

## **DISTRICT DEPARTMENT OF THE ENVIRONMENT**

### **NOTICE OF EXTENDED COMMENT PERIOD**

#### **Standards for the Management of Hazardous Waste and Used Oil**

The Director of the District Department of the Environment (“the Department”), pursuant to the authority set forth in section 6 of the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; D.C. Official Code § 8-1305 (2008 Repl.)); Mayor's Order 2005-70, dated April 19, 2005 (52 DCR 5495); Section 107 of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07(4) (2008 Repl.)); and Mayor's Order 2006-61, dated June 14, 2006 (53 DCR 5684) hereby gives notice of the intent to amend Title 20 of the District of Columbia Municipal Regulations (“DCMR”) concerning the standards for the management of hazardous waste and used oil, and the permit fee for small quantity generators. The proposed rules were initially proposed in the D.C. Register on December 7, 2012 and will be open for public comment for an additional thirty (30) days (see procedures for commenting at the end of the proposed rules). Thereafter, the proposed rules will be submitted to the Council for a forty-five (45)-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this forty-five (45)-day review period, the proposed rules shall be deemed approved.

The District’s Hazardous Waste Management Rules (“District rules”) are patterned after federal regulations promulgated pursuant to the Resource Recovery and Conservation Act, approved October 21, 1976, 90 Stat. 2796, Pub. L 94-580, 42 U.S.C. § 6901 *et seq.* (“RCRA”), published at Title 40 of the Code of Federal Regulations (“CFR”) Parts 124, 260 through 266, 268, 270, 273 and 279, so that any District specific regulations are easily discernible to the regulated community. For example, 40 CFR Part 260 is incorporated by reference in 20 DCMR 4260. The existing District rules largely mirror the RCRA regulations, and the proposed rules would continue the incorporation, by reference, of the most current corresponding federal rules published in the CFR.

However, the District rules contain a number of provisions that are more stringent, broader in scope, or otherwise different than the RCRA regulations. Many of these existing provisions are no longer necessary. For example, although there are District-specific provisions regarding landfills, the District has not had any landfills for a number of years and has no need for local regulations that are more stringent than those found in the CFR. In an effort to reduce excess regulation, the Department seeks to repeal the extraneous regulations in this proposed rulemaking so that District-specific regulations are clearer. The proposed rules would allow the Department to more effectively regulate hazardous waste, in a manner consistent with federal law and to focus its efforts on pollution prevention.

Notwithstanding the amendments made by the proposed rules, the District’s rules continue to establish criteria to be used in determining the materials that constitute hazardous waste; standards for generators, transporters, and owners and operators of hazardous waste facilities;

standards for universal waste management; standards for used oil management; inspection and enforcement procedures; and fees for hazardous waste activities. Moreover, the proposed rules would continue the prohibitions in the District of Columbia on the burning, land treatment and disposal, and underground injection of hazardous waste, and the burning of used oil. The proposed rules would also continue the requirement that owners and operators of hazardous waste transfer facilities obtain permits for their facilities.

Finally, the proposed rules lower the annual permit fee for small quantity generators that have less than eight (8) employees.

**The following rulemaking action is proposed:**

**TITLE 20 DCMR (ENVIRONMENT), CHAPTER 42 (STANDARDS FOR THE MANAGEMENT OF HAZARDOUS WASTE AND USED OIL), SUBSECTION 4206.2 (RECORD-RETENTION AND REPORTING REQUIREMENTS), is amended to read as follows:**

4206.2           Whenever the RCRA regulations in 40 CFR Parts 124, 260 through 266, 268, 270, 273, and 279 require that a document be sent to EPA, DOT, or another federal agency, the person required to send the document to EPA, DOT, or other federal agency shall, at the same time, send a copy to the Department's Hazardous Waste Division.

**TITLE 20 DCMR (ENVIRONMENT), CHAPTER 42 (STANDARDS FOR THE MANAGEMENT OF HAZARDOUS WASTE AND USED OIL), SUBSECTION 4260.4 (HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL PROVISIONS), PARAGRAPHS (h), (i) and (j) ARE REPEALED and Section 4260.4 is amended to read as follows:**

4260.4           Except as provided in this subsection, the substitution of terms specified in 20 DCMR § 4201.8(a) and (b) shall not apply to the definitions in 40 CFR § 260.10. The following definitions either clarify or modify the corresponding federal definitions, or provide the meaning for terms not defined in the RCRA regulations:

- (a)     Active life - in the federal definition of the term “active life,” the term “Director” shall supplant the term “Regional Administrator”;
- (b)     Boiler - in the federal definition of the term “boiler,” the term “Director” shall supplant the term “Regional Administrator”;
- (c)     Department means the District of Columbia District Department of the Environment or a successor agency;
- (d)     Director means the Director of the District Department of the Environment or his or her designee;

- (e) District-only wastes means wastes that are regulated as hazardous waste under the Hazardous Waste Management Regulations, 20 DCMR chapters 42 and 43, but that are not considered hazardous wastes under 40 CFR Part 261, Subparts C or D;
- (f) Existing tank system or existing component means for HSWA tanks, the terms “existing tank system” or “existing component” have the meaning, given those terms in 40 CFR § 260.10. For non-HSWA tanks, an “existing tank system” or “existing component” is one that is in operation, or for which installation has commenced, on or before March 1, 1996;
- (g) HSWA means the Hazardous and Solid Waste Amendments of 1984, approved November 8, 1984 (98 Stat. 3321; 42 USC §§ 6901 -6991i): (1) RCRA regulations promulgated by EPA under HSWA authorities take effect in all states at the same time, regardless of a state's authorization status; and (2) RCRA regulations promulgated by EPA under non-HSWA authorities do not take effect in EPA-authorized states until the state adopts the non-HSWA regulation;
- (h) Resource Conservation and Recovery Act (RCRA) regulations means the regulations contained in 40 CFR Parts 124, 260 through 266, 268, 270, 273, and 279; and
- (i) Wastewater treatment unit means a device that:
  - (1) Is part of a wastewater treatment facility that is subject to regulation under either §§ 307(b) or 402 of the Clean Water Act, 33 U.S.C. §§ 1317(b) or 1342; § 7 of the District of Columbia Water Pollution Control Act of 1984, effective March 16, 1985, as amended (D.C. Law 5-188; D.C. Official Code § 8-103.06 (2001)); or the District of Columbia Wastewater System Regulation Act, effective March 12, 1986, as amended (D.C. Law 6-95; D.C. Official Code §§ 8-105.01 to 8-105.15 (2001));
  - (2) Receives and treats or stores an influent wastewater that is a hazardous waste as defined in 40 CFR § 261.3, or that generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in 40 CFR § 261.3; and
  - (3) Meets the definition of tank or tank system in 40 CFR § 260.10.

**TITLE 20 DCMR (ENVIRONMENT), CHAPTER 42 (STANDARDS FOR THE MANAGEMENT OF HAZARDOUS WASTE AND USED OIL), SUBSECTIONS 4261.9 - 4261.10 (IDENTIFICATION AND LISTING OF HAZARDOUS WASTE) ARE REPEALED.**

**TITLE 20 DCMR (ENVIRONMENT), CHAPTER 42 (STANDARDS FOR THE MANAGEMENT OF HAZARDOUS WASTE AND USED OIL), SUBSECTION 4262.4 (STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE), PARAGRAPHS (a) and (b) ARE REPEALED and Section 4262 is amended to read as follows:**

- 4262.1 The provisions of 40 CFR Part 262 (Standards Applicable to Generators of Hazardous Waste) and the Appendix to Part 262 are incorporated by reference, subject to the general modifications in 20 DCMR §§ 4200 through 4206 and the specific modifications in this section.
- 4262.2 With respect to the federal compliance requirements and penalties referenced in 40 CFR § 262.10(g), the following District of Columbia enforcement authorities are also applicable: sections 10, 11, and 12 of the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978, as amended (D.C. Law 2-64; D.C. Official Code §§ 8-1309 to 8-1311).
- 4262.3 In 40 CFR § 262.11 (hazardous waste determination), the term “Administrator” shall mean the Administrator of the United States Environmental Protection Agency.
- 4262.4 In 40 CFR § 262.43 (additional reporting), the cross-references to §§ 2002(a) and 3002(6) of RCRA shall refer instead to § 6 of the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978, as amended (D.C. Law 2-64; D.C. Official Code § 8-1305(a)).
- 4262.5 In addition to the requirements in 40 CFR § 262.44, beginning on March 1, 2006, and on or before March 1 of each year thereafter, each generator of greater than one hundred kilograms (100 kg) but less than one thousand kilograms (1000 kg) of hazardous waste in a calendar month shall complete and submit to the Director, on forms provided by the Department, an annual self-certification of compliance with the requirements of 40 CFR Part 262, as modified by this section (20 DCMR § 4262) during the preceding twelve (12) months, and, where necessary, a return-to-compliance plan. The generator shall also address:
- (a) Any measures taken during the previous year to reduce the volume and toxicity of hazardous waste generated; and
  - (b) To the extent such information is available, any changes in the volume and toxicity actually achieved during the year in comparison to previous years.
- 4262.6 The substitution of terms specified in 20 DCMR § 4201.8(a) and (b) shall not apply to 40 CFR Part 262, Subparts E and H (exports of hazardous waste and transfrontier shipments of hazardous waste for recovery within the member countries of the Organization for Economic Cooperation and Development).

**TITLE 20 DCMR (ENVIRONMENT), CHAPTER 42 (STANDARDS FOR THE MANAGEMENT OF HAZARDOUS WASTE AND USED OIL), SUBSECTION 4263.5 (STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE), PARAGRAPHS (a), (b), (c), (d), (e), and (f) ARE REPEALED and Subsection 4263.5 is amended to read as follows:**

4263.5 A public utility, as defined in D.C. Official Code § 34-214 and regulated by the Public Service Commission of the District of Columbia, shall comply with the provisions of 40 CFR Part 263, including the provisions of 40 CFR § 263.12, which are incorporated by reference with respect to the public utility.

**TITLE 20 DCMR (ENVIRONMENT), CHAPTER 42 (STANDARDS FOR THE MANAGEMENT OF HAZARDOUS WASTE AND USED OIL), SUBSECTIONS 4264.2 - 4264.12 (STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES), ARE REPEALED and Section 4264 is amended to read as follows:**

4264 The provisions of 40 CFR Part 264 (Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities) and Appendices I, IV, V, and IX to Part 264, are incorporated by reference, subject to the general modifications in 20 DCMR §§ 4200 through 4206.

**TITLE 20 DCMR (ENVIRONMENT), CHAPTER 42 (STANDARDS FOR THE MANAGEMENT OF HAZARDOUS WASTE AND USED OIL), SUBSECTIONS 4265.2 - 4265.11 (INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES), ARE REPEALED and Section 4265 is amended to read as follows:**

4265 The provisions of 40 CFR Part 265 (Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities) and Appendices I and III through VI to Part 265 are incorporated by reference, subject to the general modifications in 20 DCMR §§ 4200 through 4206.

**TITLE 20 DCMR (ENVIRONMENT), CHAPTER 42 (STANDARDS FOR THE MANAGEMENT OF HAZARDOUS WASTE AND USED OIL), SUBSECTIONS 4266.2 (STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES), PARAGRAPH (a) IS REPEALED and Section 4266.2 is amended to read as follows:**

4266.2 The provisions of 40 CFR Part 266, Subpart M (military munitions) are adopted with the modification that with respect to 40 CFR § 266.202(d), the Director may require corrective action or seek injunctive or other appropriate remedies under §§ 4, 8, 10, 11, or 12 of the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978, as amended (D.C. Law 2-64; D.C. Official Code §§ 8-1303(b), 8-1307(c) and (d), 8-1309, 8-1310, or 8-1311(a) (2001)), if a

used or fired military munitions lands off-range and is not promptly rendered safe and/or retrieved.

**TITLE 20 DCMR (ENVIRONMENT), CHAPTER 42 (STANDARDS FOR THE MANAGEMENT OF HAZARDOUS WASTE AND USED OIL), SUBSECTIONS 4268.2 - 4268.3 (LAND DISPOSAL RESTRICTIONS) ARE REPEALED and Section 4268 is amended to read as follows:**

4268           The provisions of 40 CFR Part 268 (Land Disposal Restrictions) and Appendices III, IV, VI through IX, and XI to Part 268 are incorporated by reference subject to the general modifications in 20 DCMR §§ 4200 through 4206.

**TITLE 20 DCMR (ENVIRONMENT), CHAPTER 42 (STANDARDS FOR THE MANAGEMENT OF HAZARDOUS WASTE AND USED OIL), SUBSECTIONS 4270.2 - 4270.7, 4270.13, and 4270.14(e) (DEPARTMENT ADMINISTERED HAZARDOUS WASTE PERMIT PROGRAM) ARE REPEALED and Section 4270 is amended to read as follows:**

4270.1           The provisions of 40 CFR Part 270 (EPA-administered hazardous waste permit program) are incorporated by reference as the regulations applicable to the Department-administered hazardous waste (RCRA) permit program, subject to the general modifications in 20 DCMR §§ 4200 through 4206 and the specific modifications in this section.

4270.2           With respect to 40 CFR § 270.12 (confidentiality of information), the following provisions shall govern the confidentiality of any information submitted to the Department pursuant to these regulations:

- (a)       Any information provided to the Department under the District of Columbia Hazardous Waste Management Act of 1977, D.C. Official Code §§ 8-1301 through 8-1314, and the Hazardous Waste Management Regulations, 20 DCMR chapters 42 and 43, shall be made available to the public to the extent and in the manner authorized by the District of Columbia Freedom of Information Act (FOIA), effective March 29, 1977, as amended (D.C. Law 1-96; D.C. Official Code §§ 2-531 to 2-540 (Supp. 2004), and the rules implementing FOIA, chapter 4 in Title 1 DCMR;
- (b)       Any person submitting information to the Department pursuant to the Hazardous Waste Management Act or the Hazardous Waste Management Regulations may assert a claim of confidentiality covering part or all of the information by demonstrating to the Director that the information claimed to be confidential is exempt from public disclosure under FOIA, D.C. Official Code § 2-534(a);
- (c)       Any claim of confidentiality shall be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the

case of other submissions, by stamping the words “confidential business information” on each page containing such information. If no claim is made at the time of submission, the Director may make the information available to the public without further notice;

- (d) The Director will determine, in accordance with the FOIA criteria in D.C. Official Code § 2-534(a), whether and to what extent the information claimed to be confidential will be withheld from disclosure; and
- (e) Claims of confidentiality shall not apply to the names and addresses of any permit applicants or permittees.

4270.3 With respect to the introductory text in 40 CFR § 270.41 (modification or revocation and reissuance of permit), the provisions of 40 CFR § 124.5, incorporated by reference, are subject to modification in 20 DCMR § 4271.2.

4270.4 In 40 CFR § 270.42(f), pertaining to public notice and appeals of permit modification decisions, the cross-references to 40 CFR § 124.19 shall refer instead to 20 DCMR § 4271.6.

4270.5 In addition to the causes identified in 40 CFR § 270.43 for the termination of a permit, the Director may suspend, refuse to reissue, or revoke a permit as provided in §§ 4 and 10 of the District of Columbia Hazardous Waste Management Act of 1977, D.C. Official Code §§ 8-1303(b) and 8-1309.

4270.6 The provisions of 40 CFR § 270.51(a) through (c) (continuation of expiring EPA-issued RCRA permits) are adopted as the procedures the Department will follow with respect to the continuation of expiring Department-issued permits.

4270.7 The provisions of 40 CFR Part 270, Subpart H (Remedial Action Plans (RAPs)) are adopted with the following modifications:

- (a) With respect to 40 CFR § 270.115, the confidentiality of information submitted to the Department shall be governed by 20 DCMR § 4270.2;
- (b) In addition to the public notice procedures in 40 CFR § 270.145, the Director shall provide notice by publication in the D.C. Register, and in accordance with § 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975, as amended (D.C. Law 1-21;D.C. Official Code § 1-309.10 (2001));
- (c) The provisions of 40 CFR § 270.155, pertaining to administrative appeals, are adopted with the following modifications:
  - (1) An appeal under this paragraph shall be made to the District of Columbia Office of Administrative Hearings pursuant to 1 DCMR

chapter 29; and

- (2) In 40 CFR § 270.155(a), the cross-references to 40 CFR § 124.19 shall refer instead to 20 DCMR § 4271.6;
- (d) In 40 CFR §§ 270.190 and 270.215, all references to the “Environmental Appeals Board” shall refer instead to the “District of Columbia Office of Administrative Hearings”; and
- (e) With respect to 40 CFR § 270.230(d)(2), pertaining to remediation waste management activities at locations removed from where the remediation wastes originated, the provisions of 40 CFR §§ 124.31, 124.32, and 124.33, incorporated by reference, are subject to modification in 20 DCMR § 4271.8.

**TITLE 20 DCMR (ENVIRONMENT), CHAPTER 42 (STANDARDS FOR THE MANAGEMENT OF HAZARDOUS WASTE AND USED OIL), SUBSECTION 4271.2 (DECISION-MAKING PROCEDURES FOR DEPARTMENT-ADMINISTERED HAZARDOUS WASTE PERMIT PROGRAM) IS REPEALED and Section 4271 is amended to read as follows:**

- 4271.1 This section incorporates by reference, subject to the general modifications in 20 DCMR §§ 4200 through 4206 and the specific modifications in this section, the provisions of 40 CFR Part 124 applicable to RCRA permits as the decision-making procedures the Department will follow when issuing, modifying, suspending and reissuing, and revoking hazardous waste permits issued pursuant to this chapter (20 DCMR chapter 42).
- 4271.2 The provisions of 40 CFR § 124.5 (modification, revocation and reissuance, or termination of permits) are adopted with the following modifications:
  - (a) Only paragraphs (a), (c), and (d)(1) in 40 CFR § 124.5 are incorporated by reference. The cross-references in the federal regulation to 40 CFR §§ 270.41 and 270.43 shall refer instead to 20 DCMR §§ 4270.3 and 4270.5 respectively;
  - (b) If the Director determines that a request for the modification, revocation and reissuance, or termination of a permit is not justified, he or she shall send the requestor a brief written response giving the reasons for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearing. Denials may be appealed administratively to the District of Columbia Office of Administrative Hearings (OAH), pursuant to procedures established in 20 DCMR § 4271.6. This appeal is a prerequisite to seeking judicial review of the Director's determination to deny a request for modification, revocation and reissuance, or termination; and



- (c) Where there has been a history of repeated violations or a permit has been previously revoked and reissued, or where there is an initial violation and the violation presents an imminent and substantial endangerment to the public health, public welfare, or the environment, the Director may proceed under § 10 of the District of Columbia Hazardous Waste Management Act, D.C. Official Code § 8-1309(c) and (d), and 20 DCMR chapter 43 to terminate the permit in lieu of proceeding under this subsection.

4271.3 The provisions of 40 CFR § 124.10 (public notice of permit actions and public comment period) are adopted with the following modifications:

- (a) With respect to 40 CFR § 124.10(a)(1)(iv), the Director shall give public notice whenever a request for a hearing under 20 DCMR § 4271.6 to review a permit decision is received; and
- (b) In addition to the methods specified in 40 CFR § 124.10(e), the Director shall give notice by publication in the D.C. Register, and by providing notice in accordance with the requirements of § 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975, as amended (D.C. Law 1-21; D.C. Official Code § 1-309.10).

4271.4 In addition to the notice required under 40 CFR § 124.15(a) for a final permit decision or a decision to deny a permit for the active life of a hazardous waste management facility or unit, the Director shall provide notice in accordance with the requirements of § 13 of the Advisory Neighborhood Commission Act of 1975, D.C. Official Code § 1-309.10.

4271.5 In 40 CFR § 124.16(a)(2)(ii), pertaining to requests for reviews of permit conditions, the term “District of Columbia Office of Administrative Hearings” shall supplant the term “EAB.”

4271.6 The provisions of 40 CFR § 124.19, pertaining to appeals of permits, are excluded from the incorporation by reference. Instead, the following procedures shall govern appeals:

- (a) Within fifteen (15) days of the date of a hazardous waste permit decision or a decision under 40 CFR § 270.29 to deny a permit for the active life of a hazardous waste management facility or unit under 40 CFR § 124.15, any person adversely affected by the decision may appeal the decision pursuant to § 9 of the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; D.C. Official Code § 8-1308), by requesting the District of Columbia Office of Administrative Hearings (OAH) pursuant to 1 DCMR § 2805 to conduct a hearing to review the decision;

- (b) The fifteen-day (15-day) period within which a person may request a hearing under this section begins on the date of the service of the notice of the Director's action, unless a later date is specified in the notice (the rules governing the computation of time are found in 1 DCMR § 2811);
- (c) A request for a hearing under this section shall include a statement of the reasons supporting the request, including a demonstration that the person requesting the hearing is adversely affected by the Director's decision; that any issues being raised were raised during the public comment period (including any public hearings) to the extent required by these regulations; and, when appropriate, a showing that the condition in question is based upon a finding of fact or conclusion of law that is clearly erroneous;
- (d) Pursuant to § 9 of the District of Columbia Hazardous Waste Management Act, D.C. Official Code § 8-1308, a hearing on an appeal under this subsection, 20 DCMR § 4271.6, shall be held in accordance with the contested case procedures of § 10 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended (82 Stat. 1204; D.C. Official Code § 2-509);
- (e) The Director shall give public notice of an appeal under this subsection as provided in 20 DCMR § 4271.3;
- (f) At any time prior to the rendering of a decision by OAH on the merits of the appeal, the Director may, upon notification to OAH and any parties to the proceeding, withdraw the permit and prepare a new draft permit under 40 CFR § 124.6, addressing the portions withdrawn: (1) The new draft permit shall proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this section; and (2) Any portions of the permit that are not withdrawn and that are not stayed under 40 CFR § 124.16 continue to apply;
- (g) An appeal to OAH pursuant to this section shall be a prerequisite to the seeking of judicial review of the final administrative decision;
- (h) For purposes of judicial review, final administrative action occurs when a hazardous waste permit is issued, or when a decision under 40 CFR § 270.29 to deny a permit for the active life of a hazardous waste management facility or unit has been issued, and the administrative review procedures under this section are exhausted;
- (i) The Director shall issue a final permit decision, and administrative review procedures shall be exhausted:

- (1) When OAH issues a final decision on the merits of the appeal and the decision does not include a remand of the proceedings; or
- (2) If the proceedings are remanded, upon the completion of remand proceedings, unless OAH's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies;
- (j) The Director shall give public notice of the final decision in accordance with the procedures in 20 DCMR § 4271.4; and
- (k) A motion for reconsideration shall not stay the effective date of a final permit decision issued by the Director pursuant to paragraph (i) of this subsection, unless so ordered by OAH.

4271.7 The provisions of 40 CFR § 124.20 (computation of time) are excluded from the incorporation by reference. Instead, the provisions of 20 DCMR § 4316 shall govern time computation.

4271.8 With respect to 40 CFR Part 124, Subpart B (Specific Procedures Applicable to RCRA Permits):

- (a) The provisions of 40 CFR §§ 124.31, 124.32, and 124.33 shall also apply to applications submitted to the Department; and
- (b) In addition to the requirements of 40 CFR § 124.32(b) for public notice at the application stage, the Director shall give notice by publication in the D.C. Register, and by providing notice in accordance with the requirements of § 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975, as amended (D.C. Law 1-21; D.C. Official Code § 1-309.10).

**TITLE 20 DCMR (ENVIRONMENT), CHAPTER 42 (STANDARDS FOR THE MANAGEMENT OF HAZARDOUS WASTE AND USED OIL), SUBSECTION 4273.3 (STANDARDS FOR UNIVERSAL WASTE MANAGEMENT) IS REPEALED and Section 4273 is amended to read as follows:**

4273.1 The provisions of 40 CFR Part 273 (Standards for Universal Waste Management) are incorporated by reference, subject to the general modifications in 20 DCMR §§ 4200 through 4206 and the specific modifications in this section.

4273.2 With respect to 40 CFR §§ 273.12 and 273.32(a)(1), each small quantity handler and each large quantity handler of universal waste shall notify the Director of the handler's universal waste management activities by submitting a completed EPA Form 8700-12 to the Director, and shall have received an EPA identification number, before generating universal waste or receiving universal waste from

other universal waste handlers.

4273.3 Notwithstanding the time periods specified in 40 CFR § 273.53, a transporter storing universal waste for any length of time at a universal waste transfer facility shall become a universal waste handler and shall comply with the applicable requirements of Subparts B or C of Part 273 while storing the universal waste.

4273.4 In 40 CFR § 273.80, the cross-reference to 40 CFR § 260.20 shall refer instead to 20 DCMR §§ 4260.5 and 4260.6.

#### **4390 FEE SCHEDULE**

4390.1 Except as provided in § 4390.5, each conditionally exempt small quantity generator shall pay an annual permit fee of two hundred dollars (\$200) for each generating site on or before March 1 of each year; provided however that generators covered by this category who have less than eight (8) employees, shall pay an annual permit fee of fifty dollars (\$50).

#### **Obtaining a Copy of these Proposed Rules**

A person may obtain a copy of this Notice and the Proposed Rules by any of the following: 1) visit the Department website, [www.doe.dc.gov](http://www.doe.dc.gov), and look for the following title/section, "Regulation & Law", click on it, cursor over the pull-down "Public Notices & Hearings", then click on the announcement for this rulemaking and follow directions to download the document in a pdf cut-and-paste format; (2) e-mail a request to [mary.begin@dc.gov](mailto:mary.begin@dc.gov) with "Request copy of proposed fee discount rules" in the subject line; (3) stop by the Department's offices and ask for a copy at the 5<sup>th</sup> floor reception desk at the following address (mention "Hazardous Waste Proposed Rulemaking"); or (4) write the Hazardous Materials Branch, 1200 First Street, N.E., 5th Floor, Washington, DC 20002, Attention: Mary Begin, and put "Requesting a copy" on the outside of the envelope.

DDOE's responses to comments received in response to the first proposed rules will be available on the website. This document can also be emailed or mailed in response to a request.

#### **The Manner and Time Period for Giving Public Comment**

The Department is committed to considering the public's comments in an open rulemaking process. A person desiring to comment on the proposed rulemaking must file comments in writing by thirty (30) days after the date of publication of this notice of proposed rulemaking and extended comment period in the *D.C. Register*.

Comments should be clearly marked "Hazardous Waste Proposed Rulemaking" and either (1) mailed or hand-delivered to DDOE, Hazardous Materials Branch, 1200 First Street, N.E., 5th Floor, Washington, DC 20002, Attention: Mary Begin, or (2) e-mailed to [mary.begin@dc.gov](mailto:mary.begin@dc.gov).

The Department will consider all timely received comments before publishing a final rule. All comments will be treated as public documents and will be made available for public viewing on the Department's website. When the Department identifies a comment containing copyrighted material, the Department will provide a reference to that material on the website. The Department will look for the commenter's name and address on the comment. If a comment is sent by e-mail, the email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the Department's website. If the Department cannot read a comment due to technical difficulties, and the email address contains an error, the Department may not be able to contact the commenter for clarification and may not be able to consider the comment. Including the commenter's name and contact information in the comment will avoid this difficulty.