (5) remain unchanged.)

Paragraph 373-2.1(a)(6) is revised to read as follows:

(6) The requirements of this Subpart apply to those portions of a facility managing recyclable materials described in subparagraphs 371.1(g)(1)(ii), (iii) and (iv) of this Title only to the extent that the requirements of this Subpart are referred to in sections 374-1.3, 374-1.6, 374-1.7 or 374-1.8 or Subpart 374-2 of this Title.

(Paragraph 373-2.1(a)(7) introductory language through subparagraph 373-2.1(a)(7)(ii) remain unchanged.)

Subparagraph 373-2.1(a)(7)(iii) is revised to read as follows:

(iii) [**Thermostats**] Mercury-containing equipment as described in subdivision 374-3.1(d) of this Title; and

(Subparagraph 373-2.1(a)(7)(iv) through subdivision 373-2.2(c) remain unchanged.)

Paragraph 373-2.2(d)(1) is revised to read as follows:

(1) The owner or operator of a facility that has arranged to receive hazardous waste from a source outside of the United States must notify the Department in writing at least four (4) weeks in advance of the date on which the first shipment of [**a given**]the hazardous waste is expected to arrive at the facility. The owner or operator of a facility that has arranged to receive hazardous waste from an OECD country, as defined in paragraph 372.5(h)(1) of this Title must also notify the EPA Regional Administrator in writing at least four (4) weeks in advance of the date on which the first shipment of [**a given**] the hazardous waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

Note: for purposes of reference only: The owner or operator of a recovery facility that has arranged to receive hazardous waste from an OECD Member country, as defined in paragraph 372.5(h)(1) of this Title, must also meet the requirement of 40 CFR 264.12(a)(2).

(Paragraph 373-2.2(d)(2) through subparagraph 373-2.2(h)(1)(iii) remain unchanged.)

New subparagraph 373-2.2(h)(1)(iv) is adopted to read as follows:

(iv) For facility employees who receive emergency response training pursuant to Occupational Safety and Health Administration (OSHA) regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the facility is not required to provide separate emergency response training pursuant to this section, provided that the overall facility training meets all the requirements of this section.

Paragraph 373-2.2(h)(2) is revised to read as follows:

(2) Facility personnel must successfully complete the program required in [**subdivision (a) of**

**this section] paragraph (1) of this subdivision** within **[six months after the effective date of these regulations or]** six months after the date of their employment or an assignment to a facility, whichever is later. Employees [hired after the effective date of these regulations] must not work in unsupervised positions until they have completed the training requirements of paragraph (1) of this subdivision.

(Paragraph 373-2.2(h)(3) through paragraph 373-2.4(c)(1) remain unchanged.)

Paragraph 373-2.4(c)(2) is revised to read as follows:

(2) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan as defined in section 610.2(j) of this Title and 40 CFR Part 300, or some other emergency or contingency plan, that plan need only be amended to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this Subpart (see section 370.1(e) of this Title). The owner or operator may develop one contingency plan which meets all regulatory requirements. When modifications are made to the non-Part 370 through 374 and Part 376 provisions in an integrated contingency plan, the changes do not trigger the need for a Part 373 permit modification.

(Paragraph 373-2.4(c)(3) through subparagraph 373-2.4(g)(4)(i) remain unchanged.)

Subparagraph 373-2.4(g)(4)(ii) introductory language is revised to read as follows:

(ii) The emergency coordinator must immediately notify both the department (using the New York State 24-hour oil and hazardous material spill notification number (518) **[457-7362]** **402-9543**) and either the government official designated as the on-scene coordinator for that geographical area (in the applicable regional contingency plan under 40 CFR Part 300 (see 6 NYCRR 370.1(e)), or the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include:

(Clause 373-2.4(g)(4)(ii)(a) through clause 373-2.5(b)(1)(i)(b)(4) remain unchanged.)

Subclause 373-2.5(b)(1)(i)(b)(5) is revised to read as follows:

(5) within 10 calendar days of delivery, mail a copy of the manifest to the generator, the generator State and the destination State (if different from the generator State), making legible photocopies as necessary. Mail the Department copy to: New York State Department of Environmental Conservation, **[Division of Solid & Hazardous Materials, Manifest Section]**, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7252. **Facilities do not need to distribute manifest copies to states other than New York, if those states do not require such a copy be submitted to them**]; and

(Subclause 373-2.5(b)(1)(i)(b)(6) remains unchanged.)

Clause 373-2.5(b)(1)(i)(c) is revised to read as follows:

(c) If a facility receives hazardous waste imported from a foreign source, the receiving facility must also mail a copy of the manifest and documentation confirming EPA's

consent to the import of hazardous waste to the following address within 30 days of delivery:

[International Compliance Assurance Division  
OFA/OECA (2254A), Office of Enforcement and Compliance Assurance, Office of Federal  
Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection  
Agency, [Ariel Rios Building] 1200 Pennsylvania Avenue, NW, Washington, DC 20460

Note: for purposes of reference only: The owner or operator of a recovery facility that has arranged to receive hazardous waste from an OECD Member country, as defined in paragraph 372.5(h)(1) of this Title, must also meet the requirement of 40 CFR 264.71(d).

(Clause 373-2.5(b)(1)(i)(‘d’) through subparagraph 373-2.5(b)(1)(iv) remain unchanged.)

Subparagraph 373-2.5(b)(1)(v) introductory language is revised to read as follows:

(v) Except as provided in clause (‘g’) of this subparagraph, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest for each manifest with a full or partial load rejection in accordance with subdivision 372.2(b) of this Title and the following instructions:

(Clause 373-2.5(b)(1)(v)(‘a’) through (‘e’) remain unchanged.)

Clause 373-2.5(b)(1)(v)(‘f’) is revised to read as follows:

(‘f’) Sign the Generator’s/Offerrer’s Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

(Clause 373-2.5(b)(1)(v)(‘g’) remains unchanged.)

Subparagraph 373-2.5(b)(1)(vi) introductory language and clause 373-2.5(b)(1)(vi)(‘a’) are revised to read as follows:

(vi) Except as provided in clause (‘g’) of this subparagraph, for rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest for each manifest with a full or partial load rejection in accordance with subdivision 372.2(b) of this Title and the following instructions:

(‘a’) Write the facility’s U.S. EPA ID number in Item 1 of the new manifest. Write the **[generator’s] facility’s** name and mailing address in Item 5 of the new manifest. If the mailing address is different from the **[generator’s] facility’s** site address, then write the **[generator’s] facility’s** site address in the designated space for Item 5 of the new manifest.

(Clauses 373-2.5(b)(1)(vi)(‘b’) through (‘e’) remain unchanged.)

Clauses 373-2.5(b)(1)(vi)(‘f’) and (‘g’) are revised and new clause (‘h’) is adopted to read as follows:

(‘f’) Sign the Generator’s/Offerrer’s Certification to certify, as the offeror of the

shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

(‘g’) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator’s information in the Alternate Facility space. The facility must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with clauses (‘a’), (‘b’), (‘c’), (‘d’), (‘e’), **[and]** (‘f’), and (‘h’) of this subparagraph.

(‘h’) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in subparagraph 372.2(c)(3)(ii) of this Title. (Subparagraph 373-2.5(b)(1)(vii) through subparagraph 373-2.5(b)(2)(iii) remain unchanged.)

Subparagraph 373-2.5(b)(2)(iv) is revised to read as follows:

(iv) reject the shipment of hazardous waste, and:

(‘a’) manage the hazardous waste pursuant to paragraph (1)(iv) of this subdivision;

(‘b’) manifest the hazardous waste pursuant to paragraph (1)(v) or (1)(vi) of this subdivision as appropriate, except that the phrase “unmanifested shipment from” and the generator's EPA ID number (if known) or the generator's name and address will be inserted into box 14 “Special Handling and Additional Information Block” of the new manifest; [instruct the transporter to return the hazardous waste to the generator,] and

(‘c’) file an unmanifested waste report in accordance with subparagraph (3)(ii) of this subdivision.

(Paragraph 373-2.5(b)(3) through subparagraph 373-2.5(c)(2)(i) remain unchanged.)

Subparagraph 373-2.5(c)(2)(ii) is revised to read as follows:

(ii) the location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste must be recorded on a map or diagram that shows [of] each cell or disposal area. For all facilities, this information must include cross-references to [specific] manifest document numbers[,] if the waste was accompanied by a manifest;

(Subparagraphs 373-2.5(c)(2)(iii) to (vii) remain unchanged.)

Subparagraph 373-2.5(c)(2)(viii) is revised to read as follows:

(viii) all closure cost estimates under section 373-2.8(c) of this Subpart, and[,] for disposal facilities, all post-closure cost estimates under section 373-2.8(e) of this Subpart; [and]

(Subparagraphs 373-2.5(c)(2)(ix) to (xvii) remain unchanged.)

New subparagraph 373-2.5(c)(2)(xviii) is adopted to read as follows:

(xviii) certifications as required by paragraph 373-2.10(g)(6) of this Subpart.

(Subdivision 373-2.5(d) through paragraph 373.2.6(h)(1) introductory language remain unchanged.)

Subparagraphs 373-2.6(h)(1)(i) through clause 373-2.6(h)(i)(a) are revised to read as follows:

(i) represent the quality of background groundwater [**water**] that has not been affected by leakage from a regulated unit;

(a) a determination of background groundwater quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:

(Subclause 373-2.6(h)(i)(a)(1) through subdivision 373-2.6(i) introductory language remain unchanged.)

Paragraph 373-2.6(i)(1) is revised to read as follows:

"(1) The owner or operator must monitor for indicator parameters (e.g. specific conductance, total organic carbon, or total organic halogen), waste constituents, or reaction products that provide a reliable indication of the presence of hazardous constituents in groundwater. The commissioner will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:"

(Subparagraph 373-2.6(i)(1)(i) through paragraph 373-2.6(i)(3) remain unchanged.)

Paragraph 373-2.6(i)(4) is revised to read as follows:

4) The Commissioner will specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of contamination for any parameter or hazardous constituent specified in the permit under paragraph (1) of this subdivision in accordance with paragraph (h)(7) of this section. **[A sequence of at least four samples from each well (background and compliance wells) must be collected at least semi-annually during detection monitoring.]**

(Paragraph 373-2.6(i)(5) through subparagraph 373-2.6(i)(8)(i) remain unchanged.)

Subparagraphs 373-2.6(i)(8)(ii) and (iii) are revised to read as follows:

(ii) immediately sample the groundwater in all monitoring wells at the compliance point and determine whether constituents [identified] in the list of Appendix 33 of this Title are present and, if so, at what concentration. However, the department, on a discretionary basis, may allow sampling for a site-specific subset of constituents from the Appendix 33 list of this part and other representative/related waste constituents;

(iii) For any Appendix 33 compounds found in the analysis pursuant to subparagraph (8)(ii) of this subdivision, the owner or operator may resample within one month or at an alternative site-specific schedule approved by the department and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents will form the basis for compliance monitoring. If the owner or operator does not resample for the compounds [found pursuant to] in subparagraph (8)(ii) of this subdivision, the hazardous constituents found during this initial Appendix 33 analysis will form the basis for compliance monitoring.

(Subparagraph 373-2.6(i)(8)(iv) through paragraph 373-2.6(j)(4) remain unchanged.)

Paragraphs 373-2.6(j)(5) and (6) are revised to read as follows:

(5) The Commissioner will specify the frequencies for collecting samples and conducting statistical tests to determine statistically significant evidence of increased contamination in accordance with paragraph (h)(7) of this section. **[A sequence of at least four samples from each well (background and compliance wells) must be collected at least semi-annually during the compliance period of the facility.]**

(6) Annually, the [The] owner or operator must [analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix 33 of this Title at least annually to] determine whether additional hazardous constituents from Appendix 33, which could possibly be site-related compounds [present] but are not on the detection monitoring list in the permit, [constituents] are actually present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in paragraph (i)(7) of this section. To accomplish this, [If] the owner or operator must consult with the Department. The Department will determine on a case-by-case basis: which sample collection event during the year will involve enhanced sampling; the number of monitoring wells at the compliance point to undergo enhanced sampling; the number of samples to be collected from each of these monitoring wells; and, the specific constituents from Appendix 33 of this Title for which these samples must be analyzed. If the enhanced sampling event indicates that Appendix 33 constituents are present [finds constituents from Appendix 33] in the groundwater that are not already identified in the permit as monitoring constituents, the owner or operator may resample within one month or at an alternative site-specific schedule approved by the Department, and repeat the [Appendix 33] analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentration of these additional constituents to the [commissioner] department within seven days after completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then he or she must report the concentrations of these additional constituents to the [Commissioner] department within seven days after completion of the initial analysis, and add them to the monitoring list. Notwithstanding the above reporting requirements, any other applicable statutory and regulatory reporting requirements apply.

(Paragraph 373-2.6(j)(7) through 373-2.6(k)(6) remain unchanged.)

Paragraph 373-2.6(k)(7) is revised to read as follows:

(7) The owner or operator must report in writing to the commissioner on the effectiveness of the corrective action program. The owner or operator must submit these reports [**semi-annually**] annually unless directed by the Department to submit the reports semi-annually.

(Paragraph 373-2.6(k)(8) remains unchanged.)

Paragraphs 373-2.6(l)(1) and (2) are revised to read as follows:

(1) The owner or operator of a facility which has, had, should have had, or is seeking a permit for the treatment, storage or disposal of hazardous waste must institute corrective action as necessary to protect human health and the environment for all releases of hazardous waste or constituents from any solid waste management unit at the facility, regardless of the time the waste was placed in such unit.

(2) Corrective action will be specified in the permit or order in accordance with this subdivision and section 373-2.19 of this Subpart. The permit or order will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit or order) and assurances of financial responsibility as defined in section 373-2.8 of this Subpart, except that language is added to the financial assurance mechanism to include corrective action; or as specified in the Part 373 Permit for completing such corrective action.

(Paragraph 373-2.6(l)(3) through subparagraph 373-2.7(d)(5)(iv) remain unchanged.)

Subparagraph 373-2.7(d)(5)(v) is revised to read as follows:

(v) During the period of corrective action, the owner or operator shall provide **[semi-annual]** annual reports to the Commissioner **[that describe]** describing the progress of the corrective action program, compile all groundwater monitoring data, and evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action. The Department may require the owner or operator to report semi-annually as needed to evaluate the progress of the corrective action program.

(Subparagraph 373-2.7(d)(5)(vi) through paragraph 373-2.8(a)(4) remain unchanged)

New Paragraph 373-2.8(a)(5) is added to read as follows:

(5) The total cost estimate for a facility must include all applicable financial assurance obligations (closure, post-closure, corrective action).

(Subdivision 373-2.8(b) through paragraph 372-2.8(d)(3) remain unchanged.)

Subparagraph 373-2.8(d)(4)(i) is revised to read as follows:

(i) An owner or operator may satisfy the requirements of this subdivision by obtaining closure insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance to the **[commissioner]** department. An owner or operator of a new facility must submit the certificate of insurance to the **[commissioner]** department at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be authorized by the superintendent of the New York State Department of **[Insurance]** Financial Services to conduct the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in New York State.

(Subparagraph 373-2.8(d)(4)(ii) through subparagraph 373-2.8(d)(5)(ix) remain unchanged.)

Subparagraph 373-2.8(d)(5)(x) introductory language is revised to read as follows:

(x) An owner or operator of a facility which is not a revenue-oriented facility may meet the requirements of this subdivision by obtaining a written guarantee, hereafter referred to as "guarantee." If the firm which is providing the guarantee does not meet the definition of "revenue-oriented" in section 373-2.8 or 373-3.8, it may provide the guarantee on behalf of the owner or operator even if the owner or operator is a "revenue-oriented" facility. **[However,]** For a revenue-oriented facility, the financial statement of the owner or operator cannot be consolidated with the financial statement of the guarantor. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subparagraphs (i) through (viii) of this paragraph and must comply with the terms of the guarantee. The wording of the guarantee must be identical to the wording specified in paragraph 373-2.8(j)(6) of this Part. A certified copy of the guarantee must accompany the items sent to the commissioner as specified in subparagraph (iii) of this paragraph. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide that:

(Clause 373-2.8(d)(5)(x)(a) through subparagraph 373-2.8(f)(5)(x) remain unchanged.)

Subparagraph 373-2.8(f)(5)(xi) introductory language is revised to read as follows:

(xi) An owner or operator of a facility which is not a revenue-oriented facility may meet the requirements of this subdivision by obtaining a written guarantee, hereafter referred to as "guarantee." If the firm which is providing the guarantee does not meet the definition of "revenue-oriented" in section 373-2.8 or 373-3.8, it may provide the guarantee on behalf of the owner or operator even if the owner or operator is a "revenue-oriented" facility. **[However,]** For a revenue-oriented facility, the financial statement of the owner or operator cannot be consolidated with the financial statement of the guarantor. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subparagraphs (i) through (viii) of this paragraph and must comply with the terms of the guarantee. The wording of the guarantee must be identical to the wording specified in paragraph 373-2.8(j)(6) of this Part. A certified copy of the guarantee must accompany the items sent to the commissioner as specified in subparagraph (iii) of this paragraph. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide that:

(Clause 373-2.8(f)(5)(xi)(‘a’) through clause 373-2.8(h)(1)(i)(‘a’) remain unchanged.)

Clause 373-2.8(h)(1)(i)(‘b’) is revised to read as follows:

(‘b’) Each insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or [authorized] eligible to provide insurance as an excess or surplus lines insurer within New York State, by the superintendent of the New York State Department of Insurance.

Subparagraph 373-2.8(h)(1)(ii) introductory language is revised to read as follows:

(ii) An owner or operator of a facility which is not a [~~revenue-orient\~~]revenue-oriented facility, may meet the requirements of this paragraph by passing a financial test or using the guarantee for liability coverage as specified in paragraphs (6) and (7) of this subdivision. If the firm which is providing the guarantee does not meet the definition of "revenue-oriented" in section 373-2.8 or 373-3.8, it may provide the guarantee on behalf of the owner or operator even if the owner or operator is a "revenue-oriented" facility. **[However,]** For a revenue-oriented facility, the financial statement of the owner or operator cannot be consolidated with the financial statement of the guarantor.

(Subparagraph 373-2.8(h)(1)(iii) through subparagraph 373-2.8(h)(2)(i) remain unchanged.)

Subparagraph 373-2.8(h)(2)(ii) is revised to read as follows:

(ii) An owner or operator of a facility which is not a revenue-oriented facility may meet the requirements of this paragraph by passing a financial test or using the guarantee for liability coverage as specified in paragraphs (6) and (7) of this subdivision. If the firm which is providing the guarantee does not meet the definition of "revenue-oriented" in section 373-2.8 or 373-3.8, it may provide the guarantee on behalf of the owner or operator even if the owner or operator is a "revenue-oriented" facility. **[However,]** For a revenue-oriented facility, the financial statement of the owner or operator cannot be consolidated with the financial statement of the guarantor.

(Subparagraph 373-2.8(h)(2)(iii) through paragraph 373-2.8(i)(2) remain unchanged.)

Subdivision 373-2.8(j) introductory language is revised to read as follows:

**(j) Wording of the instruments.** (Send to: NYSDEC, [**Division of Solid & Hazardous Materials,**] 625 Broadway, Albany, NY 12233-~~[7250]~~1011)

(Paragraph 373-2.8(j)(1) Trust Agreement Text Sections 1 through 7 remain unchanged.)

Paragraph 373-2.8(j)(1) Trust Agreement Section 8 (d) and (e) are revised to read as follows:

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee to the extent insured by an agency of the Federal or State government;  
**[and]**

(e) To accept additions to the Fund from sources other than the Settlor of the Trust; and

(Paragraph 373-2.8(j)(1) Trust Agreement Text Sections 8 (f) through 20 remain unchanged.)

Paragraph 373-2.8(j)(1) Certification language is revised to read as follows:

(ACKNOWLEDGEMENT BY TRUSTEE, IF A BANK)

STATE OF \_\_\_\_\_ :  
 : SS.:  
COUNTY OF \_\_\_\_\_ :

On this \_\_\_\_\_ day of \_\_\_\_\_, [19]\_\_\_\_, before me personally came to me known who, by me duly sworn, did depose and say that (s)he resides in \_\_\_\_\_; that (s)he is the \_\_\_\_\_ of \_\_\_\_\_, the banking institution described in and which executed the within Trust Fund Agreement; and that (s)he signed his/her name thereto by authority of such banking institution.

\_\_\_\_\_  
Notary Public

(ACKNOWLEDGEMENT BY TRUSTEE, IF A CORPORATION)

STATE OF \_\_\_\_\_ :  
 : SS.:  
COUNTY OF \_\_\_\_\_ :

On this \_\_\_\_\_ day of \_\_\_\_\_, [19]\_\_\_\_, before me personally came to me known who, by me duly sworn, did depose and say that (s)he resides in \_\_\_\_\_; that (s)he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in and which executed the within Trust Agreement; that (s)he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that (s)he signed his/her name thereto by like order.

\_\_\_\_\_  
Notary Public

(ACKNOWLEDGEMENT BY SETTLOR/OWNER OPERATOR, UNLESS IT BE A CORPORATION)

STATE OF \_\_\_\_\_ :  
 : SS.:  
COUNTY OF \_\_\_\_\_ :

On this \_\_\_\_\_ day of \_\_\_\_\_, [19]\_\_\_\_, before me personally came to me known and known to me to be the person(s) described in and who executed the within Trust Fund Agreement; and acknowledged that (s)he executed the same.

\_\_\_\_\_  
Notary

Public

(ACKNOWLEDGEMENT BY SETTLOR/OWNER OPERATOR, IF A CORPORATION)

STATE OF \_\_\_\_\_ :  
 : SS.:  
COUNTY OF \_\_\_\_\_ :

On this \_\_\_\_\_ day of \_\_\_\_\_, [19]\_\_\_\_, before me personally came to me known who, by me duly sworn, did depose and say that (s)he resides in \_\_\_\_\_; that (s)he is the \_\_\_\_\_ of \_\_\_\_\_

, the corporation described in and which executed the within Trust Agreement; that (s)he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that (s)he signed his/her name thereto by like order.

---

Notary Public

Paragraph 373-2.8(j)(2) introductory language is revised to read as follows:

2) A surety bond, as specified in paragraph (d)(2) or (f)(2) of this section, or paragraph (d)(2) or (f)(2) of section 373-3.8 of this Part, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

(Paragraph 373-2.8(j)(2) Surety Bond Text remains unchanged.)

Paragraph 373-2.8(j)(2) Acknowledgement by Principal language is revised to read as follows:

(ACKNOWLEDGEMENT BY PRINCIPAL, UNLESS IT BE A CORPORATION)

STATE OF \_\_\_\_\_ :  
: SS.:

COUNTY OF \_\_\_\_\_ :

On this \_\_\_\_\_ day of \_\_\_\_\_, [19] \_\_\_\_\_, before me personally came to me known and known to me to be the person(s) described in and who executed the foregoing instrument and acknowledged that (s)he executed the same.

---

Notary Public

(ACKNOWLEDGEMENT BY PRINCIPAL, IF A CORPORATION)

STATE OF \_\_\_\_\_ :  
: SS.:

COUNTY OF \_\_\_\_\_ :

On this \_\_\_\_\_ day of \_\_\_\_\_, [19] \_\_\_\_\_, before me personally came \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that (s)he resides in \_\_\_\_\_; that (s)he is the \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_, the corporation described in and which executed the within instrument; that (s)he knows the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that (s)he signed his/her name thereto by like order.

---

Notary Public

(ACKNOWLEDGEMENT BY SURETY COMPANY; PREPARE SEPARATE  
ACKNOWLEDGEMENT FOR EACH SURETY)

STATE OF \_\_\_\_\_ :  
 : SS.:  
COUNTY OF \_\_\_\_\_ :

On this \_\_\_\_\_ day of \_\_\_\_\_, [19] \_\_\_\_\_, before me personally came \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that (s)he resides in \_\_\_\_\_; that (s)he is the \_\_\_\_\_ of \_\_\_\_\_, (insert name of Surety), the corporation described in and which executed the within instrument; that (s)he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that (s)he signed his/her name thereto by like order; and that the liabilities of said company do not exceed its assets as ascertained in the manner provided by the laws of the State of New York.

\_\_\_\_\_  
Notary Public

(Paragraph 373-2.8(j)(3) introductory paragraph remains unchanged.)

Paragraph 373-2.8(j)(3) Department of Environmental Conservation address is revised to read as follows:

**Irrevocable Standby Letter of Credit**

Name and address of banking establishment \_\_\_\_\_ (Date)

Commissioner  
New York State Department of Environmental Conservation  
[Attn: **Division of Solid & Hazardous Materials**]  
625 Broadway  
Albany, New York 12233-[7250]1011

Re: Letter of Credit No. \_\_\_\_\_

(Paragraph 373-2.8(j)(3) Letter of Credit text remains unchanged.)

Paragraph 373-2.8(j)(4) remains unchanged except as follows:

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, [19] \_\_\_\_\_.

\_\_\_\_\_

Notary Public

(Paragraph 373-2.8(j)(5) introductory paragraph remains unchanged.)

Paragraph 373-2.8(j)(5) is revised to read as follows:

**Letter from Chief Financial Officer**

(Address to Commissioner of DEC[, **Attn: Division of Solid & Hazardous Materials**])

(Paragraph 373-2.8(j)(5) Text of Letter remains unchanged).

Subparagraph 373-2.8(j)(6)(i) remains unchanged except that the notary language is revised to read as follows:

STATE OF \_\_\_\_\_ : \_\_\_\_\_ : SS.:  
COUNTY OF \_\_\_\_\_ :

On this \_\_\_\_\_ day of \_\_\_\_\_, [19]\_\_\_\_\_, before me personally came \_\_\_\_\_ to me known, who, being by me duly sworn, did depose and say that (s)he is \_\_\_\_\_ of \_\_\_\_\_, the corporation described in and which executed the above instrument; that (s)he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that (s)he signed his/her name thereto by like order.

\_\_\_\_\_

Notary Public

Subparagraph 373-2.8(j)(6)(ii) remains unchanged except that the notary language is revised to read as follows:

STATE OF \_\_\_\_\_ : \_\_\_\_\_ : SS.:  
COUNTY OF \_\_\_\_\_ :

On this \_\_\_\_\_ day of \_\_\_\_\_, [19]\_\_\_\_\_, before me personally came \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that (s)he is \_\_\_\_\_ of \_\_\_\_\_, the corporation described in and which executed the above instrument; that (s)he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation; and that (s)he signed his/her name thereto by like order.

---

Notary Public

(Paragraph 373-2.8(j)(7) introductory paragraph through section 2.(e) remains unchanged.)

Paragraph 373-2.8(j)(7) Section 2.(f) is revised to read as follow:

(f) This endorsement shall be attached to and form a part of Policy No. \_\_\_\_\_ issued by (name of Insurer), herein called the Insurer, of (address of Insurer) to (name of Insured) of (address) this \_\_\_\_\_ day of \_\_\_\_\_, [19] . The effective date of the policy is the \_\_\_\_\_ day of \_\_\_\_\_, [19] .

(Paragraph 373-2.8(j)(7) certification statement remains unchanged.)

(Paragraph 373-2.8(j)(8) through 373-2.8(j)(9) introductory paragraph remain unchanged.)

Paragraph 373-2.8(j)(9) is revised to read as follows:

**Letter from Chief Financial Officer**

(Address to Commissioner of DEC, [ **Attn: Division of Solid and Hazardous Materials** ]).

(Paragraph 373-2.8(j)(9) text of letter remains unchanged.)

Paragraph 373-2.8(j)(10) is revised to read as follows:

A letter of credit, as specified in 373-2.8(h)(8) or 373-3.8(h)(8) of this Title, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**Irrevocable Standby Letter of Credit**

Name and Address of Issuing Institution

Commissioner of NYSDEC  
[**ATTN: Division of Solid & Hazardous Materials**]625 Broadway  
Albany, NY 12233-[**7250**]1011

RE: Letter of Credit No. \_\_\_\_\_

(The remainder of Paragraph 373-2.8(j)(10) through Paragraph 373-2.8(j)(11) remain unchanged.)

(Paragraph 373-2.8(j)(12) Introductory Language through Section 20 remains unchanged.)



to me known who, by me duly sworn, did depose and say that (s)he resides in ; that (s)he is the of , the corporation described in and which executed the within Trust Agreement, that (s)he knows the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that (s)he signed his/her name thereto by like order.

\_\_\_\_\_

Notary Public

(ACKNOWLEDGEMENT BY GRANTOR/OWNER OPERATOR, UNLESS IT BE A CORPORATION)

STATE OF : : SS.:  
COUNTY OF :

On this day of , [19] , before me personally came to me known and known to me to be the person(s) described in and who executed the within Trust Fund Agreement; and acknowledged that (s)he executed the same.

\_\_\_\_\_

Notary Public

(ACKNOWLEDGEMENT BY GRANTOR/OWNER OPERATOR, IF A CORPORATION)

STATE OF : : SS.:  
COUNTY OF :

On this day of , [19] , before me personally came to me known who, by me duly sworn, did depose and say that (s)he resides in ; that (s)he is the of , the corporation described in and which executed the within Trust Agreement; that (s)he knows the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that (s)he signed his/her name thereto by like order.

\_\_\_\_\_

Notary Public

(Paragraph 373-2.8(j)(13) Introductory language through Section 18 remain unchanged.)

Paragraph 373-2.8(j)(13) Certifying language is revised to read as follows:

In Witness Whereof the parties have caused this Agreement to be executed by their



COUNTY OF \_\_\_\_\_ : SS.:

On this \_\_\_\_\_ day of \_\_\_\_\_, [19] \_\_\_\_\_, before me personally came to me known who, by me duly sworn, did depose and say that (s)he resides in \_\_\_\_\_; that (s)he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in and which executed the within Trust Agreement, that (s)he knows the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that (s)he signed his/her name thereto by like order.

\_\_\_\_\_  
Notary Public

(ACKNOWLEDGEMENT BY GRANTOR/OWNER OPERATOR, UNLESS IT BE A CORPORATION)

STATE OF \_\_\_\_\_ :  
COUNTY OF \_\_\_\_\_ : SS.:

On this \_\_\_\_\_ day of \_\_\_\_\_, [19] \_\_\_\_\_, before me personally came to me known and known to me to be the person(s) described in and who executed the within Trust Fund Agreement; and acknowledged that (s)he executed the same.

\_\_\_\_\_  
Notary Public

(ACKNOWLEDGEMENT BY GRANTOR/OWNER OPERATOR, IF A CORPORATION)

STATE OF \_\_\_\_\_ :  
COUNTY OF \_\_\_\_\_ : SS.:

On this \_\_\_\_\_ day of \_\_\_\_\_ [19] \_\_\_\_\_, before me personally came to me known who, by me duly sworn, did depose and say that (s)he resides in \_\_\_\_\_; that (s)he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in and which executed the within Trust Agreement; that (s)he knows the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that (s)he signed his/her name thereto by like order.

\_\_\_\_\_  
Notary Public

(Section 373-2.9 remains unchanged)

Paragraph 373-2.10(a)(1) is revised to read as follows:

(1) Tank systems that are used to store or treat hazardous waste which contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in subdivision (d) of this section. To demonstrate the absence or presence of free liquids in the stored/treated waste, the following test must be used: Method [9095] 9095B (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title.

(Paragraph 373-2.10(a)(2) through paragraph 373-2.10(c)(7) introductory language remains unchanged.)

Paragraph 373-2.10(d)(1) is revised to read as follows:

(1) In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this subdivision must be provided (except as provided in paragraphs (6) and (7) of this subdivision):

(i) for all new tank systems or components, prior to their being put into service[;] and for existing tank systems;

**[(ii) for all existing tank systems used to store or treat Hazardous Wastes Nos. F020, F021, F022, F023, F026, and F027, within two years after January 12, 1987;**

**(iii) for those existing non-enterable underground tanks and tank systems of known and documented age within two years after January 12, 1987 or when the tank system has reached 15 years of age, whichever comes later;**

**(iv) for those existing non-enterable underground tanks and tanks systems for which the age cannot be documented within eight years of January 12, 1987; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age, or within two years of January 12, 1987, whichever comes later; and**

**(v) for all other tanks systems, within the time intervals required in subparagraphs (iii) and (iv) of this paragraph; and]**

**[(vi)] (ii) for tank systems that store or treat materials that become hazardous wastes[after the effective date of these regulations, within the time intervals required in subparagraphs (i) through (v) of this paragraph, except that the date a material becomes a hazardous waste must be used in place of January 12, 1987.], within two years of the hazardous waste listing.**

(Paragraph 373-2.10(d)(2) through paragraph 373-2.10(d)(3) remain unchanged.)

Paragraph 373-2.10(d)(4) is revised to read as follows:

(4) Secondary containment for tanks must include one or more of the following devices:

- (i) a liner (external to the tank);
- (ii) a vault;
- (iii) a double-walled tank; or
- (iv) an equivalent device as approved by the [commissioner]Department.

(Paragraph 373-2.10(d)(5) through paragraph 373-2.10(f)(1) remain unchanged.)

Paragraphs 373-2.10(f)(2) through (4) are revised as follows:

- (2) The owner or operator must inspect at least once each operating day[:
  - (i) **aboveground portions of the tank system, if any, to detect corrosion or releases of waste;**
  - (ii) data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; **and**
  - (iii) **the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation)].**

(Note: Paragraph 373-2.2(g)(3) of this Part requires the owner or operator to remedy any deterioration or malfunction the owner or operator finds. Subdivision (g) of this section requires the owner or operator to notify the commissioner within 24 hours of confirming a leak. Also, 40 CFR Part 302 may require the owner or operator to notify the National Response Center of a release.)

(3) In addition, except as noted under paragraph (4) of this subdivision, the owner or operator must inspect at least once each operating day:

(i) Above ground portions of the tank system, if any, to detect corrosion or releases of waste.

(ii) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

(4) Owners or operators of tank systems that either use leak detection systems to alert facility personnel to leaks, or implement other established workplace practices to ensure leaks are promptly identified within 24 hours, must inspect at least weekly those areas described in subparagraphs (3)(i) and (3)(ii) of this subdivision. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

(5) Ancillary equipment that is not otherwise secondarily contained, as described in subparagraph

373-2.10(d)(6)(i) through (iv) of this section, must be inspected at least once each operating day.

**[(3)] (6)** The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(i) the proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and

(ii) all sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e. every other month).

(Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85) Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632 "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.)

**[(4)] (7)** The owner or operator must document in the operating record of the facility an inspection of those items in paragraphs (1) through **[(3)] (6)** of this subdivision.

(Subdivision 373-2.10(g) introduction through paragraph 373-2.10(g)(5) remain unchanged.)

Paragraph 373-2.10(g)(6) is revised to read as follows:

(6) Certification of major repairs. If the owner or operator has repaired a tank system in accordance with paragraph (5) of this subdivision, and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, professional engineer registered in New York in accordance with subparagraph 373-1.4(a)(5)(iv) of this Title that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification must be submitted to and approved by the [commissioner]Department within seven days after returning the tank system to use. This certification must be placed in the operating record and maintained until closure of the facility.

(Paragraph 373-2.10(g)(6) notes through clause 373-2.11(b)(5)(i)(a)(1) remain unchanged.)

Clause 373-2.11(b)(5)(i)(a)(2) is revised to read as follows:

(2) the monofill is located more than one-quarter mile from an “underground source of drinking water” (as that term is defined in **[40 CFR 144.3 (see subdivision 370.1(e) of this Title)] subdivision 370.2(b) of this Title**); and

(Clause 373-2.11(b)(5)(i)(a)(3) through paragraph 373-2.12(k)(2) introductory language remains unchanged.)

Subparagraph 373-2.11(k)(2)(i) is revised to read as follows:

(i) notify the commissioner in writing of the [**exceedence**] exceedance within seven days of the determination;

(Subparagraph 373-2.11(k)(2)(ii) through subdivision 373-2.11(l) remain unchanged.)

Paragraph 373-2.12(a)(1) is revised to read as follows:

- (1) The regulations in this section apply to owners and operators of facilities that place, store or treat hazardous waste in piles, except as subdivision 373-2.1(a) of this Subpart provides otherwise.

(Paragraph 373-2.12(a)(2) through paragraph 373-2.12(b)(2) remain unchanged.)

Paragraph 373-2.12(b)(3) introductory language is revised to read as follows:

- (3) The owner or operator of each new waste pile unit [**on which construction commences after January 29, 1992**], each lateral expansion of a waste pile unit [**on which construction commences after July 29, 1992**], and each replacement of an existing waste pile unit [**that is to commence reuse after July 29, 1992**] must install two or more liners and a leachate collection and removal system above and between such liners. [**"Construction commences" is as defined in subdivision 370.2(b) under "existing facility".**]

(Subparagraph 373-2.12(b)(3)(i) through clause 373-2.14(c)(5)(ii)(‘a’)(‘1’) remain unchanged.)

Clause 373-2.14(c)(5)(ii)(‘a’)(‘2’) is revised to read as follows:

(‘2’) the monofill is located more than one-quarter mile from an “underground source of drinking water” (as that term is defined in [**40 CFR 144.3 ( see subdivision 370.1(e) of this Title)**] subdivision 370.2(b) of this Title); and

(Clause 373-2.14(c)(5)(ii)(‘a’)(‘3’) through subdivision 373-2.14(f) remain unchanged.)

Paragraph 373-2.14(g)(1) introductory language is revised to read as follows:

- (1) At final closure of the landfill or upon closure of any cell, the owner or operator must cover the landfill or cell with a final [**over**] cover designed and constructed to:

(Subparagraph 373-2.14(g)(1)(i) through paragraph 373-2.14(j)(2) remain unchanged.)

Paragraph 373-2.14(j)(3) is revised to read as follows:

- (3) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method [**9095**] 9095B (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846 (see subdivision 370.1(e) of this Title).

(Paragraph 373-2.14(j)(4) through paragraph 373-2.14(o)(2) introductory language remain unchanged.)

Subparagraph 373-2.14(o)(2)(i) is revised to read as follows:

(i) notify the commissioner in writing of the **[exceedence]** exceedance within seven days of the determination;

(Subparagraph 373-2.14(o)(2)(ii) through paragraph 373-2.15(a)(2) remain unchanged.)

Existing paragraphs 373-2.15(a)(3) through (5) are renumbered 373-2.15(a)(4) through (6).

New paragraph 373-2.15(a)(3) is adopted to read as follows:

(3) "Integration of the MACT standards."

(i) Except as provided by subparagraphs (ii) through (v) of this paragraph, the standards of this Subpart

(‘a’) do not apply to a new hazardous waste incineration unit that becomes subject to Part 373 permit requirements after October 12, 2005; and

(‘b’) no longer apply when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title, by conducting a comprehensive performance test and submitting to the Department a Notification of Compliance under 40 CFR sections 63.1207(j) and 63.1210(d) of Subpart EEE documenting compliance with the requirements of 40 CFR Part 63, Subpart EEE as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title.

(ii) Part 373 permit conditions that were based on the standards of this Subpart will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

(iii) The MACT standards do not replace the closure requirements of subdivision (h) of this section or the applicable requirements of sections (1) through (8), (28) and (29) of this Subpart.

(iv) The particulate matter standard of paragraph 373-2.15(d)(3) of this section remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard under 40 CFR section 63.1206(b)(14) and 63.1219(e) of subpart EEE, as incorporated by reference in and implemented by subdivisions 200.10 (a) and (d) of this Title.

(v) The following requirements remain in effect for startup, shutdown, and malfunction events if the owner or operator elects to comply with subparagraph 373-1.12(a)(1)(i) of this Part to minimize emissions of toxic compounds from these events:

(‘a’) Paragraph 373-2.15(f)(1) of this section requiring that an incinerator operate in accordance with operating requirements specified in the permit; and

(‘b’) Paragraph 373-2.15(f)(3) of this section requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes.

(Subdivision 373-2.15(b) through subparagraph 373-2.15(d)(1)(i) remains unchanged.)

Subparagraph 373-2.15(d)(1)(ii) is revised to read as follows:

(ii) An incinerator burning [**Hazardous Waste**] hazardous wastes F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999 percent for each principal organic hazardous constituent (POHC) designated under subdivision (c) of this section in its permit. This performance must be demonstrated on POHC's that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each POHC from the equation in subparagraph (i) of this paragraph. In addition, the owner or operator of the incinerator must notify the [**commissioner**] Department of the intent to incinerate hazardous wastes F020, F021, F022, F023, F026, or F027.

(Paragraph 373-2.15(d)(2) through paragraph 373-2.15(g)(3) remain unchanged.)

Paragraph 373-2.15(g)(4) is revised to read as follows:

(4) This monitoring and inspection data must be recorded and the records must be placed in the operating [log] record required by subdivision 373-2.5(c) of this Subpart.

(Subdivision 373-2.15(h) through subclause 373-2.19(c)(5)(vi)(‘c’)(‘4’) remain unchanged.)

Subclause 373-2.19(c)(5)(vi)(‘c’)(‘5’) is revised to read as follows:

(‘5’) [**Hydrological**] Hydrogeological and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases; and

(Subclause 373-2.19(c)(5)(vi)(‘c’)(‘6’) through subparagraph 373-2.23(d)(13)(i) remain unchanged.)

Subparagraphs 373-2.23(d)(13)(ii) and (iii) are revised to read as follows:

(ii) The [**Commissioner**] Department will review the information submitted, make a determination regarding whether the pad must be removed from service completely or partially until repairs and [**clean up**] cleanup are complete and notify the owner or operator of the determination and the underlying rationale in writing.

(iii) Upon completing all repairs and [**clean up**] cleanup, the owner or operator must notify the [**Commissioner**] Department in writing and provide a certification signed by an independent, qualified professional engineer registered in New York State, that the repairs and [**clean up**] cleanup have been completed according to the written plan [**submitted**] approved by the Department in accordance with clause (13)(i)(‘d’) of this subdivision.

(Paragraph 373-2.23(d)(14) through subdivision 373-2.24(a) remains unchanged.)

Subdivision 373-2.24(b) introductory language is revised to read as follows:

(b) Environmental performance standards. A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and

provisions as necessary to protect human health and the environment, including but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions **[shall]** must include those requirements of sections 373-2.9 through 373-2.15 and sections 373-2.27 through 373-2.29 of this Subpart, **[and]** Subpart 373-1 of this Subpart, and 40 CFR Part 63, Subpart EEE, as incorporated by reference in and implemented by subdivisions 200.10(a) and (d) of this Title, that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

(Paragraph 373-2.24(b)(1) through paragraph 373-2.27(a)(2) remain unchanged.)

Paragraph 373-2.27(a)(3) is revised to read as follows:

(3) For the owner [or] and operator of a facility subject to this section and who received a final permit under RCRA section 3005 or Subpart 373-1 prior to December 6, 1996, the requirements of this section shall be incorporated into the permit when the permit is reissued in accordance with the requirements of section 621.11 of this Title or reviewed in accordance with the requirements of section 373-1.8 of this Part. Until such date when the owner [or] and operator [receives] receive a final permit incorporating the requirements of this section, the owner and operator [is] are subject to the requirements of section 373-3.27 of this Part.

(Paragraph 373-2.27(a)(3) Note through clause 373-2.27(e)(3)(i)(a) remain unchanged.)

Clause 373-2.27(e)(3)(i)(b) is revised as follows:

(b) Method 18 or Method 25A in 40 CFR Part 60 (see subdivision 370.1(e) of this Title) for organic content. If Method 25A is used, the organic HAP used as the calibration gas must be the single organic HAP representing the largest percent by volume of the emissions. The use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(Clause 373-2.27(e)(3)(i)(c) remains unchanged.)

Clause 373-2.27(e)(3)(i)(d) is revised to read as follows:

(d) Total organic mass flow rates shall be determined by the following equation:

(1) For sources utilizing Method 18.

$$E_h = [Q_{sd}] Q_{2sd} \times (\text{summation}_{i=1 \text{ to } n} (C_i MW_i)) \times (0.0416) \times (10^{-6})$$

where:

$E_h$  = Total organic mass flow rate, kg/h;

$[Q_{sd}] Q_{2sd}$  = Volumetric flow rate of gases entering or exiting control device, as determined by Method 2, dscm/h;

n=Number of organic compounds in the vent gas;

C<sub>i</sub>=Organic concentration in ppm, dry basis, of compound i in the vent gas, as determined by Method 18;

MW<sub>i</sub>=Molecular weight of organic compound i in the vent gas, kg/kg-mol;

0.0416=Conversion factor for molar volume, kg-mol/m<sup>3</sup> (at 293 K and 760 mm Hg);

10<sup>-6</sup>=Conversion from ppm[, **ppm-1**].

(2') For sources utilizing Method 25A.

$$E_h = (Q)(C)(MW)(0.0416)(10^{-6})$$

where:

E<sub>h</sub> = Total organic mass flow rate, kg/h;

Q = Volumetric flow rate of gases entering or exiting control devise, as determined by Method 2, dscm/h;

C = Organic concentration in ppm, dry basis, as determined by Method 25A;

MW = Molecular weight of propane, 44;

0.0416 = conversion factor for molar volume, kg-mol/m<sup>3</sup> (at 293 K and 760 mm Hg);

10<sup>-6</sup> = Conversion from ppm.

(Clause 373-2.27(e)(3)(i)(e') through clause 373-2.27(e)(4)(i)(b') remain unchanged.)

Clause 373-2.27(e)(4)(i)(c') is revised to read as follows:

(c') Each sample shall be analyzed and the total organic concentration of the sample shall be computed using Method **[9060 or 8260]** 9060A of SW-846 (incorporated by reference under subdivision 370.1(e) of this Title), or analyzed for its individual organic constituents.

(Clause 373-2.27(e)(4)(i)(d') through paragraph 373-2.27(e)(5) remain unchanged.)

Paragraph 373-2.27(e)(6) is revised to read as follows:

6) When an owner or operator and the **[Commissioner]** Department do not agree on whether a distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation manages a hazardous waste with organic concentrations of at least 10 ppmw based on knowledge of the waste, the **[procedures in Method 8260 of SW-846 (incorporated by reference under subdivision 370.1(e) of this Title) may be used to resolve the dispute]** dispute

may be resolved by using direct measurement as specified at subparagraph (4)(i) of this subdivision.

(Subdivision 373-2.27(f) through paragraph 373-2.28(a)(6) remain unchanged.)

New paragraph 373-2.28(a)(7) is adopted (before the note) to read as follows:

(7) Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at 40 CFR Part 63, Subpart III, as incorporated by reference in section 200.10 of this Title, are not subject to the requirements of this section.

(Subdivision 373-2.28(a) note through subdivision 373-2.28(k) remain unchanged.)

Subdivision 373-2.28(l) through paragraph 373-2.28(m)(1) is revised to read as follows:

(1) Alternative standards for valves in gas/vapor service or in light liquid service: Percentage of valves allowed to leak.

(1) An owner or operator subject to the requirements of subdivision 373-2.28(h) may elect to have all valves within a hazardous waste management unit comply with an alternative standard that allows no greater than 2 percent of the valves to leak.

(2) The following requirements shall be met if an owner or operator decides to comply with the alternative standard of allowing 2 percent of valves to leak:

**[(i) An owner or operator must notify the Commissioner that the owner or operator has elected to comply with the requirements of this subdivision.]**

**[(ii) (i)** A performance test, as specified in paragraph (3) of this subdivision, shall be conducted initially upon designation, annually, and at other times requested by the Commissioner.

**[(iii) (ii)** If a valve leak is detected, it shall be repaired in accordance with paragraphs 373-2.28(h)(4) and (5).

(3) Performance tests shall be conducted in the following manner:

(i) All valves subject to the requirements in subdivision 373-2.28(h) within the hazardous waste management unit shall be monitored within 1 week by the methods specified in paragraph 373-2.28(n)(2).

(ii) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(iii) The leak percentage shall be determined by dividing the number of valves subject to the requirements in subdivision 373-2.28(h) for which leaks are detected by the total number of valves subject to the requirements in subdivision 373-2.28(h) within the hazardous waste management unit.

**[(4) If an owner or operator decides to no longer comply with this subdivision, that person must notify the Commissioner in writing that the work practice standard described in**

**paragraphs 373-2.28(h)(1) through (5) will be followed.]**

(m) Alternative standards for valves in gas/vapor service or in light liquid service: Skip period leak detection and repair.

(1) [(i)] An owner or operator subject to the requirements of subdivision 373-2.28(h) may elect for all valves within a hazardous waste management unit to comply with one of the alternative work practices specified in subparagraphs (2)(ii) and (iii) of this subdivision.

**[(ii) An owner or operator must notify the Commissioner before implementing one of the alternative work practices.]**

(Paragraph 373-2.28(m)(2) through subparagraph 373-2.28(n)(4)(i) remain unchanged.)

Subparagraph 373-2.28(n)(4)(ii) is revised to read as follows:

(ii) Method **[9060 or 8260]** 9060A of SW-846 (incorporated by reference under subdivision 370.1(e) of this Title), for computing total organic concentration of the sample, or analyzed for its individual organic constituents; or

(Subparagraph 373-2.28(n)(4)(iii) through Subdivision 373-2.28 (ad) remain unchanged.)

Paragraph 373-2.29(a)(1) is revised to read as follows:

(1) The requirements of this section apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either **[sections]** section 373-2.9, 373-2.10 or 373-2.11 of this Subpart except as section 373-2.1 of this Subpart and paragraph (2) of this subdivision provide otherwise.

(Paragraph 373-2.29(a)(2) remains unchanged.)

Paragraph 373-2.29(a)(3) is revised to read as follows:

(3) For the owner and operator of a facility subject to this section who received a final permit under Part 373 of this Title, prior to December 6, 1996, the requirements of this section shall be incorporated into the permit when the permit is reissued in accordance with the requirements of Part 621 of this Title or reviewed in accordance with the requirements of section 373-1.8 of this Title. Until such date when the owner and operator **[receives]** receive a final permit incorporating the requirements of this section, the owner and operator **[is]** are subject to the requirements of section 373-3.29 of this Title.

(Paragraph 373-2.29(a)(4) through subparagraph 373-2.29(g)(6)(iv) remain unchanged.)

Paragraph 373-2.29(g)(7) Introductory paragraph is revised to read as follows:

(7) To determine compliance with the no detectable organic emissions requirement of clause 373-2.29(g)(4)(i)(b) of this subdivision, the procedure specified in **[paragraph 373-2.29(d)(4)]** subparagraph 373-2.29(d)(2)(iv) of this section shall be used.

(Subparagraph 373-3.29(g)(7)(i) through paragraph 373-2.29(j)(9) remain unchanged.)

Paragraph 373-2.29(j)(10) introductory language is revised to read as follows:

(10) For each hazardous waste management unit not using air emission controls specified in subdivisions 373-2.29(e) through 373-2.29(h) of this section in accordance with the requirements of 373-2.29(a)(2)(vii) of this section, the owner **[and]** or operator shall record and maintain the following information:

(Subparagraph 373-2.29(j)(10)(i) through subdivision 373-2.29(k) remain unchanged.)

Subdivision 373-2.30(a) introductory language is revised to read as follows:

(a) Applicability. The requirements of this section apply to owners or operators who store or treat hazardous waste in units designed and operated under subdivision (b) of this section. **[These provisions will become effective on February 18, 1993, although the owner or operator may notify the Commissioner of their intent to be bound by this section at an earlier time.]** The owner or operator is not subject to the definition of land disposal in subdivision 370.2(b) provided that the unit:

(Paragraph 373-2.30(a)(1) through clause 373-2.30(b)(2)(iii)('b') remain unchanged.)

Clause 373-2.30(b)(2)(iii)('c') is revised to read as follows:

(c) The secondary containment system must be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building, and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building. (Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions. A containment building can serve as an external liner system for a tank, provided it meets the requirements of subparagraph **[373-2.10(d)(4)(i)]** 373-2.10(d)(5)(i). In addition, the containment building must meet the requirements of paragraph 373-2.10(d)(2) and subparagraphs 373-2.10(d)(3)(i) and (ii) to be considered an acceptable secondary containment system for a tank.)

(Subparagraph 373-2.30(b)(2)(iv) through 373-2.30(b)(3)(i) remain unchanged.)

Subparagraph 373-2.30(b)(3)(ii) though clause 373-2.30(b)(3)(iii)('a') introductory language is revised to read as follows:

(ii) obtain certification by **[a]** an independent, qualified professional engineer registered in New York State that the containment building design meets the requirements of paragraphs (1) through (3) of this subdivision. **[For units placed into operation prior to February 18, 1993, this certification must be placed in the facility's operating record (on-site files for generators who are not formally required to have operating records) no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit.]**

(iii) Throughout the active life of the containment building, if the owner or operator

detects a condition that could lead to or has caused a release of hazardous waste, the owner or operator must repair the condition promptly, in accordance with the following procedures.

(a) Upon detection of a condition that has **[lead]** led to a release of hazardous waste (e.g., upon detection of leakage from the primary barrier) the owner or operator must:

(Subclause 373-2.30(b)(3)(iii)(a)(1) through subparagraph 373-2.30(b)(3)(iv) remain unchanged.)

Paragraph 373-2.30(b)(4) introductory language is revised to read as follows:

(4) For a containment building[s] that contains both areas **[both]** with and without secondary containment, the owner or operator must:

(Subparagraph 373-2.30(b)(4)(i) through paragraph 373-2.30(b)(5) remain unchanged.)

Paragraph 373-2.30(c)(1) is revised to read as follows:

(1) At closure of a containment building, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.[,]) contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless paragraph 371.1(d)(4) of this Title applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for containment buildings must meet all of the requirements specified in sections 373-2.7 and 373-2.8 of this Subpart.

(Paragraph 373-2.30(c)(2) through section 373-2.31 remain unchanged.)

Appendix 33 – Groundwater Monitoring List, is revised as follows:

Amend the Title to delete the footnote:

APPENDIX 33--GROUNDWATER MONITORING LIST<sup>[1]</sup>

Revise footnote references of the column titles as follows:

Common name<sup>[2]</sup> <sup>1</sup>

CAS RN<sup>[3]</sup> <sup>2</sup>

Chemical abstracts service index name<sup>[4]</sup> <sup>3</sup>

Delete column “Suggested methods”<sup>5</sup>.

Delete column “PQL (ug/L)”<sup>6</sup>

Correct the CAS numbers for the following entries (found alphabetically within the list):

Nitrobenzene [96-95-3] 98-95-3

Phenanthrene [86-01-8] 85-01-8

Revise the footnotes as follows:

---

**[FOOTNOTE: 1 The regulatory requirements pertain only to the list of substances; the right hand columns (Methods and PQL) are given for informational purposes only. See also footnotes 5 and 6.]**

FOOTNOTE: [ 2] 1 Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

FOOTNOTE: [3] 2 Chemical Abstracts Service registry number. Where "Total" is entered, all species in the ground water that contain this element are included.

FOOTNOTE: [4] 3 CAS index names are those used in the 9th Cumulative Index.

**[FOOTNOTE: 5 Suggested Methods refer to analytical procedure numbers used in the EPA publication SW-846, "Test Methods for Evaluating Solid Waste", third edition Analytical details can be found in SW-846 and in documentation on file at the EPA. The packed column gas chromatography Methods 8010, 8020, 8030, 8040, 8060, 8080, 8090, 8110, 8120, 8140, 8150, 8240, and 8250 were promulgated methods through Update IIB of SW-846 and, as of Update III, the EPA has replaced these methods with "capillary column GC methods", as the suggested methods.**

**FOOTNOTE: 6 Practical Quantitation Limits (PQLs) are the lowest concentrations of analytes in ground waters that can be reliably determined within specified limits of precision and accuracy by the indicated methods under routine laboratory operating conditions. The PQLs listed are generally stated to one significant figure. CAUTION: The PQL values in many cases are based only on a general estimate for the method and not on a determination for individual compounds; PQLs are not a part of the regulation.]**

FOOTNOTE: [7] 4 Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor-1016 (CAS RN 12674-11-2), Aroclor-1221 (CAS RN 11104-28-2), Aroclor-1232 (CAS RN 11141-16-5), Aroclor-1242 (CAS RN 53469-21-9), Aroclor-1248 (CAS RN 12672-29-6), Aroclor-1254 (CAS RN 11097-69-1), and Aroclor-1260 (CAS RN 11096-82-5). **[The PQL shown is an average value for PCB congeners.]**

FOOTNOTE: [8] 5 This category contains congener chemicals, including tetrachlorodibenzo-p-dioxins (see also 2,3,7,8-TCDD), pentachlorodibenzo-p-dioxins, and hexachlorodibenzo-p-dioxins. **[The PQL shown is an average value for PCDD congeners.]**

FOOTNOTE: [9] 6 This category contains congener chemicals, including tetrachlorodibenzofurans, pentachlorodibenzofurans, and hexachlorodibenzofurans. **[The PQL shown is an average value for PCDF congeners.]**

## 6 NYCRR SUBPART 373-3 EXPRESS TERMS

Revise the Title of Subpart 373-3 to read as follows:

6 NYCRR Subpart 373-3 Interim Status Standards for Owners and Operators of Hazardous Waste  
Treatment, Storage and Disposal Facilities

(Paragraphs 373-3.1(a)(1) through (5) remain unchanged.)

Paragraph 373-3.1(a)(6) is revised to read as follows:

(6) The requirements of this Subpart apply to those portions of a facility managing recyclable materials described in subparagraphs 371.1(g)(1)(ii), (iii) and (iv) of this [Part] Title only to the extent that the requirements of this Subpart are referred to in sections 374-1.3, 374-1.6, 374-1.7 or 374-1.8 or Subpart 374-2 of this Title.

(Paragraph 373-3.1(a)(7) through subparagraph 373-3.1(a)(9)(ii) remain unchanged.)

Subparagraph 373-3.1(a)(9)(iii) is revised to read as follows:

(iii) **[Thermostats]** Mercury-containing equipment as described in subdivision 374-3.1(d) of this Title; and

(Subparagraph 373-3.1(a)(9)(iv) through subdivision 373-3.1(b) remain unchanged.)

Paragraph 373-3.2(c)(1) is revised to read as follows:

(1) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Department in writing at least four (4) weeks in advance of the date on which the first shipment of **[a given]**the hazardous waste is expected to arrive at the facility. The owner or operator of a facility that has arranged to receive hazardous waste from an OECD country, as defined in paragraph 372.5(h)(1) of this Title must also notify the EPA Regional Administrator in writing at least four (4) weeks in advance of the date on which the first shipment of **[a given]**the hazardous waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

Note: for purposes of reference only: The owner or operator of a recovery facility that has arranged to receive hazardous waste from an OECD Member country, as defined in paragraph 372.5(h)(1) of this Title must also meet the requirement of 40 CFR 265.12(a)(2).

(Paragraph 373-3.2(c)(2) through paragraph 373-3.2(e)(1) introductory language remain unchanged.)

Subparagraph 373-3.2(e)(1)(i) is revised to read as follows:

(i) physical contact with the waste, structures, or equipment within the active portion of the facility **[with]** will not injure unknowing or unauthorized persons or livestock which may enter the active portion of a facility; and

(Clause 373-3.2(e)(1)(ii) and subparagraph 373-3.2(g)(1)(iii) remain unchanged.)

New subparagraph 373-3.2(g)(1)(iv) is adopted to read as follows:

(iv) For facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration (OSHA) regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the facility is not required to provide separate emergency response training pursuant to this section, provided that the overall facility training meets all the requirements of this section.

(Paragraph 373-3.2(g)(2) through paragraph 373-3.4(c)(1) remain unchanged.)

Paragraph 373-3.4(c)(2) is revised to read as follows:

(2) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan as defined in section 610.2(j) of this Title and 40 CFR Part 300, or some other emergency or contingency plan, that plan need only be amended to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this Subpart (see section 370.1(e) of this Title). The owner or operator may develop one contingency plan which meets all regulatory requirements. When modifications are made to the non-Part 370 through 374 and Part 376 provisions in an integrated contingency plan, the changes do not trigger the need for a Part 373 permit modification.

(Paragraph 373-3.4(c)(3) through subparagraph 373-3.4(g)(4)(i) remain unchanged.)

Subparagraph 373-3.4(g)(4)(ii) introductory language is revised to read as follows:

(ii) The emergency coordinator must immediately notify both the department (using the New York State 24-hour oil and hazardous material spill notification number (518) **[457-7362]** 402-9543) and either the government official designated as the on-scene coordinator for that geographical area (in the applicable regional contingency plan under 40 CFR Part 300 (see 6 NYCRR 370.1(e)), or the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include:

(Clause 373-3.4(g)(4)(ii)(a) through subclause 373-3.5(b)(1)(i)(b)(4) remain unchanged.)

Subclause 373-3.5(b)(1)(i)(b)(5) is revised to read as follows:

(5) within 10 calendar days of delivery, mail a copy of the manifest to the generator, the generator State and the destination State (if different from the generator State), making legible photocopies as necessary. Mail the Department copy to: New York State Department of Environmental Conservation, **[Division of Solid & Hazardous Materials, Manifest Section]** Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-[7252]7011. Facilities do not need to distribute manifest copies to states other than New York, if those states do

not require such a copy be submitted to them; and

Clause 373-3.5(b)(1)(i)(‘c’) is revised to read as follows:

(‘c’) If a facility receives hazardous waste imported from a foreign source, the receiving facility must also mail a copy of the manifest and documentation confirming EPA’s consent to the import of hazardous waste to the following address within 30 days of delivery:

[International Compliance Assurance Division  
OFA/OECA (2254A),] Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, [Ariel Rios Building] 1200 Pennsylvania Avenue, NW, Washington, DC 20460

Note: for purposes of reference only: The owner or operator of a recovery facility that has arranged to receive hazardous waste from an OECD Member country, as defined in paragraph 372.5(h)(1) of this Title, must also meet the requirement of 40 CFR 265.71(d).

(Clause 373-3.5(b)(1)(i)(‘d’) through subparagraph 373-3.5(b)(1)(iv) remain unchanged.)

Subparagraph 373-3.5(b)(1)(v) introductory language is revised to read as follows:

(v) Except as provided in clause (‘g’) of this subparagraph, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest for each manifest with a full or partial load rejection in accordance with subdivision 372.2(b) of this Title and the following instructions:

(Clauses 373-3.5(b)(1)(v)(‘a’) through (‘e’) remain changed.)

Clause 373-3.5(b)(1)(v)(‘f’) is revised to read as follows:

(‘f’) Sign the Generator’s/Offerrer’s Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed-copy of the manifest to the generator identified in Item 5 of the new manifest.

(Clause 373-3.5(b)(1)(v)(‘g’) through subparagraph 373-3.5(b)(1)(v) remain unchanged.)

Subparagraph 373-3.5(b)(1)(vi) and clause 373-3.5(b)(1)(vi)(‘a’) are revised to read as follows:

(vi) Except as provided in clause (‘g’) of this subparagraph, for rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest for each manifest with a full or partial load rejection in accordance with subdivision 372.2(b) of this Title and the following instructions:

(‘a’) Write the facility’s U.S. EPA ID number in Item 1 of the new manifest. Write the **[generator’s]** facility’s name and mailing address in Item 5 of the new manifest. If the

mailing address is different from the **[generator's]** facility's site address, then write the generator's **[generator's]** facility's site address in the designated space for Item 5 of the new manifest.

(Clauses 373-3.5(b)(1)(vi)(b) through (e) remain unchanged.)

Clauses 373-3.5(b)(1)(vi)(f) and (g) are revised and new clause 373-3.5(b)(1)(vi)(h) is adopted to read as follows:

(f) Sign the Generator's/Officer's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

(g) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with clauses (a), (b), (c), (d), (e), **[and]** (f), and (g) of this subparagraph.

(h) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in subparagraph 372.2(c)(3)(ii) of this Title.

(Subparagraph 373-3.5(b)(1)(vii) through subparagraph 373-3.5(b)(2)(iii) remain unchanged.)

Subparagraph 373-3.5(b)(2)(iv) is revised to read as follows:

(iv) reject the shipment of hazardous waste, and:

(a) manage the hazardous waste pursuant to paragraph (1)(iv) of this subdivision;

(b) manifest the hazardous waste pursuant to paragraph (1)(v) or (1)(vi) of this subdivision as appropriate, except that, instead of the old manifest number, the phrase "unmanifested shipment from" and the generator's EPA ID number (if known) or the generator's name and address will be inserted into box 14 "Special Handling and Additional Information Block" of the new manifest; **[instruct the transporter to return the hazardous waste to the generator,]** and

(c) file an unmanifested waste report in accordance with subparagraph (3)(ii) of this subdivision.

(Paragraph 373-3.5(b)(3) through subparagraph 373-3.5(c)(2)(xiv) remain unchanged.)

New subparagraph 373-3.5(c)(2)(xv) is adopted to read as follows:

(xv) Monitoring, testing or analytical data, and corrective action where required by subdivision 373-3.6(a), and subparagraphs 373-3.6(d)(4)(ii) and (v) of this Subpart, and the certification as required by paragraph 373-3.10(g)(6) of this Subpart.

(Paragraph 373-3.6(a)(4) introductory language remain unchanged.)

Subparagraph 373-3.6(a)(4)(i) is revised to read as follows:

(i) prepare and submit to the [commissioner] Department a specific plan, certified by a qualified geologist or geotechnical engineer, which satisfies the requirements of subparagraph (d)(4)(iii) of this section for an alternate groundwater monitoring system. This plan is to be placed in the facility's operating record and maintained until closure of the facility;

(Subparagraph 373-3.6(a)(4)(ii) remains unchanged.)

Subparagraph 373-3.6(a)(4)(iii) is revised to read as follows:

(iii) prepare [and submit] a [written] report in accordance with subparagraph (d)(4)(iv) of this section [on a quarterly basis until final closure of the facility] and place it in the facility's operating record and maintain until closure of the facility; and

(Subparagraph 373-3.6(a)(4)(iv) through subparagraph 373-3.6(d)(4)(i) remain unchanged.)

Subparagraph 373-3.6(d)(4)(ii) is revised to read as follows:

(ii) Within 15 days after the notification under subparagraph (i) of this paragraph, the owner or operator must develop and submit to the [commissioner] Department a specific plan, based on the outline required under paragraph (1) of this subdivision and certified by a qualified geologist or geotechnical engineer, for a groundwater quality assessment [program] at the facility. This plan must be placed in the facility operating record and be maintained until closure of the facility.

(Subparagraphs 373-3.6(d)(4)(iii) and (iv) remain unchanged.)

Subparagraph 373-3.6(d)(4)(v) is revised to read as follows:

(v) The owner or operator must make the first determination under subparagraph (iv) of this paragraph as soon as technically feasible, and, within 15 days after that determination, submit to the [commissioner] Department a written report containing an assessment of the groundwater quality. This report must be placed in the facility operating record and be maintained until closure of the facility.

(Subparagraph 373-3.6(d)(4)(vi) through 373-3.7(c)(2)(iv) remain unchanged.)

Subparagraph 373-3.7(c)(2)(v) is revised to read as follows:

(v) a detailed description of other activities necessary during the partial and final closure [period] periods to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited, groundwater monitoring, leachate collection, and run-on and run-off control;

(Subparagraph 373-3.7(c)(2)(vi) through subparagraph 373-3.7(d)(5)(iv) remain unchanged.)

Subparagraph 373-3.7(d)(5)(v) is revised to read as follows:

(v) During the period of corrective action, the owner or operator shall provide [**semi-annual** annual] reports to the Commissioner [**that describe**] describing the progress of the corrective action program, compile all groundwater monitoring data, and evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action. The Department may require that owner or operator to report semi-annually as needed to evaluate the progress of the corrective action program.

(Subparagraph 373-3.7(d)(5)(vi) through paragraph 373-3.8(a)(1) remain unchanged.)

Paragraph 373-3.8(a)(2) introductory language is revised to read as follows:

(2) The requirements of subdivisions (e) and [**(g)**] (f) of this section apply only to owners and operators of:

(Subparagraph 373-3.8(a)(2)(i) through paragraph 373-3.8(d)(3) remain unchanged.)

Subparagraph 373-3.8(d)(4)(i) is revised to read as follows:

(i) An owner or operator may satisfy the requirements of this subdivision by obtaining closure insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance to the [**commissioner**] department. The owner or operator must submit to the [**commissioner**] department a letter from an insurer stating that the insurer is considering issuance of closure insurance conforming to the requirements of this paragraph to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator must submit the certificate of insurance to the [**commissioner**] department or establish other financial assurance as specified in this section. At a minimum, the insurer must be authorized by the Superintendent of the New York State [**Insurance**] Department of Financial Services to conduct the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in New York State.

(Subparagraph 373-3.8(d)(4)(ii) through subparagraph 373-3.8(d)(5)(viii) remains unchanged.)

Subparagraph 373-3.8(d)(5)(ix) introductory language is revised to read as follows:

(ix) An owner or operator of a facility which is not a revenue-oriented facility may meet the requirements of this subdivision by obtaining a written guarantee, hereafter referred to as "guarantee." If the firm which is providing the guarantee does not meet the definition of "revenue-oriented" in section 373-2.8 or 373-3.8, it may provide the guarantee on behalf of the owner or operator even if the owner or operator is a "revenue-oriented" facility. **[However,]** For a revenue-oriented facility, the financial statement of the owner or operator cannot be consolidated with the financial statement of the guarantor. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subparagraphs (i) through (viii) of this paragraph and must comply with the terms of the guarantee. The wording of the guarantee must be identical to the wording specified in paragraph 373-2.8(j)(6) of this Part. A certified copy of the guarantee must accompany the items sent to the commissioner as specified in subparagraph (iii) of this paragraph. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide that:

(Clause 373-3.8(d)(5)(ix)(a) through subparagraph 373-3.8(f)(5)(ix) remain unchanged.)

Subparagraph 373-3.8(f)(5)(x) introductory language is revised to read as follows:

(x) An owner or operator of a facility which is not a revenue-oriented facility may meet the requirements of this subdivision by obtaining a written guarantee, hereafter referred to as "guarantee." If the firm which is providing the guarantee does not meet the definition of "revenue-oriented" in section 373-2.8 or 373-3.8, it may provide the guarantee on behalf of the owner or operator even if the owner or operator is a "revenue-oriented" facility. **[However,]** For a revenue-oriented facility, the financial statement of the owner or operator cannot be consolidated with the financial statement of the guarantor. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subparagraphs (i) through (viii) of this paragraph and must comply with the terms of the guarantee. The wording of the guarantee must be identical to the wording specified in paragraph 373-2.8(j)(6) of this Part. A certified copy of the guarantee must accompany the items sent to the commissioner as specified in subparagraph (iii) of this paragraph. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide that:

(Clause 373-3.8(f)(5)(x)(a) through clause 373-3.8(h)(1)(i)(a) remain unchanged.)

Clause 373-3.8(h)(1)(i)('b') is revised to read as follows:

(b) Each insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or [authorized] eligible to provide insurance as an excess or surplus lines insurer within New York State, by the superintendent of the New York State Department of Insurance.

Subparagraph 373-3.8(h)(1)(ii) is revised to read as follows:

(ii) An owner or operator of a facility which is not a revenue-oriented facility, may meet the requirements of this paragraph by passing a financial test or using the guarantee for liability coverage as specified in paragraph (6) and (7) of this subdivision. If the firm which is providing the guarantee does not meet the definition of "revenue-oriented" in section 373-2.8 or 373-3.8, it may provide the guarantee on behalf of the owner or operator even if the owner or operator is a "revenue-oriented" facility. **[However,]** For a revenue-oriented facility, the financial statement of the owner or operator cannot be consolidated with the financial statement of the guarantor.

(Subparagraph 373-3.8(h)(1)(iii) through subparagraph 373-3.8(h)(2)(i) remain unchanged.)

Subparagraph 373-3.8(h)(2)(ii) is revised to read as follows:

(ii) An owner or operator of a facility which is not a revenue-oriented facility, may meet the requirements of this paragraph by passing a financial test or using the guarantee for liability coverage as specified in paragraph (6) and (7) of this subdivisions. If the firm which is providing the guarantee does not meet the definition of "revenue-oriented" in section 373-2.8 or 373-3.8, it may provide the guarantee on behalf of the owner or operator even if the owner or operator is a "revenue-oriented" facility. **[However,]** For a revenue-oriented facility, the financial statement of the owner or operator cannot be consolidated with the financial statement of the guarantor.

(Subparagraph 373-3.8(h)(2)(iii) through subdivision 373-3.9(a) remain unchanged.)

Subdivision 373-3.9(b) is revised to read as follows:

**(b)** Condition of containers. If a container holding hazardous waste is not in good condition, or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or **[mange]** manage the waste in some other way that complies with the requirements of this Subpart.

(Subdivision 373-3.9(c) through subdivision 373-3.9(d) remain unchanged.)

Subdivision 373-3.9(e) is revised to read as follows:

(e) Inspections. At least weekly, the owner or operator must inspect areas where containers are stored, looking for leaking containers and for deterioration of containers **[and the containment system]** caused by corrosion or other factors.

(Note: See subdivision (b) of this section for remedial action required if deterioration or leaks are detected.)

(Subdivision 373-3.9(f) through subdivision 373-3.10(a) introductory language remain unchanged.)

Paragraph 373-3.10(a)(1) is revised to read as follows:

1) Tank systems that are used to store or treat hazardous waste which contains no free liquids and that are situated inside a building with an impermeable floor are exempt from the requirements of subdivision (d) of this section. To demonstrate the absence or presence of free liquids in the stored/treated waste, the following test must be used: Method [9095] 9095B (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication No. SW-846, as incorporated by reference in subdivision 370.1(e) of this Title.

(Paragraph 373-3.10(a)(2) through paragraph 373-3.10(d)(1) introductory language remain unchanged.)

Subparagraphs 373-3.10(d)(1)(i) through (vi) are revised to read as follows:

(i) for all new tank systems or components, prior to their being put into service[.] and for existing tank systems; and

**[(ii) for all existing tank systems used to store or treat Hazardous Wastes Nos. F020, F021, F022, F023, F026, and F027, within two years after January 12, 1987;**

**(iii) for those existing non-enterable underground tanks and tank systems of known and documented age within two years after January 12, 1987 or when the tank system has reached 15 years of age, whichever comes later, except as required under clause 373-1.1(d)(1)(iv)(f) of this Part;**

**(iv) for those existing non-enterable underground tanks and tanks systems for which the age cannot be documented within eight years of January 12, 1987; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age, or within two years of January 12, 1987, whichever comes later, except as required under clause 373-1.1(d)(1)(iv)(f) of this Part;**

**(v) for all other tanks systems, within the time intervals required in subparagraphs (iii) and (iv) of this paragraph; and]**

**[(vi)] (ii) for tank systems that store or treat materials that become hazardous wastes, within two years of the hazardous waste listing. [after the effective date of these regulations within the time intervals required in subparagraphs (i) through (v) of this paragraph.]**

(Paragraph 373-3.10(d)(2) through paragraph 373-3.10(d)(3) remain unchanged.)

Paragraph 373-3.10(d)(4) is revised to read as follows:

- (4) Secondary containment for tanks must include one or more of the following devices:
- (i) a liner (external to the tank);
  - (ii) a vault;
  - (iii) a double-walled tank; or
  - (iv) an equivalent device as approved by the [commissioner] department.

(Paragraphs 373-3.10(d)(5) through 373-3.10(e)(2) introductory language remain unchanged.)

Subparagraph 373-3.10(e)(2)(i) is revised to read as follows:

- (i) spill prevention controls (e.g., check valves, dry [discount] disconnect couplings);

(Subparagraph 373-3.10(e)(2)(ii) through paragraph 373-3.10(e)(9) remain unchanged.)

Subdivision 373-3.10(f) is revised to read as follows:

(f) Inspections.

(1) The owner or operator must inspect, where present, at least once each operating day, [:

- (i) overflow/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;**

- (ii) the aboveground portions of the tank system, if any, to detect corrosion or releases of waste;**

- (iii) data gathered from monitoring [equipment] and leak detection equipment[, (e.g., pressure [and] or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design[; and**

- (iv) the construction materials and the area immediately surrounding the externally accessible portion of the tank system including secondary containment structures (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation)].**

(Note: Paragraph 373-3.2(f)(3) of this Subpart requires the owner or operator to remedy any deterioration or malfunction the owner or operator finds. Subdivision (g) of this section requires the owner or operator to notify the commissioner within 24 hours of confirming a release. Also, 40 CFR Part 302 may require the owner or operator to notify the National Response Center of a release.)

(2) Except as noted under paragraph (3) of this subdivision, the owner or operator must inspect at least once each operating day:

(i) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;

(ii) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and

(iii) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

(3) Owners or operators of tank systems that either use leak detection equipment to alert facility personnel to leaks, or implement other established workplace practices to ensure leaks are promptly identified within 24 hours, must inspect at least weekly those areas described in subparagraphs (2)(i) through (iii) of this subdivision. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

(4) Ancillary equipment that is not otherwise secondarily contained, as described in subparagraph 373-3.10(d)(6)(i) through (iv) of this section, must be inspected at least once each operating day.

**[(2)] (5)** The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(i) the proper operation of the cathodic protection system must be confirmed within six months after initial installation, and annually thereafter; and

(ii) all sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

(Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85) Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable as guidelines in maintaining and inspecting cathodic protection systems.)

**[(3)] (6)** The owner or operator must document in the operating record of the facility an inspection of those items in paragraphs (1) [and (2)] through (5) of this subdivision.

Clause 373-3.10(i)(1)(i)(b) is revised to read as follows:

(b) paragraph 373 3.2(h)(2) of this Subpart is complied with; or

(Subdivision 373-3.10(g) through paragraph 373-3.10(l)(2) remain unchanged.)

Paragraphs 373-3.10(l)(3) introductory language is revised to read as follows:

(3) Except as noted in paragraph (4) of this subdivision, generators [Generators] of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks must inspect, where present:

(Subparagraphs 373-3.10(l)(3)(i) through (v) and Note remain unchanged.)

Existing paragraphs 373-3.10(l)(4) through (6) are renumbered 373-3.10(l)(5) through (7).

New paragraph 373-3.10(l)(4) is adopted to read as follows:

(4) Generators who accumulate between 100 and 1,000 kg/mo of hazardous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert facility personnel to leaks, or implement other established workplace practices to ensure leaks are promptly identified, must inspect at least weekly, where applicable, the areas identified in subparagraphs (3)(i) and (3)(v) of this subdivision. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

(Subdivision 373-3.10(m) through subdivision 373-3.11(h) remain unchanged.)

Paragraph 373-3.11(i)(1) is revised to read as follows:

(i) Design and operating requirements.

(1) The owner or operator of each new surface impoundment unit [**on which construction commences after January 29, 1992**], each lateral expansion of a surface impoundment unit [**on which construction commences after July 29, 1992**], and each replacement of an existing surface impoundment unit [**that is to commence reuse after July 29, 1992**] must install two or more liners, and a leachate collection and removal system above and between [such] the liners, and operate the leachate collection and removal system, in accordance with paragraph 373-2.11(b)(3) of this Part, unless exempted under paragraphs 373-2.11(b)(4), (5), or (6), of this Part. [**"Construction commences" is as defined in subdivision 370.2(b) of this Title under "existing facility."**]

(Paragraph 373-3.11(i)(2) through subparagraph 373-3.11(i)(4)(i) remain unchanged.)

Subclauses 373-3.11(i)(4)(ii)(a)(1) and (2) are revised to read as follows:

(ii) (a) (1) The monofill has at least one liner for which there is no evidence [**of**] that such liner is leaking. For the purposes of this paragraph, the term "liner" means a liner designed, constructed, installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility, or a liner designed, constructed, installed, and operated to

prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, groundwater, or surface water at any time during the active life of the facility. In the case of any surface impoundment which has been exempted from the requirements of paragraph (1) of this subdivision on the basis of a liner designed, constructed, installed, and operated to prevent hazardous waste from passing beyond the liner, at the closure of the impoundment the owner or operator must remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment must comply with appropriate post-closure requirements, including but not limited to groundwater monitoring and corrective action;

(2) the monofill is located more than one-quarter mile from an [**underground source of drinking water**] "underground source of drinking water" (as that term is defined in [40 CFR 144.3 (see) subdivision [370.1(e)] 370.2(b) of this Title[]); and

(Subclause 373-3.11(i)(4)(ii)(a)(3) through paragraph 373-3.11(i)(8) remain unchanged.)

Subdivision 373-3.11(j) is renumbered 373-3.11(k)

New subdivision 373-3.11(j) is adopted to read as follows:

(j) Containment system. All earthen dikes must have a protective cover, such as grass, shale, or rock, to minimize wind and water erosion and to preserve their structural integrity.

Renumbered 373-3.11(k)(1) is revised to read as follows:

(1) The owner or operator of surface impoundment units subject to paragraph 373-3.11(i)(1) must develop and keep on site until closure of the facility a response action plan. [submit a response action plan to the Commissioner when submitting the proposed action leakage rate under subdivision 373-3.11(b).] The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in paragraph (2) of this subdivision.

(Renumbered paragraph 373-3.11(k)(2) through renumbered 373-3.11(k)(2) introductory language remain unchanged.)

Renumbered subparagraph 373-3.11(k)(2)(i) is revised to read as follows:

(i) Notify the Commissioner in writing of the [**exceedence**] exceedance within 7 days of the determination;

(Renumbered subparagraph 373-3.11(k)(2)(ii) through subdivision 373-3.11(i) remain unchanged.)

Paragraph 373-3.12(j)(1) is revised to read as follows:

(1) The owner or operator of waste pile units subject to subdivision 373-3.12(h) must develop

and keep on-site until closure of the facility [submit] a response action plan **[to the Commissioner when submitting the proposed action leakage rate under subdivision 373-3.12(i) of this Subpart.]** The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in paragraph (2) of this subdivision.

(Paragraph 373-3.12(j)(2) through paragraph 373-3.14(g)(2) remain unchanged.)

Paragraph 373-3.14(g)(3) is revised to read as follows:

3) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method **[9095] 9095B** (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title.

(Paragraph 373-3.14(g)(4) through subdivision 373-3.14(i) remain unchanged.)

Paragraph 373-3.14(j)(1) is revised to read as follows:

(j) Design and operating requirements.

(1) The owner or operator of each new landfill unit **[on which construction commences after January 29, 1992]**, each lateral expansion of a landfill unit **[on which construction commences after July 29, 1992]**, and each replacement of an existing landfill unit **[that is to commence reuse after July 29, 1992]** must install two or more liners and a leachate collection and removal system above and between such liners, and operate the leachate collection and removal systems, in accordance with paragraph 373-2.14(c)(3) of this Part, unless exempted under paragraph 373-2.14(c)(4), (5), or (6), of this Part. **[Title. "Construction commences" is as defined in subdivision 370.2(b) of this Title under "existing facility".]**

(Paragraph 373-3.14(j)(2) through subclause 373-3.14(j)(4)(ii)(‘a’)(‘1’) remain unchanged.)

Subclause 373-3.14(j)(4)(ii)(‘a’)(‘2’) is revised to read as follows:

(‘2’) the monofill is located more than one-quarter mile from an **[underground source of drinking water]** "underground source of drinking water" (as that term is defined in **[40 CFR 144.3 ( see] subdivision [370.1(e) of this Title] 370.2(b) of this Part); and**

(Subclause 373-3.14(j)(4)(ii)(‘a’)(‘3’) through paragraph 373-3.14(j)(9) remain unchanged.)

Paragraph 373-3.14(k)(1) is revised to read as follows:

(1) The owner or operator of landfill units subject to paragraph 373-3.14(j)(1) must develop and keep on site until closure of the facility **[submit]** a response action plan **[to the Commissioner when submitting the proposed action leakage rate under subdivision 373-3.14(b)].** The response action plan must set forth the actions to be taken if the action leakage rate has been

exceeded. At a minimum, the response action plan must describe the actions specified in paragraph (2) of this subdivision.

(Paragraph 373-14.(k)(2) introductory language remains unchanged.)

Subparagraph 373-3.14(k)(2)(i) is revised to read as follows:

(i) Notify the Commissioner in writing of the **[exceedence]** exceedance within 7 days of the determination;

(Subparagraph 373-3.14(k)(2)(ii) through paragraph 373-3.15(a)(2) remain unchanged.)

Existing paragraph 373-3.15(a)(3) is renumbered to 373-3.15(a)(4).

New paragraph 373-3.15(a)(3) is adopted to read as follows:

(3) "Integration of the MACT standards."

(i) Except as provided in subparagraph (ii) and (iii) of this paragraph, the standards of this Subpart no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE – National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title, by conducting a comprehensive performance test and submitting to the Department a Notification of Compliance under 40 CFR sections 63.1207(j) and 63.1210(d) of Subpart EEE documenting compliance with the requirements of 40 CFR Part 63, Subpart EEE, as incorporated and implemented by subdivisions 200.10(a) and (d) of this Title.

(ii) The following requirements continue to apply even where the owner or operator has demonstrated compliance with the MACT requirements of 40 CFR Part 63, Subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title: subdivision (e) of this section and the applicable requirements of sections (1) through (8), (28) and (29) of this Subpart.

(iii) Section 373-3.15(c) of this Subpart generally prohibiting burning of hazardous waste during startup and shutdown remains in effect if the owner or operator elects to comply with clause 373-1.12(a)(2)(i)('a') of this Title to minimize emissions of toxic compounds from startup and shutdown.

(Subdivision 373-3.15(b) through clause 373-3.27(e)(3)(i)('a') remain unchanged.)

Clause 373-3.27(e)(3)(i)('b') is revised to read as follows:

('b') Method 18 or Method 25A in 40 CFR part 60 (see 6 NYCRR 370.1(e)) for organic content. If Method 25A is used, the organic HAP used as the calibration gas must be the single organic HAP representing the largest percent by volume of the emissions. The use of

Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(Clause 373-3.27(e)(3)(i)(c) remains unchanged.)

Clause 373-3.27(e)(3)(i)(d) is revised to read as follows:

(d) Total organic mass flow rates shall be determined by the following equation:

(1) For sources utilizing Method 18.

$$E_h = [Q_{sd}] Q_{2sd} \times (\text{summation}_{\{i=1 \text{ to } n\}} (C_i MW_i)) \times (0.0416) \times (10^{-6})$$

where:

$E_h$  = Total organic mass flow rate, kg/h;

$[Q_{sd}] Q_{2sd}$  = Volumetric flow rate of gases entering or exiting control device, as determined by Method 2, dscm/h;

n = Number of organic compounds in the vent gas;

$C_i$  = Organic concentration in ppm, dry basis, of compound i in the vent gas, as determined by Method 18;

$MW_i$  = Molecular weight of organic compound i in the vent gas, kg/kg-mol;

0.0416 = Conversion factor for molar volume, kg-mol/m<sup>3</sup> (at 293 K and 760 mm Hg);

10<sup>-6</sup> = Conversion from ppm, **ppm-1**.

(2) For sources utilizing Method 25A.

$$E_h = (Q)(C)(MW)(0.0416)(10^{-6})$$

where:

$E_h$  = Total organic mass flow rate, kg/h;

Q = Volumetric flow rate of gases entering or exiting control device as determined by Method 2, dscm/h;

C = Organic concentration in ppm, dry basis, as determined by Method 25A;

MW = Molecular weight of propane, 44;

0.0416 = conversion factor for molar volume, kg-mol/m<sup>3</sup> (at 293 K and 760 mm Hg);

10<sup>-6</sup> = Conversion from ppm.

(Clause 373-3.27(e)(3)(i)(e') through clause 373-3.27(e)(4)(i)(b') remain unchanged.)

Clause 373-3.27(e)(4)(i)(c') is revised to read as follows:

(c') Each sample shall be analyzed and the total organic concentration of the sample shall be computed using Method **[9060 or 8260]** 9060A of SW-846 (incorporated by reference under subdivision 370.1(e)); or analyzed for its individual organic constituents.

(Clause 373-3.27(e)(4)(i)(d') through paragraph 373-27(e)(5) remain unchanged.)

Paragraph 373-3.27(e)(6) is revised to read as follows:

6) When an owner or operator and the **[Commissioner]** department do not agree on whether a distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation manages a hazardous waste with organic concentrations of at least 10 ppmw based on knowledge of the waste, **[the procedures in Method 8260 of SW-846 (incorporated by reference under subdivision 370.1(e) of this Title) may be used to resolve the dispute]** the dispute may be resolved using direct measurement as specified at subparagraph (4)(i) of this subdivision.

(Subdivision 373-3.27(f) through paragraph 373-3.28(a)(5) remain unchanged.)

New paragraph 373-3.28(a)(6) is adopted to read as follows:

(6) Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at 40 CFR Part 63, Subpart III, as incorporated by reference in section 200.10 of this Title, are not subject to the requirements of this section.

(Subdivision 373-3.27 Note through paragraph 373-3.28(l)(1) remain unchanged.)

Paragraph 373-3.28(l)(2) through (4) are revised to read as follows:

(2) The following requirements shall be met if an owner or operator decides to comply with the alternative standard of allowing 2 percent of valves to leak:

**[(i) An owner or operator must notify the Commissioner that the owner or operator has elected to comply with the requirements of this subdivision.]**

**[(ii)] (i)** A performance test as specified in paragraph (3) of this subdivision shall be

conducted initially upon designation, annually, and at other times requested by the Commissioner.

**[(iii)] (ii)** If a valve leak is detected, it shall be repaired in accordance with paragraphs 373-3.28(h)(4) and (5).

(3) Performance tests shall be conducted in the following manner:

(i) All valves subject to the requirements in subdivision 373-3.28(h) within the hazardous waste management unit shall be monitored within 1 week by the methods specified in paragraph 373-3.28(n)(2).

(ii) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(iii) The leak percentage shall be determined by dividing the number of valves subject to the requirements in subdivision 373-3.28(h) for which leaks are detected by the total number of valves subject to the requirements in subdivision 373-3.28(h) within the hazardous waste management unit.

**[(4) If an owner or operator decides to no longer comply with this subdivision, the owner or operator must notify the Commissioner in writing that the work practice standard described in paragraphs 373-3.28(h)(1) through (5) will be followed.]**

Paragraph 373-3.28(m)(1) is revised to read as follows:

(m) Alternative standards for valves in gas/vapor service or in light liquid service: skip period leak detection and repair.

(1) **[(i)]** An owner or operator subject to the requirements of subdivision 373-3.28(h) may elect for all valves within a hazardous waste management unit to comply with one of the alternative work practices specified in subparagraphs (2)(ii) and (iii) of this subdivision.

**[(ii) An owner or operator must notify the Commissioner before implementing one of the alternative work practices.]**

(Paragraph 373-3.28(m)(2) through subparagraph 373-3.28(n)(4)(i) remain unchanged.)

Subparagraph 373-3.28(n)(4)(ii) is revised to read as follows:

(ii) Method **[9060 or 8260]** 9060A of SW-846 (incorporated by reference under subdivision 370.1(e)) or analyzed for its individual organic constituents; or

(Subparagraph 373-3.28(n)(4)(iii) through paragraph 373-3.29(a)(2) remain unchanged.)

Paragraph 373-3.29(a)(3) is revised to read as follows:

(3) For the owner **[and]** or operator of a facility subject to this section who has received a final permit under Part 373 of this Title, prior to December 6, 1996, the following requirements apply:

(i) The requirements of 6 NYCRR Part 373-2.29 shall be incorporated into the permit when the permit is reissued in accordance with the requirements of Part 621 of this Title or reviewed in accordance with the requirements of section 373-1.8 of this Part.

(ii) Until the date when the permit is reissued in accordance with the requirements of Part 621 of this Title or reviewed in accordance with the requirements of section 373-1.8 of this Part, the owner **[and]** or operator is subject to the requirements of this section.

(Paragraph 373-3.29(a)(4) through subparagraph 373-3.29(b)(18)(i) remain unchanged.)

Subparagraph 373-3.29(b)(18)(ii) is revised to read as follows:

(ii) When the facility owner **[and]** or operator are not the generator of the hazardous waste, point of waste origination means the point where the owner or operator accepts delivery or takes possession of the hazardous waste.

(Paragraphs 373-3.29(b)(19) through (24) remain unchanged.)

Paragraph 373-3.29(b)(25) is revised to read as follows:

(25) "Waste stabilization process" means any physical or chemical process used to either reduce the mobility of hazardous constituents in a hazardous waste or eliminate free liquids as determined by Test Method **[9095] 9095B** (Paint Filter Liquids Test) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication No. SW-846, as incorporated by reference in subdivision 370.1(e) of this Title. A waste stabilization process includes mixing the hazardous waste with binders or other materials, and curing the resulting hazardous waste and binder mixture. Other synonymous terms used to refer to this process are "waste fixation" or "waste solidification." This does not include the adding of absorbent materials to the surface of a waste, without mixing, agitation, or subsequent curing, to absorb free liquid.

(Subdivision 373-3.29(c) through subclause 373-3.29(e)(1)(iii)(b)(2) remain unchanged.)

Subclause 373-3.29(e)(1)(iii)(b)(3) is revised to read as follows:

(3) All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste stream are collected such that a minimum loss of organics occurs throughout the sample collection and handling process, and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of an acceptable sample collection [sampling plan includes a plan incorporating sample collection] and handling procedures for a total volatile organic constituent concentration may be found [in

accordance with the requirements specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title, or] in Method 25D in 40 CFR part 60, appendix A as incorporated by reference in subdivision 370.1(e) of this Title.

(Subclause 373-3.29(e)(1)(iii)(b)(4) remains unchanged.)

Clause 373-3.29(e)(1)(iii)(c) is revised to read as follows:

(c) Analysis. Each collected sample shall be prepared and analyzed, **in accordance with one or more of the methods listed in subclause 373-3.29(e)(1)(iii)(c)(1) through 373-3.29(e)(1)(iii)(c)(9) of this subdivision, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration.** **If] in accordance with method 25D in 40 CFR Part 60, Appendix A as incorporated by reference in subdivision 370.1(e) of this Title, for the total concentration of volatile organic constituents, or using one or more methods when the individual organic compound concentrations are identified and summed and the summed waste concentration accounts for and [is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and] reflects all organic compounds in the waste with Henry's Law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1y/x) (which can also be expressed as 1.8 x 10<sup>-6</sup> atmospheres/gram-mole/m<sup>3</sup>) at 25 degrees Celsius. [Each of the analytical methods listed in subclause 373-3.29(e)(1)(iii)(c)(2) through 373-3.29(e)(1)(iii)(c)(7) of this subdivision has an associated list of approved chemical compounds, for which the Department considers the methods appropriate for measurement. If an owner or operator uses EPA Method 624, 625, 1624, or 1625 in 40 CFR Part 136 Appendix A, as incorporated by reference in subdivision 370.1(e) of this Title, to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR part 136.4 and 136.5, as incorporated by reference in subdivision 370.1(e), must be followed. If an owner or operator uses EPA Method 8260 or 8270 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA publication SW-846, (as incorporated by reference in subdivision 370.1(e) of this Title) to analyze one or more compounds that are not on that method's published list, the procedures in subclause (1)(iii)(c)(8) of this subdivision must be followed.]** At the owner's or operator's discretion, the owner or operator may adjust test data obtained by any appropriate method to discount any contribution to the total volatile organic concentration that is the result of including a compound [measured by a method other than Method 25D to the corresponding average VO concentration value which would have been obtained had the waste samples been analyzed using Method 25D in 40 CFR Part 60, Appendix A, as incorporated by reference in subdivision 370.1(e) of this Title. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (fm25D). If the owner or operator elects to adjust test data, the adjustment must be made to all individual chemical constituents ] with a Henry's law constant value [greater than or equal to] of less than 0.1Y/X at 25 degrees Celsius. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the appropriate[.] [Constituent constituent-specific adjustment [factors] factor (fm25D). [can be obtained by contacting the

**Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711.]** If the owner or operator elects to adjust test data, the adjustment must be made to all individual chemical constituents with a Henry's law constant value greater than or equal to 0.1 Y/X at 25 degrees Celsius contained in the waste. Constituent-specific adjustment factors (fm25D) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. Other test methods may be used if they meet the requirements in subclause ('1') or ('2') of this clause and provided the requirement to reflect all organic compounds in the waste with Henry's law constant values greater than or equal to 0.1 Y/X (which can also be expressed as  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) at 25 degrees Celsius, is met.

**[('1') Method 25D in 40 CFR part 60, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title.**

**('2') Method 624 in 40 CFR part 136, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title.**

**('3') Method 625 in 40 CFR part 136, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title. Perform corrections to the compounds for which the analysis is being conducted based on the "accuracy as recovery" using the factors in Table 7 of the method.**

**('4') Method 1624 in 40 CFR part 136, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title.**

**('5') Method 1625 in 40 CFR part 136, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title.**

**('6') Method 8260 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, (as incorporated by reference in subdivision 370.1(e) of this Title). Maintain a formal quality assurance program consistent with the requirements of Method 8260. The quality assurance program shall include the following elements:**

**('i') Documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps.**

**('ii') Measurement of the overall accuracy and precision of the specific procedures.**

**('7') Method 8270 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, (as incorporated by reference in subdivision 370.1(e) of this Title). Maintain a formal quality assurance program consistent with the requirements of Method 8270. The quality assurance program shall include the following elements:**

**(‘i’) Documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps.**

**(‘ii’) Measurement of the overall accuracy and precision of the specific procedures.**

**(‘8’)] (‘1’) Any [other] EPA standard method that has been validated in accordance with "Alternative Validation Procedure for EPA Waste and Wastewater Methods", 40 CFR part 63, appendix D, as incorporated by reference in subdivision 370.1(e) of this Title. [As an alternative, other EPA standard methods may be validated by the procedure specified in subclause (1)(iii)(‘c’)(‘9’) of this subdivision.]**

**[(‘9’)] (‘2’) Any other analysis method that has been validated in accordance with the procedures specified in Section 5.1 or Section 5.3, and the corresponding calculations in Section 6.1 or Section 6.3, of Method 301 in 40 CFR part 63, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title. The data are acceptable if they meet the criteria specified in Section 6.1.5 or Section 6.3.3 of Method 301. If correction is required under section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.**

(Clause 373-3.29(e)(1)(iii)(‘d’) through subclause 373-3.29(e)(2)(iii)(‘b’)(‘2’) remain unchanged.)

Subclause 373-3.29(e)(2)(iii)(‘b’)(‘3’) is revised to read as follows:

**(‘3’) All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste stream are collected such that a minimum loss of organics occurs throughout the sample collection and handling process, and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of an acceptable [sampling plan includes a plan incorporating] sample collection and handling procedures for a total volatile organic constituent concentration may be found in [in accordance with the requirements specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication No. SW-846, as incorporated by reference in subdivision 370.1(e) of this Title, or in] Method 25D in 40 CFR part 60, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title.**

(Subclause 373-3.29(e)(2)(iii)(‘b’)(‘4’) remains unchanged.)

Clause 373-3.29(e)(2)(iii)(‘c’) is revised to read as follows:

**(‘c’) Analysis. Each collected sample shall be prepared and analyzed in accordance with [one or more of the methods listed in subclauses (2)(iii)(‘c’)(‘1’) through (2)(iii)(‘c’)(‘9’) of this subdivision, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration. When the owner or**

**operator is making a waste determination for a treated hazardous waste that is to be compared to an average VO concentration at the point of waste origination or the point of waste entry to the treatment system, to determine if the conditions of clauses 373-2.29(c)(3)(ii)(‘a’) through (3)(ii)(‘f’) of this Part, or 373-3.29(d)(3)(ii)(‘a’) through (3)(ii)(‘f’) of this section are met, then the waste samples shall be prepared and analyzed using the same method or methods as were used in making the initial waste determinations at the point of waste origination or at the point of entry to the treatment system. If] Method 25D in 40 CFR part 60, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title, for the total concentration of volatile organic constituents, or using [is not used, then] one or more [of the] methods when the individual organic compound concentrations are identified and summed and the summed waste concentration [should be chosen that are appropriate to ensure that the waste determination] accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1**

**mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) ( which can also be expressed as  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) at 25 degrees Celsius. [Each of the analytical methods listed in subclauses (2)(iii)(‘c’)(‘2’) through (2)(iii)(‘c’)(‘7’) of this subdivision has an associated list of approved chemical compounds, for which the department considers the method appropriate for measurement. If an owner or operator uses EPA Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title, to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses EPA Method 8260 or 8270 in "Test Methods for Evaluating Solid Waste, Physical/ Chemical Methods", EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title to analyze one or more compounds that are not on that method's published list, the procedures in subclause (2)(iii)(‘c’)(‘8’) of this subdivision must be followed.] When the owner or operator is making a waste determination for a treated hazardous waste that is to be compared to an average VO concentration at the point of waste origination or the point of waste entry to the treatment system to determine if the condition of clauses 373-2.29(c)(3)(ii)(‘a’) through (‘f’) of this Part, or clauses 373-3.29(d)(3)(ii)(‘a’) through (‘f’) of this Subpart are met, then the waste samples shall be prepared and analyzed using the same method or methods as were used in making the initial waste determinations at the point of waste origination or at the point of entry to the treatment system. At the owner's or operator's discretion, the owner or operator may adjust test data [measured by a method other than Method 25D, to the corresponding average VO concentration value which would have been obtained had the waste samples been analyzed using Method 25D in 40 CFR, Part 60, Appendix A, as incorporated by reference in subdivision 370.1(e) of this Title.] obtained by any appropriate method to discount any contribution to the total volatile organic concentration that is a result of including a compound with a Henry's law constant value less than 0.1 Y/X at 25 degrees Celsius. To adjust these data, the measured concentration of each individual chemical constituent [contained] in the waste is multiplied by the appropriate constituent-specific adjustment factor ( $f_{m25D}$ ). If the owner or operator elects to adjust test data, the adjustment must be made to all individual chemical constituents with a Henry's law constant value greater than or equal to [equal to or greater than] 0.1 Y/X at 25 degrees Celsius contained in the waste. Constituent-specific adjustment factors ( $f_{m25D}$ ) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. Other test methods may be used if they meet the requirements of**

subclause ('1') or ('2') of this clause and provided the requirement to reflect all organic compounds in the waste with Henry's law constant values greater than or equal to 0.1 Y/X ( which can also be expressed as  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) at 25 degrees Celsius, is met.

**[('1') Method 25D in 40 CFR part 60 appendix A, as incorporated by reference in subdivision 370.1(e) of this Title.**

**('2') Method 624 in 40 CFR part 136 appendix A, as incorporated by reference in subdivision 370.1(e) of this Title.**

**('3') Method 625 in 40 CFR part 136, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title. Perform corrections to the compounds for which the analysis is being conducted based on the "accuracy as recovery" using the factors in Table 7 of the method.**

**('4') Method 1624 in 40 CFR part 136, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title.**

**('5') Method 1625 in 40 CFR part 136, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title.**

**('6') Method 8260 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title. Maintain a formal quality assurance program consistent with the requirements of method 8260. The quality assurance program shall include the following elements:**

**('i') Documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps.**

**('ii') Measurement of the overall accuracy and precision of the specific procedures.**

**('7') Method 8270 in "Test Method for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title. Maintain a formal quality assurance program consistent with the requirements of method 8270. The quality assurance program shall include the following elements:**

**('i') Documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps.**

**('ii') Measurement of the overall accuracy and precision of the specific procedures.]**

[(‘8’)] (‘1’) Any [other] EPA standard method that has been validated in accordance with "Alternative Validation Procedures for EPA Waste and Wastewater Methods", 40 CFR part 63, appendix D, as incorporated by reference in subdivision 370.1(e) of this Title. **[As an alternative, other EPA standard methods may be validated by the procedure specified in subclause (2)(iii)(‘c’)(‘9’) of this subdivision.]**

[(‘9’)] (‘2’) Any other analysis method that has been validated in accordance with the procedures specified in Section 5.1 or Section 5.3, and the corresponding calculations in Section 6.1 or Section 6.3, of Method 301 in 40 CFR part 63, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title. The data are acceptable if they meet the criteria specified in Section 6.1.5 or Section 6.3.3 of Method 301. If correction is required under section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.

(Clause 373-3.29(e)(2)(iii)(‘d’) through subparagraph 373-3.29(e)(3)(iii) introductory language remain unchanged.)

Clause 373-3.29(e)(3)(iii)(‘a’) is revised to read as follows:

(‘a’) Sampling. A sufficient number of samples shall be collected to be representative of the waste contained in the tank. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of **[an]** acceptable **[sampling plan includes a plan incorporating]** sample collection and handling procedures **[in accordance with the requirements specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication No. SW-846, (as incorporated by reference in subdivision 370.1(e) of this Title), or] may be found** in Method 25D in 40 CFR part 60, appendix A, as incorporated by reference in subdivision 370.1(e) of this Title.

(Clause 373-3.29(e)(3)(iii)(‘b’) through subparagraph 373-3.29(i)(3)(vii) remain unchanged.)

Paragraph 373-3.29(j)(1) is revised to read as follows:

(1) The owner or operator shall inspect and monitor air emission control equipment used to comply with this section in accordance with the applicable requirements specified in subdivision 373-3.29(f) **[and]through** 373-3.29(i) of this section.

Paragraph 373-2.29(j)(2) through paragraph 373-3.29(j)(10) remain unchanged.)

Subdivision 373-3.30(a) introductory language is revised to read as follows:

Section 373-3.30 Containment Buildings.

(a) Applicability. The requirements of this section apply to owners or operators who store or treat hazardous waste in units designed and operated under subdivision (b) of this section. **[These provisions will become effective on February 18, 1993, although the owner or operator may notify the Commissioner of his or her intent to be bound by this section at an earlier time.]** The owner or operator is not subject to the definition of land disposal in 370.2(b) of this Title provided that the unit:

(Paragraph 373-3.30(a)(1) through clause 373-3.30(b)(2)(iii)('b') remain unchanged.)  
Clause 373-3.30(b)(2)(iii)('c') is revised to read as follows:

(c) The secondary containment system must be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building. (Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions. A containment building can serve as an external liner system for a tank, provided it meets the requirements of **[373-3.10(d)(4)(i)] 373-3.10(d)(5)(i)**. In addition, the containment building must meet the requirements of 373-3.10(d)(2) and (3) to be considered an acceptable secondary containment system for a tank.)

(Subparagraph 373-3.30(b)(2)(iv) through subparagraph 373-3.30(b)(3)(i) remain unchanged.)

Subparagraphs 373-3.30(b)(3)(ii) and (iii) introductory language are revised to read as follows:

(ii) obtain certification by **[a] an independent**, qualified professional engineer registered in New York State that the containment building design meets the requirements of paragraphs (1) through (3) of this subdivision. **[For units placed into operation prior to February 18, 1993, this certification must be placed in the facility's operating record (on-site files for generators who are not formally required to have operating records) no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit.]**

(iii) throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, the owner or operator must repair the condition promptly, in accordance with the following procedures.

(Clause 373-3.30(b)(3)(iii)('a') through section 373-3.31 remain unchanged.)

APPENDIX 25 is revised to read as follows:

## APPENDIX 25

### RECORDKEEPING INSTRUCTIONS

The recordkeeping provisions of sections 373-2.5(c) and 373-3.5(c) of this Title specify that an owner or operator must keep a written operating record at the facility. This Appendix provides additional instructions for keeping portions of the operating record.

.....

TABLE 1

<u>Unit of measure</u>	<u>Code<sup>1</sup></u>
Gallons	G
Gallons per Hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
<u>Short tons</u>	<u>T</u>
<u>Tons</u>	<u>M</u>
Metric Tons per Day	S
Pounds	P
Pounds per Hour	J
Kilograms	K
Kilograms per Hour	RR
Cubic Yards	Y
Cubic Meters	C
Tonnes (1000 kg)	M
Acres	B
Acre-feet	A
Hectares	Q
Hectare-meter	F
Btu's per Hour	I

-----

Appendix 25, Table 2, listing 4 is revised to read as follows:

4. Miscellaneous [(Section 373-2.24 of this Title)]

- X01 Open Burning/Open Detonation
- X02 Mechanical Processing
- X03 Thermal Unit
- X04 Geologic Repository
- X99 Other [Section 373-2.24] (specify)

Appendix 55 is revised to read as follows:

APPENDIX 55 Compounds With Henry's Law Constant Less Than 0.1 Y/X  
(At 25 degrees Celsius)

Appendix VI to 40 CFR Part 265, as of [July 1, 2002] July 1, 2013 is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

## 6 NYCRR SUBPART 374-1 EXPRESS TERMS

(Section 374-1.1 through paragraph 374-1.3(a)(1) remain unchanged.)

Paragraph 374-1.3(a)(2) is revised to read as follows:

(2) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if

- (i) the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means; and
- (ii) such products meet the applicable treatment standards in section 376.4 of Part 376 (or applicable prohibition levels in subdivision 376.3(b) or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste **[constituent]**) that they contain[.]; and
- (iii) **the recycler complies with subparagraph 376.1(g)(2)(vi) of this Title [Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not presently subject to regulation provided they meet these same treatment standards or prohibition levels for each recyclable material that they contain. However, zinc-containing fertilizers using hazardous waste K061 that are produced for the general public's use are not presently subject to regulation].**

(Paragraph 373-1.3(a)(3) remains unchanged.)

New paragraph 374-1.3(a)(4) is adopted to read as follows:

(4) Fertilizers that contain recyclable materials are not subject to regulation provided that:

(i) They are zinc fertilizers excluded from the definition of solid waste according to subparagraph 371.1(e)(1)(xx) of this Title; or

(ii) They meet the applicable treatment standards in section 376.4 of this Title for each hazardous waste that they contain.

(Subdivision 374-1.3(b) through subparagraph 374-1.6(a)(2)(i) remain unchanged.)

Subparagraph 374-1.6(a)(2)(ii) is revised to read as follows:

(ii) **[subdivision 371.1(f) or]** subdivision 372.2(b) (for generators), section 372.3 (for transporters), and subdivision 373-3.5(b) (for persons who store) of this Title; and

(Subparagraph 374-1.6(a)(2)(iii) through paragraph 374-1.7(a)(2) remain unchanged.)

Subdivision 374-1.7(a) Table is revised to add (6) and (7) and read as follows:

If your batteries...	And if you...	Then you...	And you...
(1) Will be reclaimed through regeneration (such as by electrolyte replacement).		are exempt from Parts 372 (except paragraph 372.2(a)(2)), 373, 374-1, 376 and 621 of this Title, and the notification requirements at section 3010 of RCRA.	are subject to Part 371 and paragraph 372.2(a)(2) of this Title.
(2) Will be reclaimed other than through regeneration.	generate, collect, and/or transport these batteries.	are exempt from Parts 372 (except paragraph 372.2(a)(2)), 373, 374-1, and 621 of this Title, and the notification requirements at section 3010 of RCRA.	are subject to Part 371 and paragraph 372.2(a)(2), and applicable provisions under Part 376 of this Title.
(3) Will be reclaimed other than through regeneration.	store these batteries but you aren't the reclaimer.	are exempt from Parts 372 (except paragraph 372.2(a)(2)), 373, 374-1, and 621 of this Title, and the notification requirements at section 3010 of RCRA.	are subject to Part 371 and paragraph 372.2(a)(2), and applicable provisions under Part 376 of this Title.
(4) Will be reclaimed other than through regeneration.	store these batteries before you reclaim them.	must comply with paragraph 374-1.7(a)(2) and as appropriate other provisions described in 374-1.7(a)(2).	are subject to Part 371 and paragraph 372.2(a)(2), and applicable provisions under Part 376 of this Title.
(5) Will be reclaimed other than through regeneration.	don't store these batteries before you reclaim them.	are exempt from Parts 372 (except paragraph 372.2(a)(2)), 373, 374-1, and 621 of this Title, and the notification requirements at section 3010 of RCRA.	are subject to Part 371 and paragraph 372.2(a)(2), and applicable provisions under Part 376 of this Title.
(6) <u>Will be reclaimed through regeneration or any other means.</u>	<u>export those batteries for reclamation in a foreign country.</u>	<u>are exempt from Part 373, Subpart 374-1, and Parts 376 and 621 of this Title, and the notification requirements at section 3010 of RCRA. You are also exempt from Parts 372, except paragraph 372.2(a)(2), and except for the applicable requirements in either: (1) section 372.5(h); or (2) sections 375.5(c) "Notification of Intent to Export", 375.5(f) "Annual Reports" (except 375.5(f)(1)(v)), and 375.5(g) "Recordkeeping".</u>	<u>are subject to Part 371 and paragraph 372.2(a)(2) of this Title, and either must comply with 372.5(h) (if shipping to one of the OECD countries specified in subparagraph 372.5(h)(1)(i)), or must:</u> <ul style="list-style-type: none"> <li>(a) <u>Comply with the requirements applicable to a primary exporter in 372.5(c), 375.5(f) (except 375.5(f)(1)(v)), and 375.5(g); and</u></li> <li>(b) <u>Export these batteries only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in section 372.5 of this Title; and</u></li> <li>(c) <u>Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.</u></li> </ul>

<u>(7) Will be reclaimed through regeneration or any other means.</u>	<u>transport those batteries into the U.S. to export them for reclamation in a foreign country.</u>	<u>are exempt from section 372.3, Part 373, Subpart 374-1, and Parts 376 and 621 of this Title, and the notification requirements at section 3010 of RCRA.</u>	<u>Must comply with the applicable requirements of 372.5(h) (if shipping to one of the OECD countries specified in subparagraph 372.5(h)(1)(i)), or must comply with the following:</u> <ul style="list-style-type: none"> <li><u>(a) you may not accept a shipment if you know the shipment does not conform to the EPA Acknowledgement of Consent;</u></li> <li><u>(b) you must ensure that a copy of the EPA Acknowledgement of Consent accompanies the shipment ; and</u></li> <li><u>(c) you must ensure that the shipment is delivered to the facility designated by the person initiating the shipment.</u></li> </ul>
---	---	--	---

Paragraph 374-1.8(a)(1) is revised to read as follows:

(1) The regulations of this section apply to hazardous waste burned or processed in a boiler or industrial furnace (as defined in subdivision 370.2(b) of this Title) irrespective of the purpose of burning or processing, except as provided by paragraphs (2), (3), (4), ~~[6]~~ (7) and (8) of this subdivision.

Paragraphs 374-1.8(a)(2) through 374-1.8(a)(6) are renumbered 374-1.8(a)(3) through 374-1.8(a)(7).

New paragraph 374-1.8(a)(2) is adopted to read as follows:

(2) "Integration of the MACT standards."

(i) Except as provided by subparagraphs (ii) through (v) of this paragraph, the standards of this section do not apply to a new hazardous waste boiler or industrial furnace unit that becomes subject to Part 373 permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing hazardous waste boiler or industrial furnace unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title, by conducting a comprehensive performance test and submitting to the Department a Notification of Compliance under 40 CFR sections 63.1207(j) and 63.1210(d) as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title, documenting compliance with the requirements of 40 CFR Part 63 Subpart EEE, as incorporated by reference and implemented by subdivisions 200.10(a) and (d) of this Title. Nevertheless, even after this demonstration of compliance with the MACT standards, Part 373 permit conditions that were based on the standards of this section will continue to be in effect until they are removed from the Part 373 permit or the Part 373 permit is terminated or revoked, unless the Part 373 permit expressly provides otherwise.

(ii) If the owner or operator elects to comply with clause 373-1.12(a)(2)(i)(‘a’) of this Title to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, subparagraph 374-1.8(c)(5)(i) of this section requiring operations in accordance with the operating requirements specified in the permit at all times that hazardous waste is in the unit, and clause 374-1.8(c)(5)(ii)(‘c’) of this section requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events:

(iii) The following standards continue to apply:

(a) The closure requirements of subparagraph (c)(5)(xi) of this section and 374-1.8 paragraph (d)(12) of this section;

‘b’) The standards for direct transfer of subdivision 374-1.8(l) of this section;

‘c’) The standards for regulation of residues of subdivision 374-1.8(m) of this section; and

‘d’) The applicable requirements of sections (1) through (8), (28) and (29) of Subparts 373-2 and 373-3 of this Title.

(iv) If the owner or operator of a boiler or hydrochloric acid production furnace that is an area source under 40 CFR 63.2, as incorporated by reference and implemented by section 200.10 of this Title, and elects not to comply with the emission standards under 40 CFR 63.1216, 63.1217, and 63.1218 as incorporated by reference and implemented by section 200.10 of this Title, for particulate matter, semivolatile and low volatile metals, and total chlorine, they also remain subject to:

‘a’) Subdivision 374-1.8(f) of this section - Standards to control particulate matter;

‘b’) Subdivision 374-1.8(g) of this section - Standards to control metals emissions, except for mercury; and

‘c’) Subdivision 374-1.8(h) of this section - Standards to control hydrogen chloride and chlorine gas.

(v) The particulate matter standard of subdivision 374-1.8(f) of this section remains in effect for boilers that elect to comply with the alternative to the particulate matter standard under 40 CFR sections 63.1216(e) and 63.1217(e), as incorporated by reference and implemented by section 200.10 of this Title.

(Renumbered paragraph 374-1.8(a)(3) through renumbered paragraph 374-1.8(a)(4) introductory language remains unchanged.)

Renumbered subparagraph 374-1.8(a)(4)(i) is revised to read as follows:

(i) To be exempt from subdivisions (c) through (l)[,] of this section, an owner or operator of a metal recovery furnace or mercury recovery furnace must comply with the following requirements, except that an owner or operator of a lead or a nickel-chromium recovery furnace, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing, must comply with the requirements of subparagraph (iii) of this paragraph. In addition to these requirements, owners or operators of lead recovery furnaces that are subject to regulation under the Secondary Lead Smelting NESHAP must comply with the requirements of paragraph (8) of this subdivision.[:]

(Renumbered clause 374-1.8(a)(4)(i>('a')) remains unchanged.)

Renumbered clause 374-1.8(a)(4)(i>('b')) is revised to read as follows:

(b) Sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of this paragraph [**under procedures specified by "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication No. SW-846 (see subdivision 370.1(e) of this Title)) or alternative methods that meet or exceed the SW-846 method performance capabilities. If SW-846 does not prescribe a method for a particular determination, the owner or operator shall use the best available method]** by using appropriate methods that are ELAP certified analytical methods or others as approved by the Department; and

(Renumbered clause 374-1.8(a)(4)(i>('c')) through renumbered subparagraph 374-1.8(a)(4)(ii) remain unchanged.)

Renumbered subparagraph 374-1.8(a)(4)(iii) introductory language is revised to read as follows:

(iii) To be exempt from subdivisions (c) through (l), an owner or operator of a lead or nickel-chromium or mercury recovery furnace, except for owners or operators of lead recovery furnaces subject to regulation under the Secondary Lead Smelting NESHAP, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing, must provide a one-time written notice to the Commissioner identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste under this subparagraph or subparagraph (i) of this paragraph. The owner or operator must comply with the requirements of or subparagraph (i) of this paragraph for those wastes claimed to be exempt under that subparagraph and must comply with the requirements below for those wastes claimed to be exempt under this subparagraph.

(Renumbered clause 374-1.8(a)(4)(iii>('a')) through renumbered paragraph 374-1.8(a)(6) remains unchanged.)

Renumbered paragraph 374-1.8(a)(7) introductory language is revised to read as follows:

**[(6)] (7)** Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces) that process hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, **[palladium, irridium]** palladium, iridium, osmium, rhodium, or ruthenium, or any combination of these, are conditionally exempt from regulation under this section, except

for subdivision (m) of this section. To be exempt from subdivision (b) through (l) of this section, an owner or operator must:

(Renumbered subparagraph 374-1.8(a)(7)(i) remains unchanged.)

Renumbered subparagraph 374-1.8(a)(7)(ii) is revised to read as follows:

(ii) Sample and analyze the hazardous waste as necessary to document that the waste **[is burned for recovery of economically significant amounts of precious metal using procedures specified by "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication No. SW-846 (see subdivision 370.1(e) of this Title)) or alternative methods that meet or exceed the SW-846 method performance capabilities. If SW-846 does not prescribe a method for a particular determination, the owner or operator shall use the best available method]** contains economically significant amounts of the metals and that the treatment recovers economically significant amounts of precious metal; and

(Renumbered subparagraph 374-1.8(a)(7)(iii) remains unchanged.)

New paragraph 374-1.8(a)(8) is adopted to read as follows:

(8) Owners or operators of lead recovery furnaces that process hazardous waste for recovery of lead and that are subject to regulation under the Secondary Lead Smelting NESHAP, are conditionally exempt from regulation under this section, except for subdivision (b) of this section. To be conditionally exempt, an owner or operator must provide a one-time notice to the Department identifying each hazardous waste burned and specifying that the owner or operator claims an exemption under this paragraph. The notice also must state that the waste burned has a total concentration of non-metal compounds listed in Appendix 23 of this Title of less than 500 ppm by weight, as fired and as provided in clause (4)(ii)(a) of this subdivision, or is listed in Appendix 51 of this Title.

(Paragraphs 374-1.8(b)(1) and (2) remain unchanged.)

Subparagraph 374-1.8(b)(3)(i) is revised to read as follows:

(3) Storage Facilities.

(i) Owners and operators of facilities that store or treat hazardous waste that is burned in a boiler or industrial furnace are subject to the applicable provisions of Subparts 373-1, 373-2 and 373-3 of this Title, except as provided by subparagraph (ii) of this paragraph. These standards apply to storage and treatment by the burner, as well as to storage and treatment facilities operated by intermediaries (processors, blenders, distributors, etc.) between the generator and the burner.

(Subparagraph 374-1.8(b)(3)(ii) through paragraph 374-1.8(c)(2) introductory language remain unchanged.)

Subparagraph 374-1.8(c)(2)(i) is revised to read as follows:

(i) The owner or operator must provide an analysis of the hazardous waste that quantifies the concentration of any constituent identified in Appendix 23 of this Title (see Part 371) that may reasonably be expected to be in the waste. Such constituents must be identified and quantified, if present, at levels detectable **[by analytical procedures prescribed by "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication No. SW-846 (see subdivision 370.1(e) of this Title)). Alternative methods that meet or exceed the method performance capabilities of SW-846 methods may be used. If SW-846 does not prescribe a method for a particular determination, the owner or operator shall use the best available method.]** by using appropriate analytical procedures that are ELAP certified analytical methods or others as approved by the Department. The Appendix 23 of this Title constituents excluded from this analysis must be identified and the basis for their exclusion explained. This analysis will be used to provide all information required by this section and subdivisions 373-1.5(i) and 373-1.9(d) of this Title and to enable the permit writer to prescribe such permit conditions as necessary to protect human health and the environment. Such analysis must be included as a portion of the Part 373 permit application, or, for facilities operating under the interim status standards of this section, as a portion of the trial burn plan that may be submitted before the Part 373 permit application under provisions of paragraph 373-1.9(d)(7) of this Title, as well as any other analysis required by the permit authority in preparing the permit. Owners and operators of boilers and industrial furnaces not operating under the interim status standards must provide the information required by subdivision 373-1.5(i) or paragraph 373-1.9(d)(3) of this Title in the Part 373 permit application to the greatest extent possible.

(Subparagraph 374-1.8(c)(2)(ii) through subclause 374-1.8(c)(5)(iii)(a)(4) remain unchanged.)

Subclause 374-1.8(c)(5)(iii)(a)(5) is revised to read as follows:

(5) Such other operating requirements as are necessary to ensure that the particulate standard in paragraph [(1)(2)] (f)(1) of this section is met.

(Clause 374-1.8(c)(5)(iii)(b) through item 374-1.8(c)(5)(vi)(b)(2)(i) remain unchanged.)

Item 374-1.8(c)(5)(vi)(b)(2)(ii) is revised to read as follows:

(ii) The rolling average for the selected averaging period is defined as the arithmetic mean of one hour block averages for the averaging period. A one hour block average is the arithmetic mean of the one minute averages recorded during the 60-minute period beginning at one minute after the beginning of the preceding clock hour; and

(Subclause 374-1.8(c)(5)(vi)(b)(3) through clause 374-1.8(d)(3)(i)(i) introductory language remains unchanged.)

Subclause 374-1.8(d)(3)(i)(i)(1) is revised to read as follows:

(1) Minimum liquid to flue gas [**ration**] ratio;

(Subclause 374-1.8(d)(3)(i)(i)(2) through subclause 374-1.8(d)(3)(iv)(d)(3) introductory

language remains unchanged.)

Item 374-1.8(d)(3)(iv)(d)(3)(i) is revised to read as follows:

(i) The feed rate of each metal shall be limited at any time to ten times the feed rate that would be allowed on **[a]** an hourly rolling average basis;

(Item 374-1.8(d)(3)(iv)(d)(3)(ii) through 374-1.8(d)(3)(viii) remain unchanged.)

Paragraph 374-1.8(d)(4) is revised to read as follows:

(4) Periodic Recertifications. The owner or operator must conduct compliance testing and submit to the [Commissioner] department a recertification of compliance under provisions of paragraph (3) of this subdivision within **[three]** five years from submitting the previous certification or recertification. If the owner or operator seeks to recertify compliance under new operating conditions, he/she must comply with the requirements of subparagraph (3)(viii) of this subdivision.

Paragraph 374-1.8(d)(5) through paragraph 374-1.8(f)(2) remain unchanged.)

Existing paragraph 374-1.8(f)(3) is renumbered paragraph 374-1.8(f)(4).

New paragraph 374-1.8(f)(3) is adopted to read as follows:

(3) Oxygen correction.

(i) Measured pollutant levels must be corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \times 14 / (E - Y)$$

Where:

P<sub>c</sub> is the corrected concentration of the pollutant in the stack gas,

P<sub>m</sub> is the measured concentration of the pollutant in the stack gas,

E is the oxygen concentration on a dry basis in the combustion air fed to the device, and

Y is the measured oxygen concentration on a dry basis in the stack.

(ii) For devices that feed normal combustion air, E will equal 21 percent. For devices that feed oxygen-enriched air for combustion (that is, air with an oxygen concentration exceeding 21 percent), the value of E will be the concentration of oxygen in the enriched air.

(iii) Compliance with all emission standards provided by this section must be based on correcting to 7 percent oxygen using this procedure.

Paragraph 374-1.8(g)(1) is revised to read as follows:

(g) Standards to control metals emissions.

(1) General. The owner or operator must comply with the metals standards provided by paragraphs (2), (3), (4), (5) or (6) of this subdivision for each metal listed in paragraph (2) of this subdivision that is present in the hazardous waste at detectable levels using appropriate analytical procedures that are ELAP certified analytical methods or others as approved by the Department**[specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication No. SW-846 (see subdivision 370.1(e) of this Title))]**.

(Paragraph 374-1.8(g)(2) through paragraph 374-1.8(g)(4) introductory language remains unchanged.)

Subparagraph 374-1.8(g)(4)(i) is revised to read as follows:

(i) General. Conformance with the Tier III metals controls must be demonstrated by emissions testing to determine the emission rate for each metal. In addition, conformance with either the Tier III or Adjusted Tier I metals controls must be demonstrated by air dispersion modeling to predict the maximum annual average off-site ground level concentration for each **[dispersion modeling to predict the maximum annual average off-site ground level concentration for each]** metal, and a demonstration that acceptable ambient levels are not exceeded.

(Subparagraph 374-1.8(g)(4)(ii) through paragraph 374-1.8(m)(2) introductory language remains unchanged.)

Subparagraph 374-1.8(m)(2)(i) is revised to read as follows:

(i) Comparison of waste-derived residue with normal residue. The waste-derived residue must not contain Appendix 23 of this Title (see Part 371) constituents (toxic constituents) that could reasonably be attributable to the hazardous waste at concentrations significantly higher than in residue generated without burning or processing of hazardous waste, using the following procedure. Toxic compounds that could reasonably be attributable to burning or processing the hazardous waste (constituents of concern) include toxic constituents in the hazardous waste, and the organic compounds listed in Appendix 48 of this Title that may be generated as products of incomplete combustion. **[Sampling and analyses shall be in conformance with procedures prescribed in Test Methods for Evaluating Solid Waste Physical/Chemical Methods (see subdivision 370.1(e) of this Title).]** For polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, analyses must be performed to determine specific congeners and homologues, and the results converted to 2,3,7,8-TCDD equivalent values using the procedure specified in section 4.0 of 40 CFR Part 266 Appendix IX as incorporated by reference in Appendix 49 of this Title.

(Clause 374-1.8(m)(2)(i)('a') through subparagraph 374-1.8(m)(2)(ii) introductory language remains unchanged.)

Clause 374-1.8(m)(2)(ii)('a') is revised to read as follows:

(a) Nonmetal constituents. The concentration of each nonmetal toxic constituent

of concern (specified in subparagraph (i) of this paragraph) in the waste-derived residue must not exceed the health-based level specified in Appendix 47 of this Title, or the level of detection **[(using analytical procedures prescribed in SW-846)]**, whichever is higher. If a health-based limit for a constituent of concern is not listed in Appendix 47 of this Title, then a limit of 0.002 micrograms per kilogram or the level of detection (**[using analytical procedures prescribed in SW-846]** which must be determined by using appropriate analytical procedures that are ELAP certified analytical methods or others as approved by the Department), whichever is higher, [shall] must be used. The levels specified in Appendix 47 of this Title (and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in Note 1 of Appendix 47 of this Title) are administratively stayed under the condition, for those constituents specified in subparagraph (2)(i) of this subdivision, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in subdivision 376.4(d) of this Title for F039 nonwastewaters. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of best good-faith efforts as defined by applicable EPA guidance or standards, the owner or operator is deemed to be in compliance for that constituent. Until new guidance or standards are developed, the owner or operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above the level provided by subdivision 376.4(d) of this Title for F039 nonwastewaters. In complying with the subdivision 376.4(d) of this Title F039 nonwastewater levels for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, (unless the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in subdivision 376.4(d) of this Title for F039 nonwastewaters,) analyses must be performed for total hexachlorodibenzo-p-dioxins, total hexachlorodibenzofurans, total pentachlorodibenzo-p-dioxins, total pentachlorodibenzofurans, total tetrachlorodibenzo-p-dioxins, and total tetrachlorodibenzofurans. [; and]

(Clause 374-1.8(m)(2)(ii)(b) through paragraph 374-1.8(m)(3) remain unchanged.)

Section 374-1.9 Title is revised to read as follows:

**Section 374-1.9 Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal**

(Subdivision 374-1.9(a) through section 374-1.13 remain unchanged.)

Appendices 41 through 53 are revised to read as follows:

Appendix 41

Tier I and Tier II Feed Rate and Emissions  
Screening Limits for Metals

Appendix I to 40 CFR Part 266, as of July 1, **[1999]** 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 42

Tier I Feed Rate Screening Limits  
for Total Chlorine and Chloride

Appendix II to 40 CFR Part 266, as of July 1, [1999] 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 43

Tier II Emission Rate Screening Limits  
for Free Chlorine and Hydrogen Chloride

Appendix III to 40 CFR Part 266, as of July 1, [1999] 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 44

Reference Air Concentrations

Appendix IV to 40 CFR Part 266, as of July 1, [1999] 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 45

Risk Specific Doses (10<sup>-5</sup>)

Appendix V to 40 CFR Part 266, as of July 1, [1999] 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 46

Stack Plume Rise

Appendix VI to 40 CFR Part 266, as of July 1, [1999] 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 47

Health-Based Limits for Exclusion of  
Waste-Derived Residues

Appendix VII to 40 CFR Part 266, as of July 1, [1999] 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 48

**[Potential PICs for Determination of  
Exclusion of Waste-Derived Residues]  
Organic Compounds for Which Residues Must Be Analyzed**

Appendix VIII to 40 CFR Part 266, as of July 1, **[1999]** 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 49

Methods Manual for Compliance With the BIF Regulations

Appendix IX to 40 CFR Part 266, as of July 1, **[1999]** 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 50 - Removed.

Appendix 51

Lead-Bearing Materials that may be  
Processed in Exempt Lead Smelters

Appendix XI to 40 CFR Part 266, as of July 1, **[1999]** 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 52

Nickel or Chromium-Bearing Materials that may be Processed  
in Exempt Nickel-Chromium Recovery Furnaces

Appendix XII to 40 CFR Part 266, as of July 1, **[1999]** 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 53

Mercury Bearing Wastes that may be Processed in Exempt Mercury Recovery Units

Appendix XIII to 40 CFR Part 266, as of July 1, **[1999]** 2014, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

## 6 NYCRR SUBPART 374-3 EXPRESS TERMS

(Paragraph 374-3.1(a)(1) introductory language through subparagraph 374-2.1(a)(1)(ii) remain unchanged.)

Subparagraph 374-3.1(a)(1)(iii) is revised to read as follows:

(iii) **[Thermostats]** Mercury-containing equipment as described in subdivision 374-3.1(d) of this section; and

(Subparagraph 374-3.1(a)(1)(iv) through subdivision 374-3.1(c) remain unchanged.)

Subdivision 374-3.1(d) is revised to read as follows:

Applicability -- **[mercury thermostats]** Mercury-containing equipment.

(1) **[Thermostats]** Mercury-containing equipment covered under Subpart 374-3 of this Title. The requirements of this Subpart apply to persons managing **[thermostats]** mercury-containing equipment, as described in subdivision (i) of this section, except those listed in paragraph (2) of this subdivision.

(2) **[Thermostats]** Mercury-containing equipment not covered under Subpart 374-3 of this Title. The requirements of this Subpart do not apply to persons managing the following **[thermostats]** mercury-containing equipment:

(i) **[Thermostats]** Mercury-containing equipment that **[are]** is not yet [wastes] a waste under Part 371 of this Title. Paragraph (3) of this subdivision describes when **[thermostats]** mercury-containing equipment [become wastes.] becomes a waste;

(ii) **[Thermostats]** Mercury-containing equipment that **[are]** is not a hazardous waste. **[A thermostat]** Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in section 371.3 of this Title or is listed in section 371.4 of this Title];

(iii) Equipment and devices from which the mercury-containing components have been removed.

(3) Generation of waste **[thermostats]** mercury-containing equipment.

(i) **[A used thermostat]** Used mercury-containing equipment becomes a waste on the date it is discarded (e.g., sent for reclamation).

(ii) **[An unused thermostat]** Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

(Subdivision 374-3.1(e) through subdivision 374-3.1(h) remain unchanged.)

Existing paragraphs 374-3.1(i)(1) through 374-3.1(i)(6) are renumbered paragraphs 374-3.1(i)(2) through 374-3.1(i)(7).

Existing paragraph 374-3.1(i)(7) through 374-3.1(i)(14) are renumbered 374-3.1(i)(9) through 374-3.1(i)(16).

New paragraph 374-3.1(i)(1) is added to read as follows:

(1) “Ampule” means an airtight vial made of glass, plastic, metal, or any combination of these materials.

(Renumbered paragraphs 374-3.1(i)(2) through (6) remain unchanged.)

Renumbered 374-3.1(i)(7) is revised to read as follows:

(7) "Large Quantity Handler of Universal Waste" means a universal waste handler (as defined in this subdivision) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, **[thermostats]** mercury-containing equipment, or lamps, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000 kilogram [kilograms or more total of universal waste is accumulated] limit is met or exceeded.

New paragraph 374-3.1(i)(8) is adopted to read as follows:

(8) “Mercury-containing equipment” means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

(Renumbered paragraphs 374-3.1(i)(9) and (10) remain unchanged.)

Renumbered paragraph 374-3.1(i)(11) is revised to read as follows:

(11) "Small Quantity Handler of Universal Waste" means a universal waste handler (as defined in this subdivision) who does not accumulate 5,000 kilograms or more **[total]** of universal waste (batteries, pesticides, **[thermostats]** mercury-containing equipment, or lamps calculated collectively) at any time.

(Renumbered paragraph 374-3.1(i)(12) remains unchanged.)

Renumbered paragraph 374-3.1(i)(13) is revised to read as follows:

(13) "Universal Waste" means any of the following hazardous wastes that are subject to the universal waste requirements of Subpart 374-3 of this Title:

- (i) Batteries as described in subdivision 374-3.1(b) of this section;
- (ii) Pesticides as described in subdivision 374-3.1(c) of this section;

(iii) **[Thermostats]** Mercury-containing equipment as described in subdivision 374-3.1(d) of this section; and

(iv) Lamps as described in subdivision 374-3.1(e) of this section. (Renumbered paragraph 374-3.1(i)(14) through existing paragraph 374-3.2(d)(2) remain unchanged.)

Paragraph 374-3.2(d)(3) is revised to read as follows:

(3) **[Universal waste thermostats]** Mercury-containing equipment: A small quantity handler of universal waste must manage universal waste **[thermostats]** mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must **[contain]** prevent the escape of mercury into the environment by volatilization and other means. The handler must place in a container any universal waste [thermostats] mercury-containing equipment with non-contained elemental mercury and mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions [in a container]. The container must be closed, structurally sound, compatible with the contents of the [thermostat] device, [and] must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and must be reasonably designed and closed to prevent the escape of mercury into the environment by volatilization or any other means.

(ii) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste **[thermostats]** mercury-containing equipment provided the handler:

(a) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(b) Removes the ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(c) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules[,] from **[the]** that containment device to a container that meets the requirements of paragraph 372.2(a)(8) of this Title;

(d) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of paragraph 372.2(a)(8) of this Title;

(e) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury (29 CFR (Labor) as incorporated by reference in subdivision 370.1(e) of this Title);

(f) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(g) Stores removed ampules in closed, non-leaking containers that are in good condition; and

(h) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(iii) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(a) Immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

(b) Follows all requirements for removing ampules and managing removed ampules under subparagraph 374-3.2(d)(3)(ii) of this subdivision; and

[iii] (iv) (a) A small quantity handler of universal waste who removes mercury-containing ampules from **[thermostats]** mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in section 371.3 of this Title:

(1) Mercury or clean-up residues resulting from spills or leaks; and/or

(2) Other solid waste generated as a result of the removal of mercury-containing ampules or housings (e.g., remaining **[thermostats units]** mercury-containing device).

(b) If the mercury, residues, and/or other solid waste **[exhibit]** exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of Parts 370 through Subpart 374-1 and Part 376 of this Title. The handler is considered the generator of the mercury, residues, and/or other waste and **[is]** must manage it in compliance with [subject to] Part 372 of this Title.

(c) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations and Part 360 of this Title.

(Paragraph 374-3.2(d)(4) through paragraph 374-2.3(e)(3) remain unchanged.)

Paragraph 374-3.2(e)(4) is revised to read as follows:

(4) (i) Universal waste **[thermostats]** mercury-containing equipment (i.e., each **[thermostat]** device), or a container in which the **[thermostats]** equipment [are] is contained, must be labeled or marked clearly with any **[one]** of the following phrases: "Universal Waste -Mercury-Containing

Equipment [Thermostat(s)], " [or] "Waste Mercury-Containing Equipment [Thermostat(s)]," or "Used Mercury-Containing Equipment [Thermostat(s)]."

(ii) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(Paragraph 374-3.2(e)(5) through subparagraph 374-3.3(c)(2)(iii) remain unchanged.)

Subparagraphs 374-3.3(c)(2)(iv) and (v) are revised to read as follows:

(iv) A list of all of the types of universal waste managed by the handler (e.g, batteries, pesticides, **[thermostats,]** mercury-containing equipment, and lamps); and

(v) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time. **[and the types of universal waste (e.g, batteries, pesticides, thermostats, and lamps) the handler is accumulating above this quantity.]**

(Paragraphs 372-3.3(d)(1) and (2) remain unchanged.)

Paragraph 374-3.3(d)(3) is revised to read as follows:

(3) **[Universal waste thermostats]** Mercury-containing equipment: A large quantity handler of universal waste must manage universal waste **[thermostats]** mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must **[contain]**prevent the escape of mercury into the environment by volatilization and other means. The handler must place in a container any universal waste [thermostat] mercury-containing equipment with non-contained elemental mercury and mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. [in a container.] The container must be closed, structurally sound, compatible with the contents of the **[thermostat]** device, [and] must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and must be reasonably designed and closed to prevent the escape of mercury into the environment by volatilization or any other means.

(ii) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste **[thermostats]** mercury-containing equipment provided the handler:

(a) removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(b) removes the ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(c) ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks **[from]** broken ampules[,] from the containment device to a container that meets the requirements of paragraph 372.2(a)(8) of this Title;

(d) immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of paragraph 372.2(a)(8) of this Title;

(e) ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury (Code of Federal Regulations (Labor) incorporated by reference in subdivision 370.1(e));

(f) ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(g) stores removed ampules in closed, non-leaking containers that are in good condition; and

(h) packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(iii) A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(a) Immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

(b) Follows all requirements for removing ampules and managing removed ampules under subparagraph 374-3.3(d)(3)(ii) of this subdivision; and

[iii] (iv)(a) A large quantity handler of universal waste who removes mercury-containing ampules from **[thermostats]** mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in section 371.3 of this Title:

(1) mercury or clean-up residues resulting from spills or leaks; and/or

(2) other solid waste generated as a result of the removal of mercury-containing ampules or housings (e.g., the remaining **[thermostat units]** mercury-containing device).

(b) If the mercury, residues, and/or other solid waste **[exhibit]** exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of Parts 370 through Subpart 374-1 and Part 376 of this Title. The handler is considered the generator of the mercury, residues, and/or other waste and **[is subject to]** must manage it in compliance with Part 372 of this Title.

(c) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations, including Part 360 of this Title.

(Paragraph 374-3.3(d)(4) through paragraph 374-3.3(e)(3) remains unchanged.)

Paragraph 374-3.3(e)(4) is revised to read as follows:

(4) (i) Universal waste [**thermostats**] mercury-containing equipment (i.e., each [**thermostat**] device), or a container [**or tank**] in which the [**thermostats are**] equipment is contained, must be labeled or marked clearly with any [**one**] of the following phrases: "Universal Waste - Mercury [**Thermostat(s)**] Containing Equipment," [**or**] "Waste Mercury [**Thermostat(s)**] -Containing Equipment," or "Used Mercury [**Thermostat(s)**] -Containing Equipment."

(ii) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(Paragraph 374-3.3(e)(5) through section 374-3.7 remain unchanged.)

## 6 NYCRR PART 376 EXPRESS TERMS

(Paragraph 376.1(a)(1) through subparagraph 376.1(a)(10)(ii) remain unchanged.)

Subparagraph 376.1(a)(10)(iii) is revised to read as follows:

(iii) **[Thermostats]** Mercury-containing equipment as described in subdivision 374-3.1(d) of this Title; and

(Subparagraph 376.1(a)(10)(iv) through subdivision 376.1(f) remain unchanged.)

Subparagraphs 376.1(g)(1)(i) and (ii) are revised to read as follows:

(1) Requirements for generators:

(i) A generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in subdivisions 376.4(a), 376.4(f), 376.4(g), or 376.4(k) of this Part. This determination can be made concurrently with the hazardous waste determination required in paragraph 372.2(a)(2) of this Title in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing would normally determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using Test Method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title, depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste's extract. (Alternatively, the generator must send the waste to a RCRA-permitted hazardous waste treatment facility, where the waste treatment facility must comply with the requirements of 373-2.2(e) of this Title and paragraph (2) of this subdivision.) In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed[. **Also,**] and some soils are contaminated by such hazardous wastes **[that must be treated by particular treatment methods before they can be land disposed]**. These treatment standards are also found in subdivision 376.4(a) of this Part, and are described in detail in subdivision 376.4(c), Table 1 of this Part. These wastes, and soils contaminated with such wastes, do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested). If a generator determines they are managing a waste or a soil contaminated with a waste, that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, the generator must comply with the special requirements of subdivision 376.1(h) of this Part in addition to any applicable requirements in this subdivision.

(ii) If the waste or contaminated soil does not meet the treatment **[standard]** standards, or if the generator chooses not to make the determination of whether the generator's waste must

be treated, [ : With] with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file. The notice must include the information in column "subparagraph 376.1(g)(1)(ii)" of the Generator Paperwork Requirements Table in subparagraph 376.1(g)(1)(iv) of this Part. (Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the EPA Hazardous Waste Numbers and Manifest Number of the first shipment and must state "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination.") No further notification is necessary until such time that the waste or facility change, in which case a new notification must be sent and a copy placed in the generator's file.

**[(a) For contaminated soil, the following certification statement should be included, signed by an authorized representative:**

**I certify under penalty of law that I personally have examined this contaminated soil and it (does/does not) contain listed hazardous waste and (does/does not) exhibit a characteristic of hazardous waste and requires treatment to meet the soil treatment standards as provided by 6 NYCRR paragraph 376.4(k)(3).**

**(b) Reserved.]**

(Subparagraphs 376.1(g)(1)(iii) through (x) remain unchanged.)

Paragraph 376.1(g)(2) introductory language is revised to read as follows:

(2) Requirements for treaters: Treatment facilities must test their wastes according to the frequency specified in their waste analysis plan as required by subdivision 373-2.2(e) (for permitted TSD's) or 373-3.2(d) (for interim status facilities) of this Title. Such testing must be performed as provided in subparagraphs (i), (ii), and (iii) of this paragraph.

(Subparagraphs 376.1(g)(2)(i) through (v) remain unchanged.)

Subparagraph 376.1(g)(2)(vi) through paragraph 376.1(g)(3) introductory language is revised to read as follows:

(vi) Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions of paragraph 374-1.3(a)(2) of this Title regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) **[is not required to notify the receiving facility, pursuant to subparagraph (2)(iii) of this subdivision. With each] must, for the initial shipment of [such wastes the owner or operator of the recycling facility must submit a] waste, prepare a one-time certification** described in subparagraph (2)(iv) of this subdivision, and a one-time notice which includes the information **[listed]** in subparagraph (2)(iii) of this subdivision (except the manifest number) **[to the commissioner, or delegated representative]**. The certification and notification must be placed in the facility's on-site files. If the waste or the receiving facility changes, a new certification and notification must be prepared and placed in the on site files. In addition, the [The] recycling

facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

(3) Requirements for disposal facilities: Except where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal pursuant to paragraph 374-1.3(a)(2) of this Title, the owner or operator of any land disposal facility disposing any waste subject to restrictions under this Part must:

(Subparagraph 376.1(g)(3)(i) through paragraph 376.1(h) remain unchanged.)

Paragraph 376.1(h)(1) is revised to read as follows:

(1) The initial generator of a solid waste must determine each EPA hazardous waste number (waste code) applicable to the waste in order to determine the applicable treatment standards under section 376.4 of this Part. This determination may be made concurrently with the hazardous waste determination required in paragraph 372.2(a)(2) of this Title. For purposes of Part 376, the waste will carry the waste code for any applicable listed waste [listing under] (section 371.4 of this Title). In addition, where the waste exhibits a characteristic, the waste will carry one or more of the characteristic waste codes [under] (section 371.3 of this Title), except when the treatment standard for the listed waste operates in lieu of the treatment standard for the characteristic waste, as specified in paragraph (2) of this subdivision. If the generator determines that their waste displays a hazardous characteristic (and is not D001 nonwastewaters treated by CMBST, RORGS, or POLYM of subdivision 376.4(c), Table 1 of this Part), the generator must determine the underlying hazardous constituents (as defined in paragraph 376.1(b)(1) of this Part), in the characteristic waste.

(Paragraph 376.1(h)(2) and paragraph 376.1(h)(3) remain unchanged.)

Paragraph 376.1(h)(4) introductory language is revised to read as follows:

(4) Wastes that exhibit a characteristic are also subject to subdivision 376.1(g) requirements, except that once the waste is no longer hazardous, a one-time notification and certification must be placed in the generators' or treaters' on-site files [**and sent to the commissioner**]. The notification and certification [**that is placed in the generators' or treaters' files**] must be updated if the process or operation generating the waste changes and/or if the Part 360 facility receiving the waste changes. [**However, the generator or treater need only notify the department on an annual basis if such changes occur. Such notification and certification should be sent to the Department by the end of the calendar year, but no later than December 31.**]

(Subparagraph 376.1(h)(4)(i) through paragraph 376.2(c)(1) remain unchanged.)

Paragraphs 376.2(c)(2) and (3) are revised to read as follows:

(2) Wastes which are newly identified or listed after November 8, 1984, and stored in a surface impoundment that is newly subject to Article 27, Title 9 of the ECL as a result of the additional identification or listing, may continue to be stored in the surface impoundment for 48 months after the promulgation of the additional listing or characteristic, [**not withstanding**] notwithstanding that the waste is otherwise prohibited from land disposal, provided that the

surface impoundment is in compliance with the requirements of section 373-2.6 of this Title within 12 months after promulgation of the new listing or characteristic.

(3) Wastes which are newly identified or listed after November 8, 1984, and treated in a surface impoundment that is newly subject to Article 27, Title 9 of the ECL as a result of the additional identification or listing, may continue to be treated in that surface impoundment, **[not withstanding]** notwithstanding that the waste is otherwise prohibited from land disposal, provided that the surface impoundment is in compliance with the requirements of section 373-2.6 of this Title within 12 months after the promulgation of the new listing or characteristic. In addition, if the surface impoundment continues to treat hazardous waste after 48 months from the promulgation of the additional listing or characteristic, it must then be in compliance with subdivision 376.1(d).

(Paragraph 376.2(c)(4) through subdivision 376.3(h) remain unchanged.)

Paragraph 376.3(i)(1) is revised to read as follows:

(1) The wastes specified in Part 371 of this Title as EPA Hazardous Wastes Numbers K176, K177, and K178, and soil and debris contaminated with these wastes, radioactive wastes mixed with these wastes, and soil and debris contaminated with radioactive wastes mixed with these wastes are prohibited from land disposal.

(Paragraphs 376.3(i)(2) and (3) remain unchanged.)

New subdivision 376.3(j) is added to read as follows:

(j) Waste specific prohibitions- Dyes and/or pigments production wastes.

(1) Effective August 23, 2005, the waste specified in Part 371 of this Title as EPA Hazardous Waste Number K181, and soil and debris contaminated with this waste, radioactive wastes mixed with this waste, and soil and debris contaminated with radioactive wastes mixed with this waste are prohibited from land disposal.

(2) The requirements of paragraph (1) of this subdivision do not apply if:

(i) The wastes meet the applicable treatment standards specified in section 376.4 of this Part;

(ii) Persons have been granted an exemption from a prohibition pursuant to a petition under subdivision 376.1(f) of this section, with respect to those wastes and units covered by the petition;

(iii) The wastes meet the applicable treatment standards established pursuant to a petition granted under subdivision 376.4(e) of this section;

(iv) Hazardous debris has met the treatment standards in subdivision 376.4(a) of this section, or the alternative treatment standards in subdivision 376.4(g) of this section; or

(v) Persons have been granted an extension to the effective date of a prohibition pursuant to subdivision 376.1(e) of this section, with respect to these wastes covered by the extension.

(3) To determine whether a hazardous waste identified in this subdivision exceeds the applicable treatment standards specified in subdivision 376.4(a) of this section, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract of the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable 376.4 levels, the waste is prohibited from land disposal, and all requirements of Part 376 are applicable, except as otherwise specified.

(Paragraph 376.4(a)(1) remains unchanged.)

Paragraph 376.4(a)(2) is revised to read as follows:

(2) For wastewaters, compliance with concentration level standards is based on maximums for any one day, except for D004 through D011 wastes for which the previously promulgated treatment standards based on grab samples remain in effect. For all nonwastewaters, compliance with concentration level standards is based on grab sampling. For wastes covered by the waste extract standards, the test Method 1311, the Toxicity Characteristic Leaching Procedure found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title, must be used to measure compliance. An exception is made for D004 and D008, for which either of two test methods may be used: Method 1311, or Method **[1310] 1310B**, the Extraction Procedure Toxicity Test. For wastes covered by a technology standard, the wastes may be land disposed after being treated using that specified technology or an equivalent treatment technology approved by the **[commissioner]** Department under the procedures set forth in paragraph 376.4(c)(2) of this section.

(Paragraphs 376.4(a)(3) through (8) remain unchanged.)

Paragraph 376.4(a)(9) is revised to read as follows:

**(9) [Zinc micronutrient fertilizers that are produced for the general public's use and that are produced from or contain recycled characteristic hazardous wastes (D004-D011) are subject to the applicable treatment standards in 40 CFR 268.41 contained in the 40 CFR, Parts 260 to 299, edition revised as of July 1, 1990.] Reserved.**

(Paragraph 376.4(a)(10) through Treatment Standards for Hazardous Wastes Note remain unchanged.)

(Changes to 376.4(a) Table: Treatment Standards for Hazardous Waste are presented in a separate document.)

(376.4 (a) Table: Treatment Standards for Hazardous Waste, footnotes 1 and 2 remain unchanged.)

376.4 (a) Table: Treatment Standards for Hazardous Waste, footnote 3, is revised to read as follows:

3 Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples, except as provided in paragraph 376.4(a)(2) of this section for D004 through D011 wastes.

(376.4 (a) Table: Treatment Standards for Hazardous Waste, footnotes 4 through 6 remain unchanged.)

376.4 (a) Table: Treatment Standards for Hazardous Waste, footnote 7, is revised to read as follows:

7 Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method **[9010 or 9012]** 9010C or 9012B, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

(376.4 (a) Table: Treatment Standards for Hazardous Waste, footnotes 8 through 12 remain unchanged.)

(Subdivision 376.4(b) through paragraph 376.4(c)(1) remain unchanged.)

(Changes to 376.4(c) Table 1: Five Letter Technology Codes and Description of Technology-Based Standards are presented in a separate document.)

(Paragraph 376.4(c)(2) through paragraph 376.4(j)(1) remain unchanged.)

(Changes to 376.4(j) Table UTS: Universal Treatment Standards are presented in a separate document.)

(376.4(j) Table: Universal Treatment Standards, footnotes 1 through 3 remain unchanged.)

376.4(j) Table: Universal Treatment Standards, footnote 4, is revised to read as follows:

4 Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method **[9010 or 9012]** 9010C or 9012B, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in subdivision 370.1(e) of this Title, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

(376.4(j) Table: Universal Treatment Standards, footnote 5 remains unchanged.)

376.4(j) Table: Universal Treatment Standards, footnote 6 is revised to read as follows:

6 **[Between August 26, 1998 and March 4, 1999, these constituents are not “underlying hazardous constituents” as defined in subparagraph 376.1(b)(xii).] Reserved.**

(376.4(j) Table: Universal Treatment Standards, footnotes 7 and 8 remain unchanged.)

(Subdivision 376.4(k) through section 376.5 remain unchanged.)

Appendix 37 is revised to read s follows:

APPENDIX 37 - List of Halogenated Organic Compounds Regulated under subdivision 376.3(h) of this Title.

Appendix III to 40 CFR Part 268, as of [**July 1, 2002**] July 1, 2013 is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 40 is revised to read as follows:

APPENDIX 40 - Recommended Technologies to Achieve Deactivation of Characteristics in Subdivision 376.4(c)

Appendix VI to 40 CFR Part 268, as of [**July 1, 2002**] July 1, 2013 is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

Appendix 54 is revised to read as follows:

APPENDIX 54 - Metal bearing wastes prohibited from dilution in a combustion unit according to paragraph 6 NYCRR 376.1(c)(3) of this Title.

Appendix XI to 40 CFR Part 268, as of [**July 1, 2002**] July 1, 2013, is incorporated by reference as if fully set forth herein (see subdivision 370.1(e) of this Title).

**6 NYCRR PART 376 TABLES  
(for EXPRESS TERMS)**

376.4(a) Table, Treatment Standards for Hazardous Wastes, is amended to revise the headings and entries as follows:

Waste Code	Waste Description and Treatment/Regulatory Subcategory <sup>1</sup>	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS <sup>2</sup> Number	(Concentration <sup>3</sup> in mg/l <sup>31</sup> ; or Technology Code <sup>4</sup> )	(Concentration <sup>5</sup> in <u>mg/kg</u> <sup>51</sup> unless noted as "mg/l TCLP"; or Technology Code <sup>4</sup> )
D006 <sup>9</sup>	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for cadmium based on the toxicity characteristic leaching procedure (TCLP) in SW846.	Cadmium	7440-43-9	0.69 and meet 376.4(j) standards <sup>8</sup>	0.11 mg/l TCLP and meet 376.4(j) standards <sup>8</sup>
	Cadmium Containing Batteries Subcategory. (Note: This subcategory consists of nonwastewaters only.)	Cadmium	7440-43-9	NA	RTHRM
	<u>Radioactively contaminated cadmium containing batteries. (Note: This subcategory consists of nonwastewaters only).</u>	<u>Cadmium</u>	<u>7440-43-9</u>	<u>NA</u>	<u>Macroencapsulation in accordance with subdivision 376.4(g) of this Part.</u>
D009 <sup>9</sup>	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain greater than or equal to 260 mg/kg total mercury that also contain organics and are not incinerator residues. (High Mercury-Organic Subcategory)	Mercury	7439-97-6	NA	IMERC; OR RMERC

Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain greater than or equal to 260 mg/kg total mercury that are inorganic, including incinerator residues and residues from RMERC. (High Mercury-Inorganic Subcategory)	Mercury	7439-97-6	NA	RMERC
Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain less than 260 mg/kg total mercury and that are residues from RMERC only. (Low Mercury Subcategory)	Mercury	7439-97-6	NA	0.20 mg/l TCLP and meet 376.4(j) standards <sup>8</sup>
All other nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain less than 260 mg/kg total mercury and that are not residues from RMERC.(Low Mercury Subcategory)	Mercury	7439-97-6	NA	0.025 mg/l TCLP and meet 376.4(j) standards <sup>8</sup>
All D009 wastewaters.	Mercury	7439-97-6	0.15 and meet 376.4(j) standards <sup>8</sup>	NA
Elemental mercury contaminated with radioactive materials. (Note: This subcategory consists of nonwastewaters only.)	Mercury	7439-97-6	NA	AMLGM
Hydraulic oil contaminated with Mercury Radioactive Materials Subcategory. (Note: This subcategory consists of nonwastewaters only.)	Mercury	7439-97-6	NA	IMERC

	<u>Radioactively contaminated mercury containing batteries. (Note: This subcategory consists of nonwastewaters only).</u>	<u>Mercury</u>	<u>7439-97-6</u>	<u>NA</u>	<u>Macroencapsulation in accordance with subdivision 376.4(g) of this Part.</u>
D011 <sup>9</sup>	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for silver based on the toxicity characteristic leaching procedure (TCLP) in SW846.	Silver	7440-22-4	0.43 and meet 376.4(j) standards <sup>8</sup>	0.14 mg/l TCLP and meet 376.4(j) standards <sup>8</sup>
	<u>Radioactively contaminated silver containing batteries. (Note: This subcategory consists of nonwastewaters only).</u>	<u>Silver</u>	<u>7440-22-4</u>	<u>NA</u>	<u>Macroencapsulation in accordance with subdivision 376.4(g) of this Part.</u>
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under Section 376.4 of this Part. (Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Wastes retains its EPA Hazardous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.).	Acenaphthylene	208-96-8	0.059	3.4
		Acenaphthene	83-32-9	0.059	3.4
		Acetone	67-64-1	0.28	160
		Acetonitrile	75-05-8	5.6	NA
		Acetophenone	96-86-2	0.010	9.7
		2-Acetylaminofluorene	53-96-3	0.059	140
		Acrolein	107-02-8	0.29	NA
		Acrylonitrile	107-13-1	0.24	84
		Aldrin	309-00-2	0.021	0.066
		4-Aminobiphenyl	92-67-1	0.13	NA
		Aniline	62-53-3	0.81	14
		<u>o-Anisidine (2-methoxyaniline)</u>	<u>90-04-0</u>	<u>0.010</u>	<u>0.66</u>
		Anthracene	120-12-7	0.059	3.4

Aramite	140-57-8	0.36	NA
alpha-BHC	319-84-6	0.00014	0.066
beta-BHC	319-85-7	0.00014	0.066
delta-BHC	319-86-8	0.023	0.066
gamma-BHC	58-89-9	0.0017	0.066
Benzene	71-43-2	0.14	10
Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
Benzo(a)pyrene	50-32-8	0.061	3.4
Bromodichloromethane	75-27-4	0.35	15
Methyl bromide (Bromomethane)	74-83-9	0.11	15
4-Bromophenyl phenyl ether	101-55-3	0.055	15
n-Butyl alcohol	71-36-3	5.6	2.6
Butyl benzyl phthalate	85-68-7	0.017	28
2-sec-Butyl-4,6-dinitrophenol (Dinoseb)	88-85-7	0.066	2.5
Carbon disulfide	75-15-0	3.8	NA
Carbon tetrachloride	56-23-5	0.057	6.0
Chlordane (alpha and gamma isomers)	57-74-9	0.0033	0.26
p-Chloroaniline	106-47-8	0.46	16
Chlorobenzene	108-90-7	0.057	6.0
Chlorobenzilate	510-15-6	0.10	NA
2-Chloro-1,3-butadiene	126-99-8	0.057	NA
Chlorodibromomethane	124-48-1	0.057	15
Chloroethane	75-00-3	0.27	6.0
bis(2-Chloroethoxy)methane	111-91-1	0.036	7.2
bis(2-Chloroethyl)ether	111-44-4	0.033	6.0
Chloroform	67-66-3	0.046	6.0
bis(2-Chloroisopropyl)ether	39638-32-9	0.055	7.2
p-Chloro-m-cresol	59-50-7	0.018	14
Chloromethane (Methyl chloride)	74-87-3	0.19	30
2-Chloronaphthalene	91-58-7	0.055	5.6
2-Chlorophenol	95-57-8	0.044	5.7

3-Chloropropylene	107-05-1	0.036	30
Chrysene	218-01-9	0.059	3.4
p-Cresidine	120-71-8	0.010	0.66
o-Cresol	95-48-7	0.11	5.6
m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6

Cyclohexanone	108-94-1	0.36	NA
1,2-Dibromo-3-Chloropropane	96-12-8	0.11	15
Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.028	15
Dibromomethane	74-95-3	0.11	15
2,4-D (2,4-Dichlorophenoxyacetic acid)	94-75-7	0.72	10
o,p´- DDD	53-19-0	0.023	0.087
p,p´- DDD	72-54-8	0.023	0.087
o,p´- DDE	3424-82-6	0.031	0.087
p,p´- DDE	72-55-9	0.031	0.087
o,p´- DDT	789-02-6	0.0039	0.087
p,p´- DDT	50-29-3	0.0039	0.087
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Dibenz(a,e)pyrene	192-65-4	0.061	NA
m-Dichlorobenzene	541-73-1	0.036	6.0
o-Dichlorobenzene	95-50-1	0.088	6.0
p-Dichlorobenzene	106-46-7	0.090	6.0
Dichlorodifluoromethane	75-71-8	0.23	7.2
1,1-Dichloroethane	75-34-3	0.059	6.0
1,2-Dichloroethane	107-06-2	0.21	6.0
1,1-Dichloroethylene	75-35-4	0.025	6.0
trans-1,2-Dichloroethylene	156-60-5	0.054	30
2,4-Dichlorophenol	120-83-2	0.044	14
2,6-Dichlorophenol	87-65-0	0.044	14
1,2-Dichloropropane	78-87-5	0.85	18
cis-1,3-Dichloropropylene	10061-01-5	0.036	18
trans-1,3-Dichloropropylene	10061-02-6	0.036	18
Dieldrin	60-57-1	0.017	0.13
2,4-Dimethylaniline (2,4-xylidine)	95-68-1	0.010	0.66
Diethyl phthalate	84-66-2	0.20	28
2-4 Dimethyl phenol	105-67-9	0.036	14
Dimethyl phthalate	131-11-3	0.047	28
Di-n-butyl phthalate	84-74-2	0.057	28
1,4-Dinitrobenzene	100-25-4	0.32	2.3
4,6-Dinitro-o-cresol	534-52-1	0.28	160
2,4-Dinitrophenol	51-28-5	0.12	160

2,4-Dinitrotoluene	121-14-2	0.32	140
2,6-Dinitrotoluene	606-20-2	0.55	28
Di-n-octyl phthalate	117-84-0	0.017	28
Di-n-propylnitrosamine	621-64-7	0.40	14
1,4-Dioxane	123-91-1	12.0	170
Diphenylamine (difficult to distinguish from diphenylnitrosamine)	122-39-4	0.92	NA
Diphenylnitrosamine (difficult to distinguish from diphenylamine)	86-30-6	0.92	NA
1,2-Diphenylhydrazine	122-66-7	0.087	NA
Disulfoton	298-04-4	0.017	6.2
Endosulfan I	939-98-8	0.023	0.066
Endosulfan II	33213-6-5	0.029	0.13
Endosulfan sulfate	1031-07-8	0.029	0.13
Endrin	72-20-8	0.0028	0.13
Endrin aldehyde	7421-93-4	0.025	0.13
Ethyl acetate	141-78-6	0.34	33
Ethyl cyanide (Propanenitrile)	107-12-0	0.24	360
Ethyl benzene	100-41-4	0.057	10
Ethyl ether	60-29-7	0.12	160
bis(2-Ethyhexyl) phthalate	117-81-7	0.28	28
Ethyl methacrylate	97-63-2	0.14	160
Ethylene oxide	75-21-8	0.12	NA
Famphur	52-85-7	0.017	15
Fluoranthene	206-44-0	0.068	3.4
Fluorene	86-73-7	0.059	3.4
Heptachlor	76-44-8	0.0012	0.066
Heptachlor epoxide	1024-57-3	0.016	0.066
Hexachlorobenzene	118-74-1	0.055	10
Hexachlorobutadiene	87-68-3	0.055	5.6
Hexachlorocyclopentadiene	77-47-4	0.057	2.4
HxCDDs (all Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
HxCDFs (all Hexachlorodibenzofurans)	NA	0.000063	0.001
Hexachloroethane	67-72-1	0.055	30
Hexachloropropylene	1888-71-7	0.035	30
Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4

Iodomethane	74-88-4	0.19	65
Isobutyl alcohol	78-83-1	5.6	170
Isodrin	465-73-6	0.021	0.066
Isosafrole	120-58-1	0.081	2.6
Kepone	143-50-8	0.0011	0.13
Methacrylonitrile	126-98-7	0.24	84
Methanol	67-56-1	5.6	NA
Methapyrilene	91-80-5	0.081	1.5
Methoxychlor	72-43-5	0.25	0.18
3-Methylcholanthrene	56-49-5	0.0055	15
4,4-Methylene bis(2-chloroaniline)	101-14-4	0.50	30
Methylene chloride	75-09-2	0.089	30
Methyl ethyl ketone	78-93-3	0.28	36
Methyl isobutyl ketone	108-10-1	0.14	33
Methyl methacrylate	80-62-6	0.14	160
Methyl methansulfonate	66-27-3	0.018	NA
Methyl parathion	298-00-0	0.014	4.6
Naphthalene	91-20-3	0.059	5.6
2-Naphthylamine	91-59-8	0.52	NA
p-Nitroaniline	100-01-6	0.028	28
Nitrobenzene	98-95-3	0.068	14
5-Nitro-o-toluidine	99-55-8	0.32	28
p-Nitrophenol	100-02-7	0.12	29
N-Nitrosodiethylamine	55-18-5	0.40	28
N-Nitrosodimethylamine	62-75-9	0.40	NA
N-Nitroso-di-n-butylamine	924-16-3	0.40	17
N-Nitrosomethylethylamine	10595-95-6	0.40	2.3
N-Nitrosomorpholine	59-89-2	0.40	2.3
N-Nitrosopiperidine	100-75-4	0.013	35
N-Nitrosopyrrolidine	930-55-2	0.013	35
Parathion	56-38-2	0.014	4.6
Total PCBs (sum of all PCB isomers, or all Aroclors)	1336-36-3	0.10	10
Pentachlorobenzene	608-93-5	0.055	10
PeCDDs (All Pentachlorodibenzo-p-dioxins)	NA	0.000063	0.001

PeCDFs (All Pentachlorodibenzofurans)	NA	0.000035	0.001
Pentachloronitrobenzene	82-68-8	0.055	4.8
Pentachlorophenol	87-86-5	0.089	7.4
Phenacetin	62-44-2	0.081	16
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
1,3-Phenylenediamine	108-45-2	0.010	0.66
Phorate	298-02-2	0.021	4.6
Phthalic anhydride	85-44-9	0.055	NA
Pronamide	23950-58-5	0.093	1.5
Pyrene	129-00-0	0.067	8.2
Pyridine	110-86-1	0.014	16
Safrole	94-59-7	0.081	22
Silvex (2,4,5-TP)	93-72-1	0.72	7.9
2,4,5-T	93-76-5	0.72	7.9
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
TCDDs (All Tetrachlorodibenzene-p-dioxins)	NA	0.000063	0.001
TCDFs (All Tetrachlorodibenzofurans)	NA	0.000063	0.001
1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
1,1,2,2-Tetrachloroethane	79-34-6	0.057	6.0
Tetrachloroethylene	127-18-4	0.056	6.0
2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4
Toluene	108-88-3	0.080	10
Toxaphene	8001-35-2	0.0095	2.6
Bromoform (Tribromomethane)	75-25-2	0.63	15
1,2,4-Trichlorobenzene	120-82-1	0.055	19
1,1,1-Trichloroethane	71-55-6	0.054	6.0
1,1,2-Trichloroethane	79-00-5	0.054	6.0
Trichloroethylene	79-01-6	0.054	6.0
Trichloromonofluoromethane	75-69-4	0.020	30
2,4,5-Trichlorophenol	95-95-4	0.18	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4
1,2,3-Trichloropropane	96-18-4	0.85	30
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	0.057	30

tris(2,3-Dibromopropyl) phosphate	126-72-7	0.11	NA	
Vinyl chloride	75-01-4	0.27	6.0	
Xylenes-mixed isomers(sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30	
Antimony	7440-36-0	1.9	1.15 mg/l TCLP	
Arsenic	7440-38-2	1.4	5.0 mg/l TCLP	
Barium	7440-39-3	1.2	21 mg/l TCLP	
Beryllium	7440-41-7	0.82	NA	
Cadmium	7440-43-9	0.69	0.11 mg/l TCLP	
Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP	
Cyanides (Total) <sup>7</sup>	57-12-5	1.2	590	
Cyanides (Amenable) <sup>7</sup>	57-12-5	0.86	NA	
Fluoride	16964-48-8	35	NA	
Lead	7439-92-1	0.69	0.75 mg/l TCLP	
Mercury	7439-97-6	0.15	0.025 mg/l TCLP	
Nickel	7440-02-0	3.98	11 mg/l TCLP	
Selenium	7782-49-2	0.82	5.7 mg/l TCLP	
Silver	7440-22-4	0.43	0.14 mg/l TCLP	
Sulfide	8496-25-8	14	NA	
Thallium	7440-28-0	1.4	NA	
Vanadium	7440-62-2	4.3	NA	
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035	0.0025	
1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035	0.0025	
1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035	0.0025	
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	0.000063	0.005	
1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063	0.005	
Slop oil emulsion solids from the petroleum refining industry.	Anthracene	120-12-7	0.059	3.4
	Benzene	71-43-2	0.14	10
	Benzo(a)pyrene	50-32-8	0.061	3.4
	bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28

	Carbon disulfide	75-15-0	3.8	NA
	Chrysene	[ <del>2218-01-9</del> ] <u>18-01-9</u> 2	0.059	3.4
API separator sludge from the petroleum refining industry.	Chrysene	[ <del>2218-01-9</del> ] <u>218-01-9</u>	0.059	3.4
Spent potliners from primary aluminum reduction.	Indeno(1,2,3-c[,d]pyrene	193-39-5	0.0055	3.4
Product washwaters from the production of dinitrotoluene via nitration of toluene.	2,4-Dinitrotoluene	[ <del>121-1-2</del> ] <u>121-14-2</u>	0.32	140
Hydrogen fluoride	Fluoride (measured in wastewaters only)	[ <del>16964-48-8</del> ] <u>7664-39-3</u>	35	ADGAS fb NEUTR; or NEUTR
Indeno(1,2,3-c[,d]pyrene	Indeno(1,2,3-c[,d]pyrene	193-39-5	0.0055	3.4

K049					
K051					
K088					
K111					
U134					
U137					

The entries for K156-K159 and K161 are revised to read as follows:

K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. <u>(This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate).</u>	Acetonitrile	75-05-8	5.6	1.8
		Acetophenone	98-86-2	0.010	9.7
		Aniline	62-53-3	0.81	14
		Benomyl <sup>10</sup>	17804-35-2	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Benzene	71-43-2	0.14	10
		Carbaryl <sup>10</sup>	63-25-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Carbenzadim <sup>10</sup>	10605-21-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Carbofuran <sup>10</sup>	1563-66-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST

		Carbosulfan <sup>10</sup>	55285-14-8	0.028; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Chlorobenzene	108-90-7	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Methomyl <sup>10</sup>	16752-77-5	0.028; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Naphthalene	91-20-3	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyridine	110-86-1	0.014	16
		Toluene	108-88-3	0.080	10
		Triethylamine	121-44-8	0.081; or CMBST, CHOXD, BIODG or CARBN	1.5; or CMBST
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. <u>(This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate).</u>	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		Chloromethane	74-87-3	0.19	30
		Methomyl <sup>10</sup>	16752-77-5	0.028; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Pyridine	110-86-1	0.014	16
		Triethylamine	121-44-8	0.081; or CMBST, CHOXD, BIODG or CARBN	1.5; or CMBST

K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate).	Benomyl	17804-35-2	0.056	1.4
		Benzene	71-43-2	0.14	10
		Carbenzadim <sup>10</sup>	10605-21-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Carbofuran <sup>10</sup>	1563-66-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Carbosulfan <sup>10</sup>	55285-14-8	0.028; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Chloroform	67-66-3	0.046	6.0
		Methylene chloride	75-09-2	0.089	30
		Phenol	108-95-2	0.039	6.2
K159	Organics from the treatment of thiocarbamate wastes.	Benzene	71-43-2	0.14	10
		Butylate <sup>10</sup>	2008-41-5	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		EPTC (Eptam) <sup>10</sup>	759-94-4	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Molinate <sup>10</sup>	2212-67-1	0.042 ; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Pebulate <sup>10</sup>	1114-71-2	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST

		Vernolate <sup>10</sup>	1929-77-7	0.042; or CMBST, <u>CHOXD, BIODG or CARBN</u>	1.4; or CMBST
--	--	-------------------------	-----------	--	---------------

K161	Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust and floor sweepings from the production of dithiocarbamate acids and their salts.	Antimony	7440-36-0	1.9	1.15 mg/l TCLP
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Carbon disulfide	75-15-0	3.8	4.8 mg/l TCLP
		Dithiocarbamates (total) <sup>10</sup>	NA	0.028; or CMBST, <u>CHOXD, BIODG or CARBN</u>	28; or CMBST
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
		Selenium	7782-49-2	0.82	5.7 mg/l TCLP

The entries for K176, K177 and K178 are revised and K181 is added to read as follows:

Waste Code	Waste Description and Treatment/Regulatory Subcategory <sup>1</sup>	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS <sup>2</sup> Number	(Concentration in mg/l <sup>3</sup> ; or Technology Code <sup>4</sup> )	(Concentration <sup>5</sup> in mg/kg [mg/kg <sup>51</sup> unless noted as "mg/l TCLP"; or Technology Code <sup>4</sup> ])
K174	Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer.	1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035 or CMBST <sup>11</sup>	0.0025 or CMBST <sup>11</sup>

		1,2,3,4,6,7,8-Heptachlorodibenzofuran ((1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035 or CMBST <sup>11</sup>	0.0025 or CMBST <sup>11</sup>
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpDCF)	55673-89-7	0.000035 or CMBST <sup>11</sup>	0.0025 or CMBST <sup>11</sup>
		HxCDDs (All Hexachlorodibenzo-p-dioxins)	34465-46-8	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	0.000063 of CMBST <sup>11</sup>	0.005 or CMBST <sup>11</sup>
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063 or CMBST <sup>11</sup>	0.005 or CMBST <sup>11</sup>
		PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		TCDDs (All tetrachlorodibenzo-p-dioxins)	41903-27-5	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		TCDFs (All tetrachlorodibenzofurans)	55722-27-5	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		Arsenic	7440-36-0	1.4	5.0 mg/L TCLP
K175	Wastewater treatment sludge from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.	Mercury <sup>12</sup>	7438-97-6	NA	0.025 mg/L TCLP
		pH <sup>12</sup>		NA	pH ÷ 6.0
	All K175 Wastewaters	Mercury	7438-97-	0.15	NA
K176	Baghouse filters from the production of antimony oxide, including filters from the production of intermediates (e.g., antimony metal or crude antimony oxide).	Antimony	7440-36-0	1.9	1.15 mg/L TCLP
		Arsenic	7440-38-2	1.4	5.0 mg/L TCLP

		Cadmium	7440-43-9	0.69	0.11 mg/L TCLP
		Lead	7439-92-1	0.69	0.75 mg/L TCLP
		Mercury	7439-97-6	0.15	0.025 mg/L TCLP
K177	Slag from the production of antimony oxide that is speculatively accumulated or disposed, including slag from the production of intermediates (e.g., antimony metal or crude antimony oxide).	Antimony	7440-36-0	1.9	1.15 mg/L TCLP
		Arsenic	7440-38-2	1.4	5.0 mg/L TCLP
		Lead	7439-92-1	0.69	0.75 mg/L TCLP
K178	Residues from manufacturing and manufacturing-site storage of ferric chloride from acids formed during the production of titanium dioxide using the chloride-ilmenite process.	1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-39-4	0.000035 or CMBST <sup>11</sup>	0.0025 or CMBST <sup>11</sup>
		1,2,3,4,6,7,8-Heptachlorodibenzofuran ((1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035 or CMBST <sup>11</sup>	0.0025 or CMBST <sup>11</sup>
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035 or CMBST <sup>11</sup>	0.0025 or CMBST <sup>11</sup>
		HxCDDs (All Hexachlorodibenzo-p-dioxins)	34465-46-8	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	0.000063 of CMBST <sup>11</sup>	0.005 or CMBST <sup>11</sup>
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063 or CMBST <sup>11</sup>	0.005 or CMBST <sup>11</sup>
		PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		TCDDs (All tetrachlorodibenzo-p-dioxins)	41903-57-5	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>

		TCDFs (All tetrachlorodibenzofurans)	55722-27-5	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		Thallium	7440-28-0	1.4	0.20 mg/L TCLP
K181	Nonwastewaters from the production of dyes and/or pigments (including nonwastewaters commingled at the point of generation with nonwastewaters from other processes) that, at the point of generation, contain mass loadings of any of the constituents identified in paragraph 371.4(c)(1) of this Title, that are equal to or greater than the corresponding paragraph 371.4(c)(1) levels, as determined on a calendar year basis.	Aniline	62-53-3	0.81	14
		o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66
		4-Chloroaniline	106-47-8	0.46	16
		p-Cresidine	120-71-8	0.010	0.66
		2,4-Dimethylaniline (2,4-xylidine)	95-68-1	0.010	0.66
		1,2-Phenylenediamine	95-54-5	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN
		1,3-Phenylenediamine	108-45-2	0.010	0.66

The entries for P127 through P205 are revised to read as follows:

P127	Carbofuran <sup>10</sup>	Carbofuran	1563-66-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
P128	Mexacarbate <sup>10</sup>	Mexacarbate	315-18-4	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P185	Tirpate <sup>10</sup>	Tirpate	26419-73-8	0.056; or CMBST, CHOXD, BIODG or CARBN	0.28; or CMBST
P188	Physostigmine salicylate <sup>10</sup>	Physostigmine salicylate	57-64-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
	Carbosulfan <sup>10</sup>			0.028; or CMBST,	

P189		Carbosulfan	55285-14-8	<u>CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
P190	Metolcarb <sup>10</sup>	Metolcarb	1129-41-5	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
P191	Dimetilan <sup>10</sup>	Dimetilan	644-64-4	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
P192	Isolan <sup>10</sup>	Isolan	119-38-0	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
P194	Oxamyl <sup>10</sup>	Oxamyl	23135-22-0	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	0.28; or <u>CMBST</u>
P196	Manganese dimethyldithiocarbamate <sup>10</sup>	Dithiocarbamates (total)	NA	0.028; or <u>CMBST, CHOXD, BIODG or CARBN</u>	28; or <u>CMBST</u>
P197	Formparanate <sup>10</sup>	Formparanate	17702-57-7	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
P198	Formetanate hydrochloride <sup>10</sup>	Formetanate hydrochloride	23422-53-9	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
P199	Methiocarb <sup>10</sup>	Methiocarb	2032-65-7	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
P201	Promecarb <sup>10</sup>	Promecarb	2631-37-0	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
P202	m-Cumenyl methylcarbamate <sup>10</sup>	m-Cumenyl methylcarbamate	64-00-6	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>

P203	Aldicarb sulfone <sup>10</sup>	Aldicarb sulfone	1646-88-4	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	0.28; or <u>CMBST</u>
P204	Physostigmine <sup>10</sup>	Physostigmine	57-47-6	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
P205	Ziram <sup>10</sup>	Dithiocarbamates (total)	NA	0.028; or <u>CMBST, CHOXD, BIODG or CARBN</u>	28; or <u>CMBST</u>

The entries for U134 and U137 are revised to read as follows:

U134	Hydrogen fluoride	Fluoride (measured in wastewaters only)	<del>[16964-48-8]</del> <u>7664-39-3</u>	35	ADGAS fb NEUTR; or NEUTR
U137	Indeno(1,2,3-c[,d]pyrene	Indeno(1,2,3-c[,d]pyrene	193-39-5	0.0055	3.4

The entry for U202 is deleted as follows:

<del>[U202]</del>	<del>Saccharin and salts</del>	<del>Saccharin</del>	<del>81-07-2</del>	<del>(WETOX or CHOXD) fb CARBN; or CMBST</del>	<del>CMBST]</del>
-------------------	--------------------------------	----------------------	--------------------	--	-------------------

The entries for U271 through U280 are revised to read as follows:

U271	Benomyl <sup>10</sup>	Benomyl	17804-35-2	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
U278	Bendiocarb <sup>10</sup>	Bendiocarb	22781-23-3	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
U279	Carbaryl <sup>10</sup>	Carbaryl	63-25-2	0.006; or <u>CMBST, CHOXD, BIODG or CARBN</u>	0.14; or <u>CMBST</u>
U280	Barban <sup>10</sup>	Barban	101-27-9	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>

The entries for U364 through U411 are revised to read as follows:

U364	Bendiocarb phenol <sup>10</sup>	Bendiocarb phenol	22961-82-6	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
U367	Carbofuran phenol <sup>10</sup>	Carbofuran phenol	1563-38-8	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
U372	Carbendazim <sup>10</sup>	Carbendazim	10605-21-7	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
U373	Propham <sup>10</sup>	Propham	122-42-9	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
U387	Prosulfocarb <sup>10</sup>	Prosulfocarb	52888-80-9	0.042; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>

U389	Triallate <sup>10</sup>	Triallate	2303-17-5	0.042; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
U394	A2213 <sup>10</sup>	A2213	30558-43-1	0.042; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
U395	Diethylene glycol, dicarbamate <sup>10</sup>	Diethylene glycol, dicarbamate	5952-26-1	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
U404	Triethylamine <sup>10</sup>	Triethylamine	121-44-8	0.081; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.5; or <u>CMBST</u>
U409	Thiophanate-methyl <sup>10</sup>	Thiophanate-methyl	23564-05-8	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
U410	Thiodicarb <sup>10</sup>	Thiodicarb	59669-26-0	0.019; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>
U411	Propoxur <sup>10</sup>	Propoxur	114-26-1	0.056; or <u>CMBST, CHOXD, BIODG or CARBN</u>	1.4; or <u>CMBST</u>

---

376.4(c) Table 1 Five Letter Technology Codes and Description of Technology-Based Standards, entry for SSTRP, is revised to read as follows:

**SSTRP:** Steam stripping of organics from liquid wastes utilizing direct application of steam to the wastes operated such that liquid and vapor flow rates, as well as[,] temperature and pressure ranges, have been optimized, monitored, and maintained. These operating parameters are dependent upon the design parameters of the unit, such as[,] the number of separation stages and the internal column design[.], [T]thus, resulting in a condensed extract high in organics that must undergo either incineration, reuse as a fuel, or other recovery/reuse and an extracted wastewater that must undergo further treatment as specified in the standard.

376.4(j) Table UTS - Universal Treatment Standards is revised by revision the headings and adding in alphabetical sequence the following entries under the heading organic constituents:

376.4(j) Table UTS - Universal Treatment Standards

Note: NA means not applicable.

Regulated Constituent-common name	CAS <sup>1</sup>	Wastewater Standard. Concentration <sup>2</sup> in mg/l <sup>2</sup>	Nonwastewater standard. (Concentration <sup>3</sup> in <u>mg/kg</u> [mg/kg <sup>3</sup> ] unless noted as "mg/l TCLP"; or Technology Code <sup>4</sup> )
<b>I. Organic Constituents</b>			
Acenaphthylene	208-96-8	0.059	3.4
Acenaphthene	83-32-9	0.059	3.4
Acetone	67-64-1	0.28	160
Acetonitrile	75-05-8	5.6	38
Acetophenone	96-86-2	0.010	9.7
2-Acetylaminofluorene	53-96-3	0.059	140
Acrolein	107-02-8	0.29	NA
Acrylamide	79-06-1	19	23
Acrylonitrile	107-13-1	0.24	84
<b>[Aldicarb sulfone<sup>6</sup></b>	<b>1646-88-4</b>	<b>0.056</b>	<b>0.28]</b>
Aldrin	309-00-2	0.021	0.066
4-Aminobiphenyl	92-67-1	0.13	NA
Aniline	62-53-3	0.81	14
<u>O-Anisidine (2-methoxyaniline)</u>	<u>90-04-0</u>	<u>0.010</u>	<u>0.66</u>
Anthracene	120-12-7	0.059	3.4
Aramite	140-57-8	0.36	NA
alpha-BHC	319-84-6	0.00014	0.066

beta-BHC	319-85-7	0.00014	0.066
delta-BHC	319-86-8	0.023	0.066
gamma-BHC	58-89-9	0.0017	0.066
<b>[Barban<sup>6</sup></b>	<b>101-27-9</b>	<b>0.056</b>	<b>1.4]</b>
<b>[Bendiocarb<sup>6</sup></b>	<b>22781-23-3</b>	<b>0.056</b>	<b>1.4]</b>
<b>[Benomyl<sup>6</sup></b>	<b>17804-35-2</b>	<b>0.056</b>	<b>1.4]</b>
Benzene	71-43-2	0.14	10
Benz(a)anthracene	56-55-3	0.059	3.4
Benzal chloride	98-87-3	0.055	6.0
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Benzo(g,h,i) perylene	191-24-2	0.0055	1.8
Benzo(a)pyrene	50-32-8	0.061	3.4
Bromodichloromethane	75-27-4	0.35	15
Bromomethane/Methyl bromide	74-83-9	0.11	15
4-Bromophenyl phenyl ether	101-55-3	0.055	15
n-Butyl alcohol	71-36-3	5.6	2.6
<b>[ Butylate<sup>6</sup></b>	<b>2008-41-5</b>	<b>0.042</b>	<b>1.4]</b>
Butyl benzyl phthalate	85-68-7	0.017	28
2-sec-Butyl-4,6-dinitrophenol/Dinoseb	88-85-7	0.066	2.5
<b>[Carbaryl<sup>6</sup></b>	<b>63-25-2</b>	<b>0.006</b>	<b>0.14</b>
<b>Carbenzadim<sup>6</sup></b>	<b>10605-21-7</b>	<b>0.056</b>	<b>1.4</b>
<b>Carbofuran<sup>6</sup></b>	<b>1563-66-2</b>	<b>0.006</b>	<b>0.14</b>
<b>Carbofuran phenol<sup>6</sup></b>	<b>1563-38-8</b>	<b>0.056</b>	<b>1.4]</b>
Carbon disulfide	75-15-0	3.8	4.8 mg/l TCLP
Carbon tetrachloride	56-23-5	0.057	6.0
<b>[Carbosulfan<sup>6</sup></b>	<b>55285-14-8</b>	<b>0.028</b>	<b>1.4]</b>
Chlordane (alpha and gamma isomers)	57-74-9	0.0033	0.26
p-Chloroaniline	106-47-8	0.46	16

Chlorobenzene	108-90-7	0.057	6.0
Chlorobenzilate	510-15-6	0.10	NA
2-Chloro-1, 3-butadiene	126-99-8	0.057	0.28
Chlorodibromomethane	124-48-1	0.057	15
Chloroethane	75-00-3	0.27	6.0
bis(2-Chloroethoxy)methane	111-91-1	0.036	7.2
bis(2-Chloroethyl)ether	111-44-4	0.033	6.0
Chloroform	67-66-3	0.046	6.0
bis(2-Chloroisopropyl)ether	39638-32-9	0.055	7.2
p-Chloro-m-cresol	59-50-7	0.018	14
2-Chloroethyl vinyl ether	110-75-8	0.062	NA
Chloromethane/Methyl chloride	74-87-3	0.19	30
2-Chloronaphthalene	91-58-7	0.055	5.6
2-Chlorophenol	95-57-8	0.044	5.7
3-Chloropropylene	107-05-1	0.036	30
Chrysene	218-01-9	0.059	3.4
<u>P-Cresidine</u>	<u>120-71-8</u>	<u>0.010</u>	<u>0.66</u>
o-Cresol	95-48-7	0.11	5.6
m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
<b>[ m-Cumenyl methylcarbamate<sup>6</sup></b>	<b>64-00-6</b>	<b>0.056</b>	<b>1.4]</b>
Cyclohexanone	108-94-1	0.36	0.75 mg/l TCLP
o, p'-DDD	53-19-0	0.023	0.087
p, p'-DDD	72-54-8	0.023	0.087
o, p'-DDE	3424-82-6	0.031	0.087
p, p'-DDE	72-55-9	0.031	0.087
o, p'-DDT	789-02-6	0.0039	0.087
p, p'-DDT	50-29-3	0.0039	0.087
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Dibenz(a,e)pyrene	192-65-4	0.061	NA
1,2-Dibromo-3-chloropropane	96-12-8	0.11	15
1,2-Dibromoethane/Ethylene dibromide	106-93-4	0.028	15
Dibromomethane	74-95-3	0.11	15

m-Dichlorobenzene	541-73-1	0.036	6.0
o-Dichlorobenzene	95-50-1	0.088	6.0
p-Dichlorobenzene	106-46-7	0.090	6.0
Dichlorodifluoromethane	75-71-8	0.23	7.2
1,1-Dichloroethane	75-34-3	0.059	6.0
1, 2-Dichloroethane	107-06-2	0.21	6.0
1, 1-Dichloroethylene	75-35-4	0.025	6.0
trans-1, 2-Dichloroethylene	156-60-5	0.054	30
2, 4-Dichlorophenol	120-83-2	0.044	14
2, 6-Dichlorophenol	87-65-0	0.044	14
2, 4-Dichlorophenoxyacetic acid/2, 4-D	94-75-7	0.72	10
1,2-Dichloropropane	78-87-5	0.85	18
cis-1,3-Dichloropropylene	10061-01-5	0.036	18
trans-1,3-Dichloropropylene	10061-02-6	0.036	18
Dieldrin	60-57-1	0.017	0.13
Diethyl phthalate	84-66-2	0.20	28
p-Dimethylaminoazobenzene	60-11-7	0.13	NA
<u>2,4-Dimethylaniline (2,4-xylydine)</u>	<u>95-68-1</u>	<u>0.010</u>	<u>0.66</u>
2-4-Dimethyl phenol	105-67-9	0.036	14
Dimethyl phthalate	131-11-3	0.047	28
Di-n-butyl phthalate	84-74-2	0.057	28
1,4-Dinitrobenzene	100-25-4	0.32	2.3
4,6-Dinitro-o-cresol	534-52-1	0.28	160
2,4-Dinitrophenol	51-28-5	0.12	160
2,4-Dinitrotoluene	121-14-2	0.32	140
2,6-Dinitrotoluene	606-20-2	0.55	28
Di-n-octyl phthalate	117-84-0	0.017	28
Di-n-propylnitrosamine	621-64-7	0.40	14
1,4-Dioxane	123-91-1	12.0	170
Diphenylamine (difficult to distinguish from diphenylnitrosamine)	122-39-4	0.92	13
Diphenylnitrosamine (difficult to distinguish from diphenylamine)	86-30-6	0.92	13
1,2-Diphenylhydrazine	122-66-7	0.087	NA
Disulfoton	298-04-4	0.017	6.2

<b>[Dithiocarbamates (total)<sup>6</sup></b>	<b>137-30-4</b>	<b>0.028</b>	<b>28]</b>
Endosulfan I	959-98-8	0.023	0.066
Endosulfan II	33213-65-9	0.029	0.13
Endosulfan sulfate	1031-07-8	0.029	0.13
Endrin	72-20-8	0.0028	0.13
Endrin aldehyde	7421-93-4	0.025	0.13
<b>[EPTC<sup>6</sup></b>	<b>759-94-4</b>	<b>0.042</b>	<b>1.4]</b>
Ethyl acetate	141-78-6	0.34	33
Ethyl benzene	100-41-4	0.057	10
Ethyl cyanide/Propanenitrile	107-12-0	0.24	360
Ethyl ether	60-29-7	0.12	160
bis(2-Ethylhexyl)phthalate	117-81-7	0.28	28
Ethyl methacrylate	97-63-2	0.14	160
Ethylene oxide	75-21-8	0.12	NA
Famphur	52-85-7	0.017	15
Fluoranthene	206-44-0	0.068	3.4
Fluorene	86-73-7	0.059	3.4
<b>[Formetanate hydrochloride<sup>6</sup></b>	<b>23422-53-9</b>	<b>0.056</b>	<b>1.4]</b>
Heptachlor	76-44-8	0.0012	0.066
Heptachlor epoxide	1024-57-3	0.016	0.066
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035	0.0025
1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035	0.0025
1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035	0.0025
Hexachlorobenzene	118-74-1	0.055	10
Hexachlorobutadiene	87-68-3	0.055	5.6
Hexachlorocyclopentadiene	77-47-4	0.057	2.4
HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001

HxCDFs (All Hexachlorodibenzo-furans)	NA	0.000063	0.001
Hexachloroethane	67-72-1	0.055	30
Hexachloropropylene	1888-71-7	0.035	30
Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
Iodomethane	74-88-4	0.19	65
Isobutyl alcohol	78-83-1	5.6	170
Isodrin	465-73-6	0.021	0.066
Isosafrole	120-58-1	0.081	2.6
Kepone	143-50-0	0.0011	0.13
Methacrylonitrile	126-98-7	0.24	84
Methanol	67-56-1	5.6	0.75 mg/l TCLP
Methapyrilene	91-80-5	0.081	1.5
<b>[Methiocarb<sup>6</sup></b>	<b>2032-65-7</b>	<b>0.056</b>	<b>1.4</b>
<b>Methomyl<sup>6</sup></b>	<b>16752-77-5</b>	<b>0.028</b>	<b>0.14]</b>
Methoxychlor	72-43-5	0.25	0.18
3-Methylcholanthrene	56-49-5	0.0055	15
4,4-Methylene bis(2-chloroaniline)	101-14-4	0.50	30
Methylene chloride	75-09-2	0.089	30
Methyl ethyl ketone	78-93-3	0.28	36
Methyl isobutyl ketone	108-10-1	0.14	33
Methyl methacrylate	80-62-6	0.14	160
Methyl methansulfonate	66-27-3	0.018	NA
Methyl parathion	298-00-0	0.014	4.6
<b>[Metolcarb<sup>6</sup></b>	<b>1129-41-5</b>	<b>0.056</b>	<b>1.4</b>
<b>Mexacarbate<sup>6</sup></b>	<b>315-18-4</b>	<b>0.056</b>	<b>1.4</b>
<b>Molinate<sup>6</sup></b>	<b>2212-67-1</b>	<b>0.042</b>	<b>1.4]</b>
Naphthalene	91-20-3	0.059	5.6
2-Naphthylamine	91-59-8	0.52	NA
o-Nitroaniline	88-74-4	0.27	14
p-Nitroaniline	100-01-6	0.028	28
Nitrobenzene	98-95-3	0.068	14
5-Nitro-o-toluidine	99-55-8	0.32	28

o-Nitrophenol	88-75-5	0.028	13
p-Nitrophenol	100-02-7	0.12	29
N-Nitrosodiethylamine	55-18-5	0.40	28
N-Nitrosodimethylamine	62-75-9	0.40	2.3
N-Nitroso-di-n-butylamine	924-16-3	0.40	17
N-Nitrosomethylethylamine	10595-95-6	0.40	2.3
N-Nitrosomorpholine	59-89-2	0.40	2.3
N-Nitrosopiperidine	100-75-4	0.013	35
N-Nitrosopyrrolidine	930-55-2	0.013	35
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	0.000063	0.005
1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063	0.005
<b>[Oxamyl<sup>6</sup></b>	<b>23135-22-0</b>	<b>0.056</b>	<b>0.28]</b>
Parathion	56-38-2	0.014	4.6
Total PCBs (sum of all PCB isomers, or all Aroclors) <sup>8</sup>	1336-36-3	0.10	10
<b>[Pebulate<sup>6</sup></b>	<b>1114-71-2</b>	<b>0.042</b>	<b>1.4]</b>
Pentachlorobenzene	608-93-5	0.055	10
PeCDDs (All Pentachlorodibenzo-p-dioxins)	NA	0.000063	0.001
PeCDFs (All Pentachlorodibenzo-furans)	NA	0.000035	0.001
Pentachloroethane	76-01-7	0.055	6.0
Pentachloronitrobenzene	82-68-8	0.055	4.8
Pentachlorophenol	87-86-5	0.089	7.4
Phenacetin	62-44-2	0.081	16
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
<u>1,3-Phenylenediamine</u>	<u>108-45-2</u>	<u>0.010</u>	<u>0.66</u>
Phorate	298-02-2	0.021	4.6
Phthalic acid	100-21-0	0.055	28
Phthalic anhydride	85-44-9	0.055	28
<b>[Physostigmine<sup>6</sup></b>	<b>57-47-6</b>	<b>0.056</b>	<b>1.4</b>
<b>Physostigmine salicylate<sup>6</sup></b>	<b>57-64-7</b>	<b>0.056</b>	<b>1.4</b>

<b>Promecarb<sup>6</sup></b>	<b>2631-37-0</b>	<b>0.056</b>	<b>1.4]</b>
Pronamide	23950-58-5	0.093	1.5
<b>[Propham<sup>6</sup></b>	<b>122-42-9</b>	<b>0.056</b>	<b>1.4</b>
<b>Propoxur<sup>6</sup></b>	<b>114-26-1</b>	<b>0.056</b>	<b>1.4</b>
<b>Prosulfocarb<sup>6</sup></b>	<b>52888-80-9</b>	<b>0.042</b>	<b>1.4]</b>
Pyrene	129-00-0	0.067	8.2
Pyridine	110-86-1	0.014	16
Safrole	94-59-7	0.081	22
Silvex/2,4,5-TP	93-72-1	0.72	7.9
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
TCDDs (All Tetrachlorodi-benzo-p- dioxins)	NA	0.000063	0.001
TCDFs (All Tetrachlorodibenzofurans)	NA	0.000063	0.001
1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
1,1,2,2-Tetrachloroethane	79-34-5	0.057	6.0
Tetrachloroethylene	127-18-4	0.056	6.0
2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4
<b>[Thiodicarb<sup>6</sup></b>	<b>59669-26-0</b>	<b>0.019</b>	<b>1.4</b>
<b>Thiophanate-methyl<sup>6</sup></b>	<b>23564-05-8</b>	<b>0.056</b>	<b>1.4]</b>
Toluene	108-88-3	0.080	10
Toxaphene	8001-35-2	0.0095	2.6
<b>[Triallate<sup>6</sup></b>	<b>2303-17-5</b>	<b>0.042</b>	<b>1.4]</b>
Tribromomethane/Bromoform	75-25-2	0.63	15
1,2,4-Trichlorobenzene	120-82-1	0.055	19
1,1,1-Trichloroethane	71-55-6	0.054	6.0
1,1,2-Trichloroethane	79-00-5	0.054	6.0
Trichloroethylene	79-01-6	0.054	6.0
Trichloromonofluoromethane	75-69-4	0.020	30
2,4,5-Trichlorophenol	95-95-4	0.18	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4
2,4,5-Trichlorophenoxyacetic acid/2,4,5-T	93-76-5	0.72	7.9
1,2,3-Trichloropropane	96-18-4	0.85	30

1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	0.057	30
<b>[Triethylamine<sup>6</sup></b>	<b>101-44-8</b>	<b>0.081</b>	<b>1.5]</b>
tris-(2,3-Dibromopropyl) phosphate	126-72-7	0.11	0.10
<b>[Vernolate<sup>6</sup></b>	<b>1929-77-7</b>	<b>0.042</b>	<b>1.4]</b>
Vinyl chloride	75-01-4	0.27	6.0
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30