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Title 22@ Social Security

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Division 4.5@ Environmental Health Standards for the Management of Hazardous Waste

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Chapter 21@ Procedures for Hazardous Waste Permit Decisions

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Article 3@ Violations Scoring Procedure for Hazardous Waste Facility Operations

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Section 66271.56@ Requirements for a Facility Assigned to a "Conditionally Acceptable" Compliance Tier

## **66271.56 Requirements for a Facility Assigned to a "Conditionally Acceptable" Compliance Tier**

### **(a)**

The owner or operator of a facility that receives a final "conditionally acceptable" compliance tier assignment based on its Facility VSP Score shall comply with the following requirements:(1) Compliance Audits: An owner or operator of a non-federal facility shall prepare and provide to the Department third-party compliance audits in accordance with this section. An owner or operator of a federal facility, however, may prepare and submit to the Department a facility self-disclosure audit report and use an internal auditor in lieu of a third-party auditor, but is otherwise subject to this section. (A) Selection of Auditor. The owner or operator shall retain an independent third-party compliance auditor in accordance with the following:1. Within sixty (60) days of notification of an assigned compliance tier of "conditionally acceptable" pursuant to section 66271.54(c), the owner or operator shall provide to the Department the names and qualifications of at least three (3) proposed independent third-party auditors, in order of preference, who are qualified to conduct hazardous waste facility audits to determine compliance with hazardous waste facility requirements. At a minimum, an auditor shall: a. Have graduated from an accredited college or university and possess a Bachelor of Science degree, in a physical or biological science, engineering, law, or a related field. State certification, licensing or

registration, or certification by a nationally recognized professional association in a physical or biological science, engineering or law shall be considered equivalent to such training; and b. Possess a minimum of five (5) years full-time professional-level experience performing environmental audits relating to hazardous waste facilities; 2. Within fifteen (15) days of receiving the names and qualifications of the proposed third-party auditors, the Department shall provide written notice to the owner or operator approving or rejecting the third-party auditors proposed by the owner or operator; 3. If the Department approves one or more of the proposed third-party auditors selected by the owner or operator, the owner or operator shall, within thirty (30) days of the Department's approval, provide written notification to the Department that the owner or operator has retained the services of a third-party auditor approved by the Department; 4. If the Department rejects all proposed third-party auditors submitted by the owner or operator to the Department pursuant to subparagraph 1., the Department shall, within thirty (30) days of the Department's written notice provided pursuant to subparagraph 2., select an auditor qualified to perform the audit and inform the owner or operator of the auditor selected by the Department; and 5. If the Department selects an auditor pursuant to subparagraph 4., the owner or operator shall, within thirty (30) days of receipt of the notice provided pursuant to paragraph 4., retain the services of the auditor selected by the Department. (B) Submission of Audits. The owner or operator shall submit to the Department the audit reports prepared by the independent third-party auditor that meet the requirements of this subparagraph according to the Audit Schedule in section 66271.56(a)(1)(C). Audit reports prepared pursuant to this subsection must, at a minimum, include all of the following: 1. A complete description and discussion of all audit objectives, audit criteria, audit activities, audit findings and conclusions,

recommendations, and all evidence relied upon to support the audit conclusions;

2. A complete inspection and review of all facility operations related to hazardous waste and all monitoring, records, reports, and other information necessary to evaluate and determine facility compliance with all terms of the facility's hazardous waste facility permit, and all applicable hazardous waste laws, regulations, and orders; 3. Sampling and testing of potentially hazardous materials as necessary to determine compliance with all terms of the facility's hazardous waste facility permit, and all applicable hazardous waste laws, regulations, and orders; 4. A complete description of the inspection(s) completed, a summary of all sampling and testing conducted and associated results, and discussion of all information reviewed; 5. Review of all safety practices and identification of all accidents in the preceding one (1) year, and any unsafe practices or conditions observed that could lead to accidents; 6. A brief description of any written advisements or determination of violations, including, but not limited to, Summary of Violations and inspection reports directed to the facility by any local, state, or federal agency that identifies any violation of any hazardous waste facility requirement; and 7. A discussion of all findings and deficiencies related to facility compliance, including identification of all instances of noncompliance. (C) Audit Schedule. The owner or operator shall submit at least two audit reports to the Department as follows: 1. The first audit report shall be submitted no later than 270 days after notification pursuant to section 66271.54; and 2. The second audit report shall be submitted no earlier than 180 days and no later than one (1) year after the first audit report. (2) Compliance Implementation Plan. The owner or operator shall, within thirty (30) days following the deadline to submit each audit report pursuant to section 66271.56(a)(1)(C), submit a corresponding compliance implementation plan as follows: (A) The

compliance implementation plan must describe all actions needed to correct all deficiencies and address all findings identified in the audit report. (B) The compliance implementation plan must identify all permits and permit modifications required by the Department and any other federal, state, or local agency in order to implement the actions described in subparagraph (A). (C) The compliance implementation plan must include deadlines for all actions to correct deficiencies and to submit applications for all permits or permit modifications needed to implement such actions.

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Compliance Audits: An owner or operator of a non-federal facility shall prepare and provide to the Department third-party compliance audits in accordance with this section. An owner or operator of a federal facility, however, may prepare and submit to the Department a facility self-disclosure audit report and use an internal auditor in lieu of a third-party auditor, but is otherwise subject to this section. (A) Selection of Auditor. The owner or operator shall retain an independent third-party compliance auditor in accordance with the following:

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full-time professional-level experience performing environmental audits relating to hazardous waste facilities; 2. Within fifteen (15) days of receiving the names and qualifications of the proposed third-party auditors, the Department shall provide written notice to the owner or operator approving or rejecting the third-party auditors proposed by the owner or operator; 3. If the Department approves one or more of the proposed third-party auditors selected by the owner or operator, the owner or operator shall, within thirty (30) days of the Department's approval, provide written notification to the Department that the owner or operator has retained the services of a third-party auditor approved by the Department; 4. If the Department rejects all proposed third-party auditors submitted by the owner or operator to the Department pursuant to subparagraph 1., the Department shall, within thirty (30) days of the Department's written notice provided pursuant to subparagraph 2., select an auditor qualified to perform the audit and inform the owner or operator of the auditor selected by the Department; and 5. If the Department selects an auditor pursuant to subparagraph 4., the owner or operator shall, within thirty (30) days of receipt of the notice provided pursuant to paragraph 4., retain the services of the auditor selected by the Department. (B) Submission of Audits. The owner or operator shall submit to the Department the audit reports prepared by the independent third-party auditor that meet the requirements of this subparagraph according to the Audit Schedule in section 66271.56(a)(1)(C). Audit reports prepared pursuant to this subsection must, at a minimum, include all of the following: 1. A complete description and discussion of all audit objectives, audit criteria, audit activities, audit findings and conclusions, recommendations, and all evidence relied upon to support the audit conclusions; 2. A complete inspection and review of all facility operations related to hazardous waste and all monitoring, records, reports, and other information necessary to evaluate and determine facility compliance with all terms of the facility's hazardous waste facility

permit, and all applicable hazardous waste laws, regulations, and orders; 3. Sampling and testing of potentially hazardous materials as necessary to determine compliance with all terms of the facility's hazardous waste facility permit, and all applicable hazardous waste laws, regulations, and orders; 4. A complete description of the inspection(s) completed, a summary of all sampling and testing conducted and associated results, and discussion of all information reviewed; 5. Review of all safety practices and identification of all accidents in the preceding one (1) year, and any unsafe practices or conditions observed that could lead to accidents; 6. A brief description of any written advisements or determination of violations, including, but not limited to, Summary of Violations and inspection reports directed to the facility by any local, state, or federal agency that identifies any violation of any hazardous waste facility requirement; and 7. A discussion of all findings and deficiencies related to facility compliance, including identification of all instances of noncompliance. (C) Audit Schedule. The owner or operator shall submit at least two audit reports to the Department as follows: 1. The first audit report shall be submitted no later than 270 days after notification pursuant to section 66271.54; and 2. The second audit report shall be submitted no earlier than 180 days and no later than one (1) year after the first audit report.

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Have graduated from an accredited college or university and possess a Bachelor of Science degree, in a physical or biological science, engineering, law, or a related field. State certification, licensing or registration, or certification by a nationally recognized professional association in a physical or biological science, engineering or law shall be considered equivalent to such training; and b. Possess a minimum of five (5) years full-time professional-level experience performing environmental audits relating to hazardous waste facilities; 2. Within fifteen (15) days of receiving the names and qualifications of the proposed third-party auditors, the Department shall provide written notice to the owner or operator approving or rejecting the third-party auditors proposed by the owner or operator; 3. If the Department approves one or more of the proposed third-party auditors selected by the owner or operator, the owner or operator shall, within thirty (30) days of the Department's approval, provide written notification to the Department that the owner or operator has retained the services of a third-party auditor approved by the Department; 4. If the Department rejects all proposed third-party auditors submitted by the owner or operator to the Department pursuant to subparagraph 1., the Department shall, within thirty (30) days of the Department's written notice provided pursuant to subparagraph 2., select an auditor qualified to perform the audit and inform the owner or operator of the auditor selected by the Department; and 5. If the Department selects an auditor pursuant to subparagraph 4., the owner or operator shall, within thirty (30) days of receipt of the notice provided pursuant to paragraph 4., retain the services of the auditor selected by the Department.

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**b.**

Possess a minimum of five (5) years full-time professional-level experience performing environmental audits relating to hazardous waste facilities;

**2.**

Within fifteen (15) days of receiving the names and qualifications of the proposed third-party auditors, the Department shall provide written notice to the owner or operator approving or rejecting the third-party auditors proposed by the owner or operator;

**3.**

If the Department approves one or more of the proposed third-party auditors selected by the owner or operator, the owner or operator shall, within thirty (30) days of the Department's approval, provide written notification to the Department that the owner or operator has retained the services of a third-party auditor approved by the Department;

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If the Department rejects all proposed third-party auditors submitted by the owner or operator to the Department pursuant to subparagraph 1., the Department shall, within thirty (30) days of the



Department's written notice provided pursuant to subparagraph 2., select an auditor qualified to perform the audit and inform the owner or operator of the auditor selected by the Department; and

**5.**

If the Department selects an auditor pursuant to subparagraph 4., the owner or operator shall, within thirty (30) days of receipt of the notice provided pursuant to paragraph 4., retain the services of the auditor selected by the Department.

**(B)**

Submission of Audits. The owner or operator shall submit to the Department the audit reports prepared by the independent third-party auditor that meet the requirements of this subparagraph according to the Audit Schedule in section 66271.56(a)(1)(C). Audit reports prepared pursuant to this subsection must, at a minimum, include all of the following: 1. A complete description and discussion of all audit objectives, audit criteria, audit activities, audit findings and conclusions, recommendations, and all evidence relied upon to support the audit conclusions; 2. A complete inspection and review of all facility operations related to hazardous waste and all monitoring, records, reports, and other information necessary to evaluate and determine facility compliance with all terms of the facility's hazardous waste facility permit, and all applicable hazardous waste laws, regulations, and orders; 3. Sampling and testing of potentially hazardous materials as necessary to determine compliance with all terms of the facility's hazardous waste facility permit, and all applicable hazardous waste laws, regulations, and orders; 4. A complete description of the inspection(s) completed, a summary of all sampling and testing conducted and associated results, and discussion of all information reviewed; 5. Review of all safety practices and identification of all accidents in the preceding one (1) year, and any unsafe practices or conditions observed that could lead to accidents; 6. A brief description of any written advisements or determination of violations, including, but not limited to, Summary of Violations and inspection reports directed to the facility by any local, state, or federal agency that identifies any violation of

any hazardous waste facility requirement; and 7. A discussion of all findings and deficiencies related to facility compliance, including identification of all instances of noncompliance.

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A complete description and discussion of all audit objectives, audit criteria, audit activities, audit findings and conclusions, recommendations, and all evidence relied upon to support the audit conclusions;

**2.**

A complete inspection and review of all facility operations related to hazardous waste and all monitoring, records, reports, and other information necessary to evaluate and determine facility compliance with all terms of the facility's hazardous waste facility permit, and all applicable hazardous waste laws, regulations, and orders;

**3.**

Sampling and testing of potentially hazardous materials as necessary to determine compliance with all terms of the facility's hazardous waste facility permit, and all applicable hazardous waste laws, regulations, and orders;

**4.**

A complete description of the inspection(s) completed, a summary of all sampling and testing conducted and associated results, and discussion of all information reviewed;

**5.**

Review of all safety practices and identification of all accidents in the preceding one (1) year, and any unsafe practices or conditions observed that could lead to accidents;

**6.**

A brief description of any written advisements or determination of violations, including, but not limited to, Summary of Violations and inspection reports directed to the facility by any local, state, or federal agency that identifies any violation of any hazardous waste facility requirement; and

**7.**

A discussion of all findings and deficiencies related to facility compliance, including identification of all instances of noncompliance.

**(C)**

Audit Schedule. The owner or operator shall submit at least two audit reports to the Department as follows: 1. The first audit report shall be submitted no later than 270 days after notification pursuant to section 66271.54; and 2. The second audit report shall be submitted no earlier than 180 days and no later than one (1) year after the first audit report.

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The first audit report shall be submitted no later than 270 days after notification pursuant to section 66271.54; and

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The second audit report shall be submitted no earlier than 180 days and no later than one (1) year after the first audit report.

**(2)**

Compliance Implementation Plan. The owner or operator shall, within thirty (30) days following the deadline to submit each audit report pursuant to section 66271.56(a)(1)(C), submit a corresponding compliance implementation plan as follows:

(A) The compliance implementation plan must describe all actions needed to correct all deficiencies and address all findings identified in the audit report. (B) The compliance implementation plan must identify all permits and permit modifications required by the Department and any other federal, state, or local agency in order to implement the actions described in subparagraph (A). (C) The compliance implementation plan must include deadlines for all actions to correct deficiencies and to submit applications for all permits or permit modifications needed to implement such actions.

**(A)**

The compliance implementation plan must describe all actions needed to correct all deficiencies and address all findings identified in the audit report.

**(B)**

The compliance implementation plan must identify all permits and permit modifications required by the Department and any other federal, state, or local agency in order to implement the actions described in subparagraph (A).

**(C)**

The compliance implementation plan must include deadlines for all actions to correct deficiencies and to submit applications for all permits or permit modifications needed to implement such actions.

**(b)**

The Department may require the owner or operator to revise the facility's compliance implementation plan prior to the Department's approval of the plan. Upon approval of a plan, all actions and schedules contained therein shall be enforceable commitments.

**(c)**

The Department may also impose other requirements on an owner or operator, including, but not limited to, one or more of the following: (1) Imposing a shorter operating period for the facility's permit than that specified in the permit; (2) Restricting or prohibiting hazardous waste management activities at the facility that are authorized in the permit; (3) Imposing additional conditions on hazardous waste management activities beyond those specified in the permit; and (4) Imposing requirements designed to mitigate potential harm associated with noncompliant activities or events, including, but not limited to, community benefit agreements or projects, or other enforceable and measurable actions to reduce impacts or alleviate adverse conditions caused by the facility's noncompliance

with hazardous waste management requirements.

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Imposing a shorter operating period for the facility's permit than that specified in the permit;

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Imposing requirements designed to mitigate potential harm associated with noncompliant activities or events, including, but not limited to, community benefit agreements or projects, or other enforceable and measurable actions to reduce impacts or alleviate adverse conditions caused by the facility's noncompliance with hazardous waste management requirements.