

## 6 NYCRR SUBPART 373-3 EXPRESS TERMS

Amend 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 amended to read as follows:

(6) The requirements of this Subpart apply to those portions of a facility managing the recyclable materials described in [section 373-1.1(g)(1)(ii)]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 amended to read as follows:

(iii) [thermostats] mercury-containing equipment as described in section 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 amended 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]department in writing at least four 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 section 372.5(h)(1) of this Title must also notify the EPA regional administrator in writing at least four 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 section 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 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 amended 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 (see section 370.1(e) of this Title), 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. 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 amended 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 amended 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,]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

Clause 373-3.5(b)(1)(i)(‘c’) is amended 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 section 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 amended 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 section 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 amended 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 amended 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 section 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 373-3.5(b)(1)(vi)(‘b’) through (‘e’) remain unchanged.

Clauses 373-3.5(b)(1)(vi)(‘f’) and (‘g’) are amended and new clause 373-3.5(b)(1)(vi)(‘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 transmit 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 (‘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 section 372.2(c)(3)(i) 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 amended 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 Item 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 amended 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 amended to read as follows:

(iii) prepare [and submit] a [written] report in accordance with subparagraph [(d)(4)(iv)](d)(4)(v) 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 amended 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 amended 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 amended 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 closures satisfy the closure performance standards, including but not limited to, groundwater monitoring, leachate collection, and run-on and runoff 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 amended 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 373-3.7(d)(5)(vi) through paragraph 373-3.8(a)(1) remain unchanged.

Paragraph 373-3.8(a)(2) introductory language is amended 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 amended 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 amended 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, hereinafter 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 of this [part]Part, 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 (vii) 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 section 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 amended 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, hereinafter 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 of this Part, 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 section 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 amended 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]Superintendent of the New York State [Insurance ]Department of Financial Services.

Subparagraph 373-3.8(h)(1)(ii) is amended 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 of this [part]Part, 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 amended 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 of this part, 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(d) remain unchanged.

Subdivision 373-3.9(e) is amended 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 amended 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 section 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 amended to read as follows:

(i) for all new tank systems or components, prior to their being put into service[;] and for existing tank systems or components; 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)-(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 amended 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 amended 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)(4) remain unchanged.

Subdivision 373-3.10(f) is amended to read as follows:

(f) Inspections.

For the purposes of this subdivision, the term ‘operating day’ means any calendar day when manufacturing (or the functional equivalent for non-manufacturing operations) is taking place.

(1) The owner or operator must inspect, where present, 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) 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 (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).]

‘Note:’ Section 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] department 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 amended to read as follows:

(‘b’) section 373-3.2(h)(2) of this Subpart is complied with; or

Subparagraph 373-3.10(i)(1)(ii) through paragraph 373-3.10(l)(2) remain unchanged.

Paragraphs 373-3.10(l)(3) introductory language is amended 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(1)(4) through (6) are renumbered 373-3.10(1)(5) through (7).

New paragraph 373-3.10(1)(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 and 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 amended 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 between [such] the liners, and operate the leachate collection and removal system, in accordance with section 373-2.11(b)(3) of this Part, unless exempted under section 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 amended 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] section [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 amended to read as follows:

(1) The owner or operator of surface impoundment units subject to paragraph (i)(1) of this section 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 (b of this section).] 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 amended to read as follows:

(i) notify the [commissioner]department in writing of the [exceedence]exceedance within seven days of the determination;

Renumbered subparagraph 373-3.11(k)(2)(ii) through subdivision 373-3.12(i) remain unchanged.

Paragraph 373-3.12(j)(1) is amended to read as follows:

(1) The owner or operator of waste pile units subject to subdivision (h) of this section 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 section subdivision (i) of this section.] 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 amended 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 section 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 amended 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] the liners, and operate the leachate collection and removal systems, in accordance with section 373-2.14(c)(3) of this Part, unless exempted under section 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 amended 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] section [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 amended to read as follows:

(1) The owner or operator of landfill units subject to paragraph (j)(1) of this section 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 (b) of this

section.] 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 amended to read as follows:

(i) notify the [commissioner]department in writing of the [exceedence] exceedance within seven 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 set forth in subparagraphs (ii) through (iii) of this paragraph, the requirements of this Subpart do not apply to a hazardous waste incineration unit when the owner or operator 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) the MACT standards do not replace the requirements of subdivision (e) of this section and the applicable requirements of sections (1) through (8), (28) and (29) of this Subpart.

(iii) the requirements of section 373-3.15(c) of this Subpart generally prohibiting burning of hazardous waste during startup and shutdown remain in effect if the owner or operator elects to comply with clause 373-1.1 2(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 amended 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 amended 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<sup>-1</sup>].

(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);

$10^{-6}$  = 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 amended 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 section 370.1(e) of this Title); 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 amended 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 section 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 373-3.28 Note through paragraph 373-3.28(l)(1) remain unchanged.

Paragraph 373-3.28(l)(2) through (4) are amended to read as follows:

(2) The following requirements shall be met if an owner or operator [~~decides~~elects] to comply with the alternative standard of allowing two percent of valves to leak:

[~~(i)~~ (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~~department].

[~~(iii)~~ (ii) If a valve leak is detected, it shall be repaired in accordance with paragraphs (h)(4) and (5) of this section.

(3) Performance tests shall be conducted in the following manner:

(i) All valves subject to the requirements in subdivision (h) within the hazardous waste management unit shall be monitored within one week by the methods specified in paragraph (n)(2) of this section.

(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 (h) of this section for which leaks are detected by the total number of valves subject to the requirements in subdivision (h) of this section 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 amended 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 (h) of this section 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 amended to read as follows:

(ii) Method [9060 or 8260] 9060A of SW-846 (incorporated by reference section 370.1(e) of this Title 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 amended 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 this Part, prior to December 6, 1996, the following requirements apply:

(i) The requirements of section 373-2.29 of this Part 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 amended 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 amended 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 section 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 amended 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 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 amended 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 (1) through (9) of this clause, 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 section 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  $1.8 \times 10^{-6}$  atmospheres/gram-mole/ $m^3$ ) at 25°C. [Each of the analytical methods listed in subclauses (2) through (7) of this clause 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 section 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 section 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 section 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 ('8') of this clause 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 section 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 ( $f_{m25D}$ ). 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] of less than 0.1Y/X at 25°C. 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 ( $f_{m25D}$ )] [can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711.] 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 0.1Y/X at 25°C 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 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 0.1Y/X (which can also be expressed as  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) at 25°C, 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 Procedures for EPA Waste and Wastewater Methods," 40 CFR part 63, appendix D, as incorporated by reference in section 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 5.3, and the corresponding calculations in section 6.1 or 6.3, of Method 301 in 40 CFR part 63, appendix A, as incorporated by reference in section 370.1(e) of this Title. The data are acceptable if they meet the criteria specified in section 6.1.5 or 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 amended 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 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 section 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 repealed and replaced to read as follows:

(c) Analysis. Each collected sample shall be prepared and analyzed in accordance with Method 25D in 40 CFR part 60, appendix A, as incorporated by reference in section 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 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°C. 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 sections 373-2.29(c)(3)(ii)(a) through (f) of this Part, or sections 373-3.29(d)(3)(ii)(a) through (f) of this Subpart are met, 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 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°C. 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 0.1 Y/X at 25°C 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°C, 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 section 370.1(e) of this Title. [As an alternative, other EPA standard methods may be validated by the procedure specified in subclause (‘9’) of this clause.]

[(‘9’)] (‘2’) Any other analysis method that has been validated in accordance with the procedures specified in section 5.1 or 5.3, and the corresponding calculations in section 6.1 or 6.3, of Method 301 in 40 CFR part 63, appendix A, as incorporated by reference in section 370.1(e) of this Title. The data are acceptable if they meet the criteria specified in section 6.1.5 or 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 amended 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 section 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 amended 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 subdivisions (f) [and] through (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 amended 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 amended 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 section [373-3.10(d)(4)(i)] 373-3.10(d)(5)(i) of this Subpart. In addition, the containment building must meet the requirements of section 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 amended to read as follows:

(ii) obtain, and keep on-site, 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 amended to read as follows:

APPENDIX 25

RECORDKEEPING INSTRUCTIONS

The recordkeeping provisions of sections 373-2.5(c) and 373-3.5(c) 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	R
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 amended 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 amended to read as follows:

#### APPENDIX 55

##### Compounds With Henry's Law Constant Less Than 0.1 Y/X

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 section 370.1(e) of this Title).