

DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF FINAL RULEMAKING

Civil Infractions: Schedule of Fines Amendments

The Director of the District Department of the Environment (DDOE or Department), pursuant to the authority set forth in the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04 (2012 Repl.)); the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq.* (2013 Repl.)); the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101 *et seq.* (2013 Repl.)); the Pesticide Operations Act of 1977, effective April 18, 1978 (D.C. Law 2-70; D.C. Official Code §§ 8-401 *et seq.* (2013 Repl. & 2014 Supp.)); the Brownfields Revitalization Amendment Act of 2010, effective April 8, 2011 (D.C. Law 18-369; D.C. Official Code §§ 8-631 *et seq.* (2013 Repl.)); the District of Columbia Underground Storage Tank Management Act of 1990, effective March 8, 1991 (D.C. Law 8-242; D.C. Official Code §§ 8-113.01 *et seq.* (2013 Repl.)); the Childhood Lead Screening Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-265; D.C. Official Code § 7-871.03 (2012 Repl. & 2013 Supp.)); the Transfer of Lead Poison Prevention Program to the District Department of the Environment Amendment Act of 2008, effective August 18, 2008 (D.C. Law 17-219; D.C. Official Code § 8-151.03(b)(1)(B)(ii)(II) (2013 Repl.)); the Lead-Hazard Prevention and Elimination Act of 2008, effective March 31, 2009 (D.C. Law 17-381; D.C. Official Code §§ 8-231.01 *et seq.* (2013 Repl.)); the Lead Hazard Prevention and Elimination Amendment Act of 2010, effective March 31, 2011 (D.C. Law 18-348; D.C. Official Code §§ 8-231.01 *et seq.* (2013 Repl.)); the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; D.C. Official Code §§ 8-1301 *et seq.* (2013 Repl.)); the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code §§ 8-103.01 *et seq.* (2013 Repl.)); Mayor's Order 2006-61, Section 7 and 29, dated June 14, 2006; and Mayor's Order 2009-113, dated June 18, 2009, hereby gives notice of the intent to amend Chapter 36 (Department of Health (DOH) Infractions) and create a new Chapter 40 (Department of Environment) of Title 16 (Consumers, Commercial Practices, & Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking is a comprehensive revision to the DDOE Schedule of Fines that will apply to violations in eight (8) separate programs administered by the Department. Specifically, these amendments repeal, replace, and reserve sections as follows:

1. Repeal § 3637 and replace with a new § 4001, Air Quality Infractions;
2. Repeal § 3650 and replace with a new § 4002, Pesticide Infractions;
3. Repeal § 3662 and replace with a new § 4003, Lead-Based Paint Activities Infractions;
4. Reserve §§ 4004 to 4006 for future use;
5. Repeal § 3652 and replace with a new § 4007, Hazardous Waste Infractions;
6. Repeal § 3651 and replace with a new § 4008, Underground Storage Tank Infractions;
7. Repeal § 3644 and replace with a new § 4009, Water Quality Infractions;

8. Repeal § 3646 and replace with a new § 4010, Soil Erosion and Sediment Control and Stormwater Management Infractions;
9. Reserve §§ 4011 to 4014 for future use; and
10. Repeal § 3645 and replace with a new § 4015, Aquatic Animal Protection and Fishing Infractions.

The rules were previously published as a Notice of Proposed Rulemaking on March 14, 2014, at 61 DCR 2131 and provided an extensive summary of the amendments. The thirty- (30) day comment period ended on April 14, 2014. No comments on the proposed rules were received during the public comment period, and no substantive changes have been made since publication of the notice.

Pursuant to § 104(a)(1) of the Civil Infractions Act, the rules have been submitted to the Council of the District of Columbia for review and approval, and the rules were deemed approved on July 18, 2014. These rules were adopted as final on August 15, 2014 and will become effective upon publication of this notice in the *D.C. Register*.

Title 16, CONSUMERS, COMMERCIAL PRACTICES, & CIVIL INFRACTIONS, of the DCMR is amended as follows:

A new Chapter 40, DEPARTMENT OF ENVIRONMENT, is established.

Section 3637, AIR QUALITY INFRACTIONS, is repealed and replaced with a new Section 4001, AIR QUALITY INFRACTIONS, to read as follows:

4001 AIR QUALITY INFRACTIONS

4001.1 In addition to §§ 4001.2, 4001.3, and 4001.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) D.C. Official Code § 8-111.08 (continuing work stopped by a Department order);
- (b) 20 DCMR § 107.1 (failure to have operative or effective air pollution control device or practice);
- (c) 20 DCMR § 107.4 (installation or use of any article, machine, equipment, device or contrivance which conceals an air pollution emission);
- (d) 20 DCMR § 200.1 (failure to obtain air pollution construction or modification permit);
- (e) 20 DCMR § 200.2 (failure to obtain air pollution operating permit);
- (f) 20 DCMR § 200.3 (failure to comply with the requirements of 20 DCMR Chapter 2 during approved temporary operation of a source);

- (g) 20 DCMR § 204.4 (failure of new major stationary source or major modification in a nonattainment area to comply with lowest achievable emission rate);
- (h) 20 DCMR § 204.5 (failure to obtain permit that incorporates requirements specified in 20 DCMR §§ 204.18 and 204.19 prior to construction of a new major stationary source or major modification in a nonattainment area);
- (i) 20 DCMR § 205.1 (failure to comply with New Source Performance Standards in 40 C.F.R. Part 60);
- (j) 20 DCMR § 208.4 (failure of source operating under PAL permit to comply with applicable requirements established prior to effective date of permit);
- (k) 20 DCMR § 208.15 (failure to comply with emission limitation requirements following expiration of PAL effective period);
- (l) 20 DCMR § 209.3 (failure to meet requirements for operating emission control technologies or pollution prevention methodologies for non-major stationary sources);
- (m) 20 DCMR § 303.2 (operating without a permit after the time required to submit a timely and complete permit application);
- (n) 20 DCMR § 303.3(b) (operating after expiration of permit);
- (o) 20 DCMR § 401.7 (failure to timely prepare an emergency episode abatement plan);
- (p) 20 DCMR § 401.10 (failure to comply immediately with abatement order or notice);
- (q) 20 DCMR § 500.9 (failure to submit statement of NO_x and VOC emissions);
- (r) 20 DCMR § 501.1 (failure to install/maintain/operate monitoring devices);
- (s) 20 DCMR § 501.2 (failure to conduct ambient monitoring);
- (t) 20 DCMR § 501.3 (failure to comply with ambient monitoring requirements);

- (u) 20 DCMR § 502.10 (failure to comply with specification(s) for monitoring and recording equipment or with provisions for installation, calibration, operation, and maintenance of equipment);
- (v) 20 DCMR § 600.1 (failure to comply with PM standard for fuel-burning equipment);
- (w) 20 DCMR §§ 602.1, 602.2, 602.3, 602.4, 602.5, or 602.6 (failure to comply with incinerator operating standards);
- (x) 20 DCMR § 603.1 (failure to comply with PM emission limits);
- (y) 20 DCMR § 603.3 (adding diluted air to the exhaust gas stream to avoid compliance with 20 DCMR §§ 603.1 through 603.2); or
- (z) 20 DCMR § 711.1 (failure to have mechanical seals or approved equivalent for pumps and compressors).

4001.2 In addition to §§ 4001.1, 4001.3 and 4001.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 712.1 (failure to comply with limitations on waste gas emission from ethylene producing plant or source using ethylene);
- (b) 20 DCMR § 713.1 (failure to meet requirements for emission of hydrocarbon gases from vapor blow-down system);
- (c) 20 DCMR § 715.2 (failure to apply major source and case-by-case RACT as required);
- (d) 20 DCMR § 720.1 (selling, supplying, offering for sale, or manufacturing consumer products that exceed VOC limits);
- (e) 20 DCMR § 724.1 (selling, supplying, offering for sale, or manufacturing consumer products containing specified ozone depleting compounds);
- (f) 20 DCMR § 725.2 (selling, supplying, offering for sale, using, or manufacturing aerosol adhesive that contains VOCs in excess of standards specified in 20 DCMR § 720.1);
- (g) 20 DCMR § 725.5 (selling, supplying, offering for sale, or manufacturing any aerosol adhesive containing methylene chloride, perchloroethylene, or trichloroethylene);
- (h) 20 DCMR § 726.1 (selling, supplying, offering for sale, or manufacturing antiperspirant or deodorant containing toxic air contaminant);

- (i) 20 DCMR § 727.1 (selling, supplying, offering for sale, or manufacturing any contact adhesive, electronic cleaner, footwear or leather care product, or general purpose degreaser containing methylene chloride, perchloroethylene, or trichloroethylene);
- (j) 20 DCMR § 728.1 (selling, supplying, offering for sale, or manufacturing any adhesive remover, electrical cleaner, or graffiti remover containing methylene chloride, perchloroethylene, or trichloroethylene);
- (k) 20 DCMR § 729.1 (selling, supplying, offering for sale, or manufacturing any solid air freshener or toilet/urinal care products containing para-dichlorobenzene);
- (l) 20 DCMR § 730.1 (failure to comply with requirements for selling, supplying, or offering for sale any charcoal lighter material);
- (m) 20 DCMR § 735.9 (failure to comply with ACP agreement);
- (n) 20 DCMR § 735.12 (failure to calculate and reconcile ACP shortfalls);
- (o) 20 DCMR § 735.20(a) (failure to reconcile ACP shortfalls following cancellation of ACP);
- (p) 20 DCMR § 744.1 (selling, supplying, offering for sale, or manufacturing any adhesive, sealant, adhesive primer, or sealant primer that exceeds VOC content limits);
- (q) 20 DCMR § 744.2 (using or applying any adhesive, sealant, adhesive primer, or sealant primer that exceeds VOC content limits);
- (r) 20 DCMR § 744.4 (failure to comply with requirements for use of surface preparation or cleanup solvents);
- (s) 20 DCMR § 744.7 (soliciting, specifying, or requiring use of adhesive, sealant, adhesive primer, sealant primer, or surface preparation or cleanup solvent that results in violation of 20 DCMR Chapter 7);
- (t) 20 DCMR § 770.5 (failure to comply with requirements for use of industrial cleaning solvents);
- (u) 20 DCMR § 774.1 (manufacturing, blending, supplying, selling, offering for sale, applying, or soliciting application of an AIM coating that exceeds specified VOC content);

- (v) 20 DCMR § 774.5 (applying AIM coating that is thinned to exceed VOC limit);
- (w) 20 DCMR § 774.6 (applying or soliciting application of AIM rust preventative coating that exceeds VOC limit);
- (x) 20 DCMR § 800.1 (failure to comply with federal asbestos requirements for demolition and renovation, spray-on applications, waste disposal, air cleaning, and active waste disposal sites as provided in 40 C.F.R. §§ 61.145, 61.146, 61.150, 61.152, and 61.154);
- (y) D.C. Official Code § 8-111.04 or 20 DCMR § 800.1(b)-(c) (failure to obtain asbestos abatement permit or license); or
- (z) 20 DCMR § 800.3 (failure to comply with requirements for obtaining an asbestos abatement permit or license).

4001.3 In addition to §§ 4001.1, 4001.2 and 4001.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 800.5 (failure to comply with requirements for applying for or renewing an asbestos abatement permit or license);
- (b) 20 DCMR § 800.6(a), (b), (c), (d), (e), or (f) (failure to comply with requirements for providing asbestos worker protection);
- (c) 20 DCMR § 800.7(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), or (l) (failure to implement asbestos abatement control measures);
- (d) 20 DCMR § 801.1 (purchasing, selling, offering for sale, storing, transporting, or using fuel oil which contains more than one percent (1%) sulfur);
- (e) 20 DCMR § 802.1 (purchasing, selling, offering for sale, storing, transporting, or using coal which contains more than one percent (1%) sulfur);
- (f) 20 DCMR § 803.1 (failure to comply with sulfur emission limit);
- (g) 20 DCMR § 803.3 (adding diluted air to the exhaust gas stream to avoid compliance with sulfur emission limit);
- (h) 20 DCMR § 804.1 (failure to comply with NO_x standard for fuel burning equipment);

- (i) 20 DCMR § 805.4(a) (failure to comply with combustion turbine emission standards);
- (j) 20 DCMR § 805.4(d) (failure to maintain continuous compliance with combustion turbine emission standards as demonstrated by testing or continuous emission monitoring system);
- (k) 20 DCMR § 805.5(b) or (c) (failure to comply with NO_x emission rates for fossil-fuel-fired steam-generating units);
- (l) 20 DCMR § 805.5(e) (failure to maintain continuous compliance with NO_x emission rates for fossil-fuel-fired steam-generating units as demonstrated by testing or continuous emission monitoring system);
- (m) 20 DCMR § 805.6(a) or (b) (failure to comply with NO_x emission rates for asphalt concrete plants);
- (n) 20 DCMR § 805.6(d) (failure to maintain continuous compliance with NO_x emission rates for asphalt concrete plants as demonstrated by testing or continuous emission monitoring system);
- (o) 20 DCMR § 805.7(a) (emissions in excess of an emission rate achievable through the implementation of RACT as demonstrated in an emission control plan);
- (p) 20 DCMR § 805.7(b) (failure to reduce emissions as required by RACT emission control plan);
- (q) 20 DCMR § 805.7(d) (failure to install and operate a CEM); or
- (r) 20 DCMR § 805.8 (failure to comply with requirements for adjusting combustion process).

4001.4 In addition to §§ 4001.1, 4001.2, and 4001.3, violation of any of the following provisions shall be a Class 1 infraction:

- (a) [Reserved]

4001.5 In addition to §§ 4001.6, 4001.7, 4001.8 and 4001.9, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 107.2 (failure to provide required notice of air pollution control equipment shutdown);
- (b) 20 DCMR § 107.3 (failure to comply with an air pollution control notice concerning operation during a period of maintenance or repair);

- (c) 20 DCMR § 202.2 (failure to observe permit terms or conditions or submission of false statement of fact);
- (d) 20 DCMR § 208.24 (failure to use a PAL monitoring system that meets specified requirements);
- (e) 20 DCMR § 208.35 (failure to submit required semiannual PAL monitoring reports or prompt deviation reports);
- (f) 20 DCMR § 301.1 (failure to submit a timely and complete permit application or renewal);
- (g) 20 DCMR § 302.9 (failure to keep records or notify of changes in operations or emissions);
- (h) 20 DCMR § 302.2 (failure to comply with terms and conditions of permit issued under 20 DCMR Chapter 3);
- (i) 20 DCMR § 303.8 (failure to follow procedures for applying for termination of permit);
- (j) 20 DCMR § 500.1 (failure to file written reports);
- (k) 20 DCMR § 500.2 (failure to maintain/provide records regarding emissions);
- (l) 20 DCMR § 502.1 (failure to conduct air pollutant emission tests);
- (m) 20 DCMR § 502.2 (failure to provide sampling facility/fuel sample);
- (n) 20 DCMR § 502.5 (failure to properly undertake NO_x, SO₂, or PM emissions tests);
- (o) 20 DCMR § 502.6 (failure to properly undertake tests for sulfur content of fuels);
- (p) 20 DCMR § 502.14 (failure to properly undertake tests of sources of hazardous air pollutants);
- (q) 20 DCMR § 502.16 (failure to properly perform tests of gasoline and gasoline-oxygenate blends);
- (r) 20 DCMR § 502.17 (failure to properly perform tests for emissions of volatile organic compounds);

- (s) 20 DCMR § 600.2 (failure to properly test for PM emissions from fuel burning equipment);
- (t) 20 DCMR § 600.3 (failure to properly test for PM emissions from fuel burning equipment equipped for the blowing of soot);
- (u) 20 DCMR § 600.4 (specially tuning or optimizing fuel burning equipment before performance testing);
- (v) 20 DCMR § 600.6 (failure to use method in 40 C.F.R. § 60.45(f)(5) when calculating performance test results for fuel burning equipment);
- (w) 20 DCMR § 600.7 (blowing of soot from solid fuel burning equipment between 4:00 p.m. and 10:00 a.m.);
- (x) 20 DCMR § 601.1 (selling/installing/using rotary cup burner);
- (y) 20 DCMR § 601.2 (selling/using fuel oil in rotary cup burner); or
- (z) 20 DCMR § 605.1 (failure to minimize fugitive dust).

4001.6

In addition to §§ 4001.5, 4001.7, 4001.8 and 4001.9, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 605.2 (emission of fugitive dust from other specified activities);
- (b) 20 DCMR § 606.1 (visible emission from stationary source);
- (c) 20 DCMR § 606.2 (visible emission from fuel-burning equipment placed in initial operation before January 1, 1977);
- (d) 20 DCMR § 606.3(a), (b), (c), or (d) (failure to comply with requirements for an exception to 20 DCMR § 606.1);
- (e) 20 DCMR § 606.4 (failure to maintain/operate equipment as required);
- (f) 20 DCMR § 606.6 (failure to adequately train/supervise personnel);
- (g) 20 DCMR § 700.2 (failure to comply with VOC emissions limits);
- (h) 20 DCMR §§ 701.1, 701.4, 701.5, 701.6, 701.7, 701.8, 701.9, 701.10, 701.11, 701.13 (failure to comply with requirements for storage of petroleum liquid);

- (i) 20 DCMR §§ 703.1, 703.2, 703.3, 703.4, 703.5, 703.6, or 703.7 (failure to comply with requirements for maintaining/operating terminal vapor recovery system);
- (j) 20 DCMR § 704.1 (failure to transfer volatile organic compounds or gasoline from delivery vessel to stationary source container as prescribed);
- (k) 20 DCMR § 704.2 (Stage I vapor recovery system does not include a return line or condensation system);
- (l) 20 DCMR § 704.3 (vapor-tight return system is not properly constructed);
- (m) 20 DCMR § 704.4(a) (delivery vessel not refilled at facility with ninety percent (90%) vapor recovery system);
- (n) 20 DCMR § 704.4(b) (failure to conduct annual delivery vessel leak test);
- (o) 20 DCMR § 704.4(d) (failure to remove failed delivery vessel from service);
- (p) 20 DCMR § 705.1 (failure to use prescribed equipment to transfer gasoline to any vehicular fuel tank from any stationary storage container);
- (q) 20 DCMR § 708.2 (failure to comply with emission limits for non-photochemically reactive solvents);
- (r) 20 DCMR § 709.1 (manufacturing, mixing, storing, using, or applying cutback asphalt between April 1st and September 30th);
- (s) 20 DCMR § 710.1 (failure to operate in compliance with requirements for intaglio, flexographic, or rotogravure printing);
- (t) 20 DCMR § 710.4 (failure to comply with VOC limits for inks, wiping solutions, and fountain solutions for intaglio, flexographic, or rotogravure printing);
- (u) 20 DCMR § 710.10 (failure to minimize ink usage in intaglio printing);
- (v) 20 DCMR § 710.12 (failure to minimize and restrict openings of containers that hold or convey VOC-containing materials in connection with intaglio, flexographic, or rotogravure printing);

- (w) 20 DCMR § 710.13 (failure to prevent leaking from printing unit/equipment in connection with intaglio, flexographic, or rotogravure printing);
- (x) 20 DCMR § 710.14 (failure to properly store or dispose of any solvent-containing material in connection with intaglio, flexographic, or rotogravure printing);
- (y) 20 DCMR § 710.15 (failure to minimize use of VOC-containing material in operation of intaglio, flexographic, or rotogravure printing units/equipment); or
- (z) 20 DCMR § 714.1 (failure to comply with VOC emission limit for units within a specified Control Techniques Guidelines category).

4001.7 In addition to §§ 4001.5, 4001.6, 4001.8 and 4001.9, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 714.7 (failure of facility subject to 20 DCMR § 714.1(a) to comply with requirements for storage, spills, conveyance, closing of containers, or cleaning of VOC-containing materials);
- (b) 20 DCMR § 714.8 (failure of a facility subject to 20 DCMR § 714.1 to maintain required emissions and compliance records);
- (c) 20 DCMR § 716.1 (failure to operate in compliance with requirements for offset lithography or letterpress printing operations);
- (d) 20 DCMR § 716.5 (failure to comply with VOC limits for fountain solution used in offset lithography printing operations before January 1, 2012);
- (e) 20 DCMR § 716.6 (failure to comply with VOC limits for fountain solution used in offset lithography printing operations after January 1, 2012);
- (f) 20 DCMR § 716.8 (failure to comply with VOC limits for cleaning solutions used in offset lithography and letterpress printing operations);
- (g) 20 DCMR § 716.9 (failure to keep cleaning solutions and towels in closed containers in conjunction with offset lithography or letterpress printing operations);

- (h) 20 DCMR § 716.16 (using dryers or inks without reducing VOC emissions as specified in conjunction with specified heatset web offset lithography or heatset letterpress printing operations);
- (i) 20 DCMR § 716.17 (adding diluent air to exhaust gas stream to comply with 20 DCMR § 716.16);
- (j) 20 DCMR § 716.20 (failure to install, calibrate, maintain, and operate temperature monitoring device for specified lithography or letterpress printing operations);
- (k) 20 DCMR § 716.21 (failure to comply with requirements relating to openings of containers of VOC-containing materials in conjunction with offset lithography or letterpress printing operations);
- (l) 20 DCMR § 716.22 (failure to comply with requirements relating to leakage of VOC-containing materials in conjunction with offset lithography or letterpress printing operations);
- (m) 20 DCMR § 716.23 (failure to comply with requirements relating to storage or disposal of VOC-containing materials in conjunction with offset lithography or letterpress printing operations);
- (n) 20 DCMR § 716.24 (failure to minimize use of VOC-containing material in operation of offset lithography or letterpress printing units/equipment);
- (o) 20 DCMR § 716.25 (failure of offset lithography or letterpress printing operation to maintain required emissions and compliance records);
- (p) 20 DCMR §§ 717.1, 717.2, or 717.3 (failure to comply with operating and emissions control requirements of groundwater remediation systems);
- (q) 20 DCMR § 718.3 (application of mobile equipment repair and refinishing coatings exceeding VOC limits);
- (r) 20 DCMR § 718.5 (failure to use a proper application technique for mobile equipment repair and refinishing coatings);
- (s) 20 DCMR § 727.3 (failure to provide written notice of sell-through period for contact adhesives, electronic cleaners, footwear or leather care products, or general purpose degreasers containing methylene chloride, perchloroethylene, or trichloroethylene);

- (t) 20 DCMR § 728.3 (failure to provide written notice of sell-through period for adhesive removers, electrical cleaners, or graffiti removers containing methylene chloride, perchloroethylene, or trichloroethylene);
- (u) 20 DCMR § 729.3 (failure to provide written notice of sell-through period for solid air fresheners or toilet/urinal care products that contain para-dichlorobenzene);
- (v) 20 DCMR §§ 733.1, 733.2, 733.3, or 733.5 (failure to report information on consumer products);
- (w) 20 DCMR § 734 (failure to comply with testing methods or maintain accurate records for consumer products);
- (x) 20 DCMR § 744.6 (failure of any person using adhesives, sealants, adhesive primers, sealant primers, or surface preparation or cleanup solvents to comply with requirements for storage and disposal, spills, conveyance, closing of containers, or cleaning of equipment);
- (y) 20 DCMR § 745.5 (failure to maintain monthly operational records demonstrating exemption from requirements for adhesives, sealants, adhesive primers, sealant primers, cleanup solvents, or surface preparation solvents); or
- (z) 20 DCMR §§ 746.1, 746.2, 746.3, or 746.4 (failure to maintain records of compliance with regulations relating to adhesives and sealants).

4001.8

In addition to §§ 4001.5, 4001.6, 4001.7 and 4001.9, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 747 (failure to comply with test methods and compliance procedures for adhesives and sealants);
- (b) 20 DCMR § 749 (failure to use proper methods for applying adhesives and sealants);
- (c) 20 DCMR § 752.1 (selling, offering for sale, advertising, manufacturing, introducing, delivering, or importing portable fuel containers and spouts not certified through CARB or covered by a CARB Executive Order);
- (d) 20 DCMR § 755 (failure to follow portable fuel container and spout testing procedures);
- (e) 20 DCMR § 770.8 (failure to provide written information to purchaser of solvents for use in solvent cleaning operation);

- (f) 20 DCMR § 770.10 (failure to maintain records on applicability of and compliance with requirements for industrial cleaning solvents);
- (g) 20 DCMR § 771.3 (failure to comply with requirements for storage, spills, conveyance, closing of vessels, minimizing emissions, or cleaning of VOC-containing materials in connection with operations and processes subject to 20 DCMR § 771.1);
- (h) 20 DCMR § 771.4 (failure to maintain records in connection with operations and processes subject to 20 DCMR § 771.1);
- (i) 20 DCMR § 778 (failure to comply with testing methods for AIM products);
- (j) 20 DCMR § 800.4(b) (failure to properly notify of resilient floor covering removals);
- (k) 20 DCMR § 805.3(a), (c), (d), (e), and (f) (failure to timely submit and receive approval for an emission control plan prior to implementation of NOx RACT);
- (l) 20 DCMR § 805.7(e) (failure to maintain and make available daily records demonstrating compliance with NOx emission rates);
- (m) 20 DCMR § 805.7(f) (failure to perform tests that demonstrate NOx compliance); or
- (n) D.C. Official Code § 8-111.11 (failure to maintain and make available asbestos abatement records).

4001.9 In addition to §§ 4001.5, 4001.6, 4001.7, and 4001.8, violation of any of the following provisions shall be a Class 2 infraction:

- (a) [Reserved]

4001.10 In addition to § 4001.11, violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 200.6(g) (failure to maintain and make available upon request individual response document regarding source category permit application);
- (b) 20 DCMR §§ 200.7 or 200.8 (failure to submit permit applications on the correct forms or to supply necessary data and information);

- (c) 20 DCMR § 204.17 (failure of a project not considered a major modification to maintain, make available, and submit with permit application required information);
- (d) 20 DCMR §§ 208.17 or 208.18 (failure to submit a timely and complete application to request renewal of a PAL);
- (e) 20 DCMR § 301.2 (failure to promptly submit supplementary, corrected, or additional information in connection with permit application);
- (f) 20 DCMR § 301.3 (failure to submit a timely and complete permit application on the prescribed forms or to include all necessary and required information);
- (g) 20 DCMR § 502.4 (failure to submit test reports as required);
- (h) 20 DCMR § 730.5 (failure to submit written application with required information for certification of charcoal lighter material formulation);
- (i) 20 DCMR § 735.8 (failure to maintain and make available ACP records);
- (j) 20 DCMR §§ 764.2, 764.3, 764.4, 764.5, 764.6, or 764.7 (failure to comply with requirements for cold cleaning machines);
- (k) 20 DCMR §§ 765.2, 765.3, 765.4, or 765.5 (failure to comply with requirements for batch vapor cleaning machines);
- (l) 20 DCMR §§ 766.2, 766.3, or 766.4 (failure to comply with requirements for in-line vapor cleaning machines);
- (m) 20 DCMR §§ 767.2, 767.3, 767.4, 767.5, 767.6, 767.7, or 767.8 (failure to comply with requirements for airless and airtight cleaning machines);
- (n) 20 DCMR §§ 768.2, 768.3, 768.4, 768.5, 768.6, 768.7, or 768.8 (failure to meet alternative compliance requirements for solvent cleaning machines);
- (o) 20 DCMR §§ 777 (failure to properly submit AIM coating reports);
- (p) 20 DCMR § 800.9 (failure to timely notify building occupants of impending asbestos abatement);
- (q) 20 DCMR § 805.3(b) (failure to submit notification of compliance with 20 DCMR § 805.8);
- (r) 20 DCMR § 805.4(b)(1) (failure to maintain in a logbook dates and hours of combustion turbine operation);

- (s) 20 DCMR § 900.1 (idling engine for more than three (3) minutes); or
- (t) 20 DCMR § 903.1 (emitting odorous or other air pollutant).

4001.11 In addition to § 4001.10, violation of any of the following provisions shall be a Class 3 infraction:

- (a) [Reserved]

4001.12 In addition to § 4001.13, violation of any of the following provisions shall be a Class 4 infraction:

- (a) 20 DCMR § 604.1 (open burning);
- (b) 20 DCMR § 704.4(e) (failure to post leak test certificate on tank truck);
- (c) 20 DCMR § 704.4(f) (loading/unloading tank truck with no certificate);
- (d) 20 DCMR § 704.6 (operating or maintaining delivery system/vessels or vapor collection/recovery system with a vapor or liquid leakage or spillage);
- (e) 20 DCMR § 705.6 (failure to comply with requirements for a vapor balance system);
- (f) 20 DCMR § 705.7 (failure to maintain/operate balance system);
- (g) 20 DCMR § 705.8 (refueling with nozzle not designed to automatically shutoff when tank is full);
- (h) 20 DCMR § 705.10 (failure to maintain/operate Stage II vapor recovery system);
- (i) 20 DCMR § 705.12 (failure to post operating instructions/warnings for Stage II vapor recovery system);
- (j) 20 DCMR § 705.13 (failure to install/operate vapor control systems/components per required standards);
- (k) 20 DCMR §§ 706.1, 706.2, 706.3, 706.4, 706.5, 706.7, 706.8, 706.9, 706.10, 706.11, or 706.13 (failure to comply with VOC emission requirements for petroleum dry cleaners);

- (l) 20 DCMR § 718.4 (failure to provide documentation of VOC content of mobile equipment repair and refinishing coatings);
- (m) 20 DCMR § 718.8 (failure to comply with housekeeping, pollution prevention, and training measures in connection with mobile equipment repair and refinishing coatings);
- (n) 20 DCMR § 730.7 (failure to timely notify regarding change in charcoal lighter material);
- (o) 20 DCMR § 731.1 (failure to properly label floor wax strippers);
- (p) 20 DCMR § 732 (failure to comply with requirements for labeling consumer products);
- (q) 20 DCMR § 735.2 (failure to submit ACP agreement);
- (r) 20 DCMR § 735.4 (failure to properly submit ACP application);
- (s) 20 DCMR § 735.10 (failure to comply with requirements for use of surplus reductions);
- (t) 20 DCMR § 735.11 (failure to comply with requirements for limited-use surplus reduction credits for early reformulations of ACP products);
- (u) 20 DCMR § 736.1 (failure to submit CARB Innovative Product exemption for consumer products);
- (v) 20 DCMR § 748 (failure to properly label adhesives, sealants, adhesive primers, or sealant primers);
- (w) 20 DCMR § 757 (failure to submit required information, applications, or notifications related to Innovation Product exemption for portable fuel containers and spouts);
- (x) 20 DCMR § 758.2 (failure to submit copy of CARB variance decision for portable fuel containers and spouts);
- (y) 20 DCMR § 769 (failure to conduct record keeping, testing, and monitoring for solvent cleaning operations as required); or
- (z) 20 DCMR § 774.4 (failure to close AIM container when not in use).

4001.13 In addition to § 4001.12, violation of the following provision shall be a Class 4 infraction:

- (a) 20 DCMR § 776 (failure to properly label AIM coatings); or
- (b) 20 DCMR § 901.1 (visible emission for more than ten (10) seconds from vehicle).

4001.14 Violation of any of the following provisions shall be a Class 5 infraction:

- (a) 20 DCMR § 718.7 (failure to properly clean spray gun for applying mobile equipment repair and refinishing coatings);
- (b) 20 DCMR § 735.13 (failure to submit required notification of change in ACP product);
- (c) 20 DCMR § 735.14 (failure to submit required information and obtain pre-approval of modifications to the enforceable sales record or reconciliation of shortfalls plan specified in ACP Agreement);
- (d) 20 DCMR § 735.15 (failure to timely submit written notice of new information that may alter ACP submission);
- (e) 20 DCMR § 735.23 (failure to timely submit required notification of ACP transfers and provide required written declaration); or
- (f) 20 DCMR § 754 (failure to comply with labeling requirements for portable fuel containers and spouts).

4001.15 Violation of any provision of the Air Quality Regulations, 20 DCMR Chapters 1 through 20, which provision or rule is not cited elsewhere in this section, shall be a Class 4 infraction.

Section 3650, TOXIC SUBSTANCES DIVISION (PESTICIDE PROGRAM) INFRACTIONS, is repealed and replaced with a new Section 4002, PESTICIDE INFRACTIONS, to read as follows:

4002 PESTICIDE INFRACTIONS

4002.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 2200.1 (manufacture, sale, shipment, use, or application of a pesticide not registered with the United States Environmental Protection Agency (EPA); use of a pesticide in manner not specified or approved by EPA);

- (b) 20 DCMR § 2204.1 (administering a pesticide by a person who is neither licensed nor a registered employee acting under the supervision of a licensed applicator);
- (c) 20 DCMR § 2207.3 (falsifying, refusing, or neglecting to maintain or make available required records);
- (d) 20 DCMR § 2207.9 (making a false or fraudulent record, invoice, or report);
- (e) 20 DCMR § 2207.10 (aiding, abetting, or conspiring to evade pesticide laws or regulations);
- (f) 20 DCMR § 2207.11 (making a fraudulent or misleading statement during or after an inspection of a pest infestation);
- (g) 20 DCMR § 2207.12 (impersonating a federal, state, or District inspector or official);
- (h) 20 DCMR § 2207.13 (distributing an adulterated pesticide);
- (i) 20 DCMR § 2210.5 (failure to apply a pesticide in a manner to prevent harmful effects to the environment);
- (j) 20 DCMR § 2210.8 (performing an inspection for wood-destroying organisms by a pesticide operator who is not licensed in the “Wood Destroying Organisms” subcategory as described in 20 DCMR § 2301.1(d)(2));
- (k) 20 DCMR § 2211.1 (disposing, storing, or discarding a pesticide container or rinsate in a manner that causes or may cause injury to humans, vegetation, crops, livestock, wildlife, or pollinating insects, or that pollutes any waterway or waterway supply);
- (l) 20 DCMR § 2211.3 (handling, transporting, storing, displaying, or distributing a pesticide in a manner that endangers humans, the environment, food, feed, or any product);
- (m) 20 DCMR § 2215.1 (performing fumigation without being a licensed applicator certified to perform fumigation or without supervision by a licensed applicator certified to perform fumigation);
- (n) 20 DCMR § 2215.2 (failure to train and provide safety equipment to each member of fumigation crew);

- (o) 20 DCMR § 2215.3 (failure to notify the nearest fire station and the Director prior to fumigation);
- (p) 20 DCMR § 2215.5 (failure to conspicuously post warning signs for fumigation);
- (q) 20 DCMR § 2215.7 (failure to have a guard present on-site during fumigation);
- (r) 20 DCMR § 2215.8 (failure of guard to be capable, awake, alert, or to remain on duty at the site at all times);
- (s) 20 DCMR §§ 2215.9 or 2215.10 (failure to comply with a requirement for introducing a fumigant or for allowing re-occupancy after fumigation);
- (t) 20 DCMR §§ 2400.2 or 2400.3 (permitting the use of a pesticide or restricted-use pesticide by a person who is neither a licensed and certified applicator or a registered employee acting under the direct supervision of a licensed applicator); or
- (u) 20 DCMR § 2502.2 (violating a “stop sale, use or removal” order).

4002.2

In addition to § 4002.3, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 2200.3 (distributing a pesticide not registered with the Department);
- (b) 20 DCMR § 2200.7 (failure to distribute a registered pesticide in the registrant’s or manufacturer’s unbroken immediate container);
- (c) 20 DCMR § 2200.8 (failure to comply with a labeling, container, or wrapper requirement);
- (d) 20 DCMR § 2200.9 (detaching, altering, defacing, or destroying a label required by FIFRA);
- (e) 20 DCMR § 2203.1 (failure to obtain a license);
- (f) 20 DCMR § 2205.5 (improper use of a public applicator license);
- (g) 20 DCMR § 2207.1 (using a pesticide in a manner inconsistent with its labeling or in violation of imposed restrictions);
- (h) 20 DCMR § 2207.2 (making a pesticide recommendation that is inconsistent with its labeling or in violation of imposed restrictions);

- (i) 20 DCMR § 2207.4 (using fraud or misrepresentation in applying for certification or a license);
- (j) 20 DCMR § 2207.6 (making a false or fraudulent claim through any media that misrepresents the effect of a pesticide or method to be utilized in its application);
- (k) 20 DCMR § 2207.7 (applying an ineffective or improper pesticide; operating faulty or unsafe equipment);
- (l) 20 DCMR § 2207.8 (using or supervising the use of a pesticide in a faulty, careless, or negligent manner);
- (m) 20 DCMR § 2207.14 (failure to register a pesticide in the District of Columbia);
- (n) 20 DCMR § 2208.1 (distributing a pesticide or device that is misbranded);
- (o) 20 DCMR §§ 2208.3 to 2208.4 or 2208.6 to 2208.14 (failure to comply with a labeling, package, container, or wrapper requirement);
- (p) 20 DCMR § 2208.5 (offering for sale a pesticide under the name of another pesticide or imitation of another pesticide);
- (q) 20 DCMR § 2210.1 (using a pesticide in a manner inconsistent with its labeling, or in violation of a law or regulation);
- (r) 20 DCMR § 2210.2 (failing to maintain equipment);
- (s) 20 DCMR § 2212.1 (failure to instruct an employee on the hazards of pesticide use and proper steps to avoid those hazards);
- (t) 20 DCMR § 2212.2 (failure to provide an employee with necessary safety equipment and protective clothing);
- (u) 20 DCMR § 2212.3 (failure to inform an employee of reentry requirements or provide necessary protective clothing or apparatus if premature reentry is necessary);
- (v) 20 DCMR §§ 2300.1 or 2300.2 (purchasing or using a restricted-use pesticide without a license and not under the direct supervision of a licensed commercial or public applicator, or supervising the use of a restricted-use pesticide without a license);

- (w) 20 DCMR § 2311.9 (failure to instruct an employee on proper pesticide use);
- (x) 20 DCMR §§ 2400.1 or 2400.4 (failure of a person or place of business to obtain a license);
- (y) 20 DCMR § 2400.5 (transferring a pesticide operator license from one business to another); or
- (z) 20 DCMR § 2402.7 (using a restricted-use pesticide without the supervision of a licensed certified applicator during the grace period provided in 20 DCMR § 2402).

4002.3 In addition to § 4002.2, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 2508.10 (failure to report a significant pesticide accident or incident when required to do so by the Director); or
- (b) 20 DCMR § 2509.4 (selling or transferring a restricted-use pesticide to any person other than a licensed certified applicator or authorized representative).

4002.4 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 2200.5 (using or revealing for one's own advantage information relating to the formula of a pesticide registered with the Department);
- (b) 20 DCMR § 2207.5 (refusing or neglecting to comply with a limitation or restriction on a certification or license);
- (c) 20 DCMR § 2210.3 (using a pesticide container for a purpose other than containing the original product);
- (d) 20 DCMR § 2210.6 (applying a pesticide when the wind velocity will cause the pesticide to drift beyond the target area);
- (e) 20 DCMR § 2210.7 (displaying or offering for sale a pesticide in a container which is damaged or has a damaged or obscure label);
- (f) 20 DCMR §§ 2305.1 or 2307.4 (failure to renew certification);
- (g) 20 DCMR § 2311.1 (applying a pesticide without the direct supervision of a licensed certified applicator);

- (h) 20 DCMR §§ 2403.2, 2403.3, 2403.6, or 2403.7 (failure to comply with liability insurance requirements);
- (i) 20 DCMR § 2507.3 (failure to renew a license on or before the first day of a licensure period);
- (j) 20 DCMR §§ 2508.1 to 2508.3, 2508.5 to 2508.7, or 2508.11 to 2508.13 (failure to comply with a record keeping requirement or provide records or other information);
- (k) 20 DCMR §§ 2509.1 to 2509.3 (failure to comply with a record keeping requirement for or provide records on restricted-use pesticides);
- (l) D.C. Official Code § 8-403.01(a) or 8-403.04 (failure to provide customer with required information before a pesticide application);
- (m) D.C. Official Code § 8-403.01(b) (failure to provide customer with advance notice of a pesticide application upon request); or
- (n) D.C. Official Code § 8-403.02 (failure to provide tenant and resident with required information before a pesticide application).

4002.5

Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 20 DCMR §§ 2204.4 or 2204.5 (failure to register an employee who works under the direct supervision of a licensed, certified applicator within thirty (30) days of employment);
- (b) 20 DCMR § 2204.8 (failure to give written notice of termination of registered employee within thirty (30) days of termination or failure to return terminated employee's identification card);
- (c) 20 DCMR § 2210.4 (failure to use an effective anti-siphon device for equipment);
- (d) 20 DCMR § 2214.1 (failure to post a sign at the time of pesticide application that meets the requirements of 20 DCMR § 2214);
- (e) 20 DCMR § 2300.18 (failure to post license conspicuously);
- (f) 20 DCMR § 2300.19 (failure to make license accessible for inspection);
- (g) 20 DCMR § 2306.4 (failure to submit credentials and license to employer after termination of employment);

- (h) 20 DCMR § 2306.5 (failure to notify the Director of the termination of an employee and return a terminated employee's license and credentials to the Director within ten (10) working days of employee submitting license and credentials);
- (i) 20 DCMR § 2311.7 (failure to have a pesticide label at work site);
- (j) 20 DCMR § 2400.6 (failure to surrender a license within ten (10) working days of termination of a business);
- (k) 20 DCMR § 2400.8 (failure to post license conspicuously);
- (l) 20 DCMR § 2400.9 (failure to make license accessible for inspection);
- (m) 20 DCMR § 2402.2 (failure to post certificate conspicuously or make accessible during normal business hours for inspection); or
- (n) 20 DCMR § 2402.4 (failure to notify the Director when supervision by a licensed certified applicator is not available).

4002.6 Violation of any provision of the Pesticide Operations Act of 1977, effective April 18, 1978 (D.C. Law 2-70, as amended; D.C. Official Code §§ 8-401 to 8-419), or the implementing rules in 20 DCMR Chapters 22 through 25 which is not cited elsewhere in this section, shall be a Class 5 infraction.

Section 3662, LEAD-BASED PAINT ABATEMENT AND CONTROL INFRACTIONS, is repealed and replaced with a new Section 4003, LEAD-BASED PAINT ACTIVITIES INFRACTIONS, to read as follows:

4003 LEAD-BASED PAINT ACTIVITIES INFRACTIONS

4003.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) D.C. Official Code § 8-231.02(b) (applying a lead-based paint or glaze to any surface of a residential, public, or commercial building, bridge, or other structure or superstructure, or on any paved surface);
- (b) D.C. Official Code § 8-231.05(b)(1) (continuing work stopped by a Department order);
- (c) 20 DCMR § 3304.2 (applying paint with a lead content of more than 0.009%, in accordance with 16 C.F.R. § 1303.1);
- (d) 20 DCMR § 3316.4 (failure to obtain a permit for raze or demolition of a pre-1978 building);

- (e) 20 DCMR § 3318.5(b) (failure to obtain a permit required by 20 DCMR § 3316 before beginning abatement work);
- (f) 20 DCMR § 3318.8 (clearance examination conducted by a prohibited individual following elimination of a lead-based paint hazard);
- (g) 20 DCMR § 3319.4 (failure to timely comply with relocation as ordered by DDOE);
- (h) 20 DCMR § 3321.1(b) (misrepresenting facts relating to a lead-based paint activity to a client, customer, or DDOE);
- (i) 20 DCMR § 3321.1(c) (making a false statement or misrepresentation material to the issuance, modification, or renewal of a certification, permit, or accreditation); or
- (j) 20 DCMR § 3321.1(d) (submitting a false or fraudulent record, invoice, or report).

4003.2

In addition to § 4003.3, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 3300.2 (failure to maintain structures built before 1978 free of “lead-based paint hazards”);
- (b) 20 DCMR § 3302.4(a)(1) (failure to comply with 40 C.F.R. § 745.226 (regarding certification of individuals and firms engaged in lead-based paint activities) and 40 C.F.R. § 745.227 (regarding work practice standards for lead-based paint activities), or any successor regulation of EPA);
- (c) 20 DCMR § 3302.4(a)(2) (failure to comply with U.S. Department of Labor, Occupational Safety and Health Administration standards relating to lead, including those found at 29 C.F.R. § 1926.62 (construction work) and 29 C.F.R. § 1910.1025) (occupational exposure to lead generally), and any successor regulations);
- (d) 20 DCMR § 3302.4(a)(3) (failure to comply with any requirement of 24 C.F.R. Part 35 (lead-based poisoning prevention for residential structures) and any successor regulations);
- (e) 20 DCMR § 3302.4(b) (use of any prohibited method of paint removal in violation of 24 C.F.R. § 35.140 and 20 DCMR § 3304 (prohibited methods of paint removal));

- (f) 20 DCMR § 3304.1 (engaging in a prohibited practice when performing any lead-based paint activity or any renovation activity that disturbs presumed lead-based paint);
- (g) 20 DCMR § 3306.6 (failure to comply with the provisions of 20 DCMR §§ 3302, 3304, and all other applicable laws);
- (h) 20 DCMR § 3310.1 (failure to obtain a renovation permit from DDOE);
- (i) 20 DCMR § 3311.2(b) (failure to ensure that employees and sub-contractors of a business entity or firm conducting a lead-based paint activity, clearance examination, or renovation comply with 20 DCMR §§ 3302, 3304, and 3310);
- (j) 20 DCMR § 3316.1 (failure by an individual or business entity to obtain an abatement permit from DDOE before performing abatement activity);
- (k) 20 DCMR § 3316.3(c) (engaging in a prohibited practice enumerated in § 3304 during raze or demolition of a pre-1978 building);
- (l) 20 DCMR § 3316.9 (abatement performed by an individual not certified as a lead abatement worker or supervisor);
- (m) 20 DCMR § 3316.10(f) (undertaking any other raze or demolition activity before submitting a clearance report to DDOE);
- (n) 20 DCMR § 3317.8 (failure to verify that workers engaged in lead-based paint activities are properly trained or certified under the requirements in 20 DCMR Chapter 33 and that such requirements are clearly articulated in accordance with 20 DCMR § 3317.3);
- (o) 20 DCMR § 3318.5(c) (failure to ensure that persons performing an abatement activity are certified and adhere to the lead-safe work practice requirements under 20 DCMR § 3302);
- (p) 20 DCMR § 3318.5(d) (failure to timely submit a copy of the clearance report to DDOE and tenant that has been prepared by a risk assessor pursuant to D.C. Official Code § 8-231.11(f)(1), and that complies with the clearance report requirements under 20 DCMR § 3318.7);
- (q) 20 DCMR § 3318.6(a) (failure to timely comply with a DDOE order to apply interim controls, in conformance with D.C. Official Code § 8-231.15(a));

- (r) 20 DCMR § 3318.6(b) (failure to ensure that workers applying interim controls are certified, trained in lead-safe work practices under 20 DCMR § 3302, and adhere to lead-safe work practices);
- (s) 20 DCMR § 3318.6(c) (failure to comply with rules for the application of interim controls under 20 DCMR § 3315);
- (t) 20 DCMR § 3319.1 (failure to take all necessary steps to provide temporary comparable alternative living arrangements whenever DDOE orders relocation due to the presence of lead-based paint hazards);
- (u) 20 DCMR § 3319.1(a) (failure to provide tenant with timely written notice of relocation);
- (v) 20 DCMR § 3319.1(b) (failure to provide tenant with written, signed statement of right to return);
- (w) 20 DCMR § 3319.1(c) (failure to minimize duration of any temporary relocation);
- (x) 20 DCMR § 3319.1(d) (failure to offer any appropriate temporary relocation units within same property);
- (y) 20 DCMR § 3319.1(e) (failure to offer any appropriate temporary relocation units within same school district or ward and close to public transportation); or
- (z) 20 DCMR § 3319.1(f) (failure to offer other reasonably located, appropriate, and available temporary relocation units if no such unit described in (y) above is available).

4003.3 In addition to § 4003.2, violation of the following provision shall be a Class 2 infraction:

- (a) 20 DCMR § 3319.2 (failure to pay all reasonable temporary relocation expenses).

4003.4 In addition to §§ 4003.5 and 4003.6 violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 3302.1 (failure to use lead-safe work practices for an activity that may generate a lead-based paint hazard, in 20 DCMR Chapter 3302 and D.C. Official Code § 8-231.11);
- (b) 20 DCMR § 3302.3 (failure by an individual, firm, or entity to comply with each specified lead-safe work practice);

- (c) 20 DCMR § 3302.4(c) (failure to prevent dispersal of paint dust, chips, debris, or residue, or increasing the risk of public exposure to lead-based paint);
- (d) 20 DCMR § 3302.4(d) (failing to comply with residential property renovation requirements under 40 C.F.R. § 745.80 through 745.92);
- (e) 20 DCMR § 3305.10 (failure to issue course completion certificates with proper expiration dates);
- (f) 20 DCMR § 3306.1 (performing a lead-based paint activity, clearance examination, or renovation without certification by DDOE according to 20 DCMR § 3306 or § 3307 or § 3308, as applicable);
- (g) 20 DCMR § 3307.1 (failure to obtain certification from DDOE for individuals in specified disciplines before performing a renovation, a clearance examination, or any lead-based paint activity except for interim controls);
- (h) 20 DCMR § 3309.1(b) (failure of a dust sampling technician to comply with clearance examination requirements under 20 DCMR §§ 3310.4-8 or 3314.9 and 3314.10, as applicable);
- (i) 20 DCMR § 3309.2 (dust sampling technician conducting initial clearance examination activities for prohibited purposes);
- (j) 20 DCMR § 3310.4 (failure to perform a clearance examination following work that required a renovation permit);
- (k) 20 DCMR § 3310.6 (failure to have a clearance examination conducted by a required person);
- (l) 20 DCMR § 3310.7 (failure to file a clearance report with DDOE within seven (7) business days following the clearance examination);
- (m) 20 DCMR § 3310.9 (failure to comply with 40 C.F.R. § 745.85(a) (work practice standards for renovation activities) and § 745.85(b) (standards for post-renovation cleaning verification) when undertaking renovation work as defined in 40 C.F.R. §§ 745.80 *et seq.* that does not trigger a permit requirement under 20 DCMR Chapter 33);
- (n) 20 DCMR § 3310.16 (failure to use lead-safe work practices as set forth in 20 DCMR §§ 3302 and 3304 for renovation work);

- (o) 20 DCMR § 3311.2(a) (failure to ensure that employees and subcontractors of a business entity conducting a lead-based paint activity, clearance examination, or renovation are certified pursuant to 20 DCMR §§ 3307 or 3308);
- (p) 20 DCMR § 3311.2(c) (failure to ensure that employees and subcontractors of a business entity conducting a lead-based paint activity, clearance examination, or renovation comply with all applicable federal and District laws, regulations, and rules governing the disposal of waste containing lead);
- (q) 20 DCMR § 3313.1 (failure to disclose information about lead-based paint, lead-based paint hazards, and pending actions to a purchaser or tenant of a dwelling unit constructed before 1978);
- (r) 20 DCMR § 3313.2 (failure to provide required disclosures to a purchaser or tenant to purchase or lease a dwelling unit as required);
- (s) 20 DCMR § 3313.3 (failure to provide lead disclosure form and clearance report for units that will be occupied or regularly visited by a child under the age of six (6) or pregnant woman, before tenant is signs a lease for the unit);
- (t) 20 DCMR § 3313.4 (failure to timely provide clearance report for a dwelling unit for which a tenant has notified the owner that a person at risk resides or regularly visits);
- (u) 20 DCMR § 3313.6 (failure to provide tenants with notice of their rights whenever a tenant executes or renews a lease or the owner provides notice of a rent increase);
- (v) 20 DCMR § 3313.8 (failure notify a tenant within ten (10) days of the presence of lead-based paint and to provide a Lead Warning Statement or lead hazard information pamphlet);
- (w) 20 DCMR § 3313.9 (failure to maintain and make available copies of all lead-related reports for a property);
- (x) 20 DCMR § 3313.10 (failure to document and make available for DDOE the date on which a Tenant Rights form under 20 DCMR § 3313.6 was provided to tenant);
- (y) 20 DCMR § 3314.1(a) (failure to provide a prospective tenant with a clearance report, if tenant informs property owner that the household will include a pregnant individual or a child under six (6) years of age); or

- (z) 20 DCMR § 3314.1(b) (failure to give a prospective tenant an acknowledgement form upon receipt of clearance report).

4003.5

In addition to §§ 4003.4 and 4003.6 violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 3314.1(c) (failure to retain a copy of an acknowledgement form for at least six (6) years or make it accessible to DDOE);
- (b) 20 DCMR § 3314.2(a) (failure to provide, upon written request by a tenant who is pregnant or has a child under six (6) years of age, a clearance report issued within twelve (12) months of the request);
- (c) 20 DCMR § 3314.2(b) (failure to ask a tenant sign and date acknowledgement of receipt of the clearance report);
- (d) 20 DCMR § 3314.2(c) (failure to retain a copy of an acknowledgement form or make it accessible to DDOE);
- (e) 20 DCMR § 3314.3 (issuance of clearance report by an unauthorized person);
- (f) 20 DCMR § 3314.8(a) (failure by owner of “lead-free unit” to disclose the presence of enclosed lead-based paint);
- (g) 20 DCMR § 3314.8(b) (failure by owner of “lead-free unit” to provide a tenant with a copy of the property’s Operations and Maintenance Plan);
- (h) 20 DCMR § 3315.5 (issuance of an initial clearance report or any subsequent clearance reports by an unauthorized person);
- (i) 20 DCMR § 3316.2 (failure to have individuals trained in lead-safe work practices perform listed activities);
- (j) 20 DCMR § 3316.3(b) (failure to use lead safe work practices in conformance with § 3302 or properly dispose of components containing presumed or identified lead-based paint during the raze or demolition of a pre-1978 building involving painted surfaces);
- (k) 20 DCMR § 3316.4 (undertaking the raze or demolition of a pre-1978 building without a lead abatement permit as required);
- (l) 20 DCMR § 3316.5 (failure to use approved encapsulation products);

- (m) 20 DCMR § 3316.10 (failure to timely submit a clearance report within seven (7) days following abatement activities undertaken pursuant to 20 DCMR § 3316.4);
- (n) 20 DCMR § 3316.10(a) (failure to conduct a timely clearance examination and repeat examination until a passing clearance report is issued);
- (o) 20 DCMR § 3316.10(b) (performance of clearance examination by an unqualified person);
- (p) 20 DCMR § 3316.10(c) (performance of clearance examination that does not include a visual inspection of, and dust sampling in, common areas on each floor in a multi-family property containing an occupied unit);
- (q) 20 DCMR § 3316.11 (failure to timely submit a clearance report upon completion of abatement activities);
- (r) 20 DCMR § 3316.11(a) (failure to conduct a timely clearance examination upon completion of abatement activities);
- (s) 20 DCMR § 3316.11(b) (performance of clearance examination by an unqualified individual, if there is no Order to Eliminate Lead-Based Paint Hazards);
- (t) 20 DCMR § 3316.11(c) (failure to perform a clearance examination when there is no Order to Eliminate Lead-Based Paint Hazards, as required);
- (u) 20 DCMR § 3316.11(d) (failure to analyze environmental samples taken during a clearance examination by an appropriately accredited lab and to include blank samples as required);
- (v) 20 DCMR § 3318.5(a) (failure to timely comply with a DDOE Order to eliminate a hazard by lead-based paint hazard abatement);
- (w) 20 DCMR § 3318.6(d) (failure to prepare and submit a clearance report, as required);
- (x) 20 DCMR § 3318.7 (failure to conduct a timely clearance examination pursuant to an Order to Eliminate Lead-Based Paint Hazards);
- (y) 20 DCMR § 3318.7(a) (failure to comply with clearance examination requirements, as required, pursuant to a DDOE Order to Eliminate Lead-Based Paint Hazards); or
- (z) 20 DCMR § 3318.7(b) (failure to review specified documents before performing a clearance examination).

4003.6 In addition to §§ 4003.4 and 4003.5, violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 3318.7(c) (failure to provide DDOE with timely notice of a dust test);
- (b) 20 DCMR § 3318.7(d) (failure to transmit results of clearance examination within seven (7) days to a property owner);
- (c) 20 DCMR § 3318.7(e) (failure to address underlying condition of the property that has caused the failure of the clearance examination);
- (d) 20 DCMR § 3318.7(f) (failure to analyze environmental samples taken during a clearance examination by an appropriately accredited lab and to include blank samples, as required); or
- (e) 20 DCMR § 3318.7(g) (failure to include items required in clearance report).

4003.7 In addition to § 4003.8, violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 7301.2 (failure by health care provider or health care facility to document the reason for not performing a BBL test);
- (b) 20 DCMR § 3302.4(a)(4) (failure to comply with any other standard required under 20 DCMR Chapter 33);
- (c) 20 DCMR § 3305.1 (failure of a training provider to obtain accreditation for each training and refresher course for required disciplines);
- (d) 20 DCMR § 3305.3 (failure to timely notify DDOE about a training course or any changes);
- (e) 20 DCMR § 3305.4 (failure to timely notify DDOE about a course cancellation);
- (f) 20 DCMR § 3305.5 (failure to timely provide DDOE with a copy of course certificates awarded, or a list of students who successfully complete a training course);
- (g) 20 DCMR § 3305.6 (failure to timely notify DDOE of any change in key staff);

- (h) 20 DCMR § 3309.1(a) (failure of dust sampling technician to have in their possession at any job site a copy of their DDOE-issued certification card or EPA issued certificate);
- (i) 20 DCMR § 3310.4(a) (failure to conduct required dust sampling in each room that contains a work area, as specified, as part of a clearance examination conducted under 20 DCMR § 3316.2(a) or any provision under 40 C.F.R. § 745.85 (requiring distribution of lead hazard information pamphlet to owners and occupants before beginning renovation));
- (j) 20 DCMR § 3310.4(b) (failure to take proper floor samples for work that involves door replacement under 20 DCMR § 3316.2(a), as part of a clearance examination);
- (k) 20 DCMR § 3310.4(c) (failure to take proper dust samples for exterior work areas and work areas involving exterior windows or doors, as part of a clearance examination);
- (l) 20 DCMR § 3310.4(d) (failure of a lead-based paint inspector or risk assessor to make a required determination of adequate clean soil or ground cover, as part of clearance examination, and to include in clearance report a description of methodology underlying such determination);
- (m) 20 DCMR § 3310.4(e) (failure to timely conduct a clearance examination after completion of renovation or other activities listed in 20 DCMR § 3316.2(a) and (b));
- (n) 20 DCMR § 3310.11 (failure to timely provide pre-renovation education and documentation, as required, to listed recipients before undertaking renovation activity for compensation in a residential property or child-occupied facility);
- (o) 20 DCMR § 3311.4 (failure of business entity or firm performing lead-based paint or renovation activities to comply with recordkeeping requirements of D.C. Official Code §§ 8-231.01 *et seq.*);
- (p) 20 DCMR § 3314.9 (failure to include required elements in a clearance report prepared at change in occupancy of rental units);
- (q) 20 DCMR § 3314.10 (failure to submit environmental samples taken pursuant to 20 DCMR § 3314 to an appropriately accredited lab);
- (r) 20 DCMR § 3315.1 (failure of a person performing interim controls to be trained in the lead-safe work practices set forth in 20 DCMR § 3302);

- (s) 20 DCMR § 3315.2 (failure to provide proof of training in lead-safe work practices upon request by DDOE; failure by business entity to ensure that workers comply with these standards);
- (t) 20 DCMR § 3315.4 (failure to conduct timely clearance examination for non-abatement activities undertaken pursuant to an Order to Eliminate Lead-Based Paint Hazards);
- (u) 20 DCMR § 3315.7(failure to provide timely notice of dust test to DDOE when performing interim controls);
- (v) 20 DCMR § 3315.8 (failure to timely submit a copy of a clearance report to DDOE when performing interim controls).
- (w) 20 DCMR § 3316.6 (use of encapsulation to eliminate lead-based paint hazards on friction or impact surfaces, when identified as part of a Notice of Violation and Order to Eliminate Lead-Based Paint Hazards);
- (x) 20 DCMR § 3316.10(d) (failure to provide timely notice of dust test to DDOE);
- (y) 20 DCMR § 3316.10(e (failure to analyze environmental samples taken during a clearance examination by an appropriately credited lab and to include one blank sample for each permit issued pursuant to 20 DCMR § 3316.4); or
- (z) 20 DCMR § 3317.3 (failure to provide a timely and sufficient written request for permission to enter an occupied residential rental dwelling unit).

4003.8 In addition to § 4003.7, violation of any of the following provisions shall be a Class 4 infraction:

- (a) 20 DCMR § 3317.4 (failure to provide a consent form to a tenant as part of a written request for permission to enter a residential rental dwelling unit under 20 DCMR § 3317.3);
- (b) 20 DCMR § 3317.5 (failure to meet the tenant's reasonable conditions for access to a residential rental dwelling unit under 20 DCMR § 3317.4);
- (c) 22 DCMR § 7301.3 (failure to conduct additional BLL screening under specified circumstances); or

- (d) 22 DCMR § 7301.4 (failure to provide family lead education and referrals for social and environmental services to the family of a child with an elevated blood lead level).

4003.9 Violation of any provision of the Childhood Lead Screening Amendment Act of 2006, effective March 14, 2007, as amended (D.C. Law 16-265; D.C. Official Code §§ 7-871.01 to 7-871.06); the Lead-Hazard Prevention and Elimination Act of 2008, effective March 31, 2009, as amended (D.C. Law 17-381; D.C. Official Code §§ 8-231.01 to 8-231.20); or the implementing rules in 20 DCMR Chapter 33, which is not cited elsewhere in this section, shall be a Class 4 infraction.

Section 3652, HAZARDOUS WASTE INFRACTIONS, is repealed and replaced with a new Section 4007, HAZARDOUS WASTE INFRACTIONS, to read as follows:

4007 HAZARDOUS WASTE INFRACTIONS

4007.1 In addition to §§ 4007.2, 4007.3, and 4007.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) D.C. Official Code § 8-1307(c)-(d) (continuing work stopped by a Department order);
- (b) 20 DCMR § 4202.2 (unlawful disposal of hazardous waste or used oil);
- (c) 20 DCMR § 4202.3(a) (using a surface impoundment for treatment, storage, or disposal of hazardous waste or used oil);
- (d) 20 DCMR § 4202.3(b) (using waste piles to treat, store, or dispose of hazardous waste or used oil);
- (e) 20 DCMR § 4202.3(c) (using land treatment to manage or dispose of hazardous waste);
- (f) 20 DCMR § 4202.3(d) (using landfills for hazardous waste disposal);
- (g) 20 DCMR § 4202.3(e) (land disposal of hazardous waste or any mixture of hazardous waste and any other constituent, whether hazardous or not);
- (h) 20 DCMR § 4202.3(f) (using used oil for dust suppression);
- (i) 20 DCMR § 4202.3(g) (using waste or other material, contaminated or mixed with dioxin or any other hazardous waste, for dust suppression or road treatment);

- (j) 20 DCMR § 4202.3(h) (burning, processing, or incinerating hazardous waste, hazardous waste fuels, or mixtures of hazardous wastes and other materials in any type of incinerator, boiler, or industrial furnace);
- (k) 20 DCMR § 4202.3(i) (burning used oil, whether on-specification or off-specification);
- (l) 20 DCMR § 4202.3(j) (burning waste that meets the comparable fuel or synthesis gas (syngas) fuel specifications);
- (m) 20 DCMR § 4202.3(k) (underground injection of hazardous waste);
- (n) 20 DCMR § 4202.3(l) (accepting hazardous waste at a solid waste facility);
- (o) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.11 by reference), (failure of person who generates a solid waste to determine if the waste is a hazardous waste);
- (p) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.12(a) by reference), (failure of generator to obtain EPA identification number before treating, storing, disposing, transporting, or offering for transportation hazardous waste);
- (q) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.12(c) by reference), (generator offering hazardous waste to transporter or treatment, storage, or disposal facility that has not received an EPA identification number);
- (r) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.20(a) by reference), (failure to prepare required manifest);
- (s) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.20(b) by reference), (failure of generator to designate a facility that is permitted to handle the waste described on the manifest);
- (t) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.23 by reference), (failure of generator to comply with requirements for use of manifest);
- (u) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.31 by reference) (failure of generator to label hazardous waste in accordance with US DOT regulations);
- (v) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.32 by reference), (failure of generator to mark hazardous waste in accordance with US DOT regulations);

- (w) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.33 by reference), (failure of generator to placard hazardous waste or to offer the initial transporter the appropriate placards in accordance with US DOT regulations);
- (x) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.34 by reference), (accumulation of hazardous waste by generator for more than ninety (90) days, or for more than the time periods specified in 40 C.F.R. § 262.34(d), (e), or (f));
- (y) 20 DCMR §§ 4262.1 or 4262.4 (which incorporate 40 C.F.R. § 262.43 by reference), (failure of generator to submit reports required by the Director regarding quantities and disposition of waste); or
- (z) 20 DCMR § 4263.1 (which incorporates 40 C.F.R. § 263.11(a) by reference) or § 4204.2 (failure of transporter to obtain EPA identification number before transporting hazardous waste).

4007.2

In addition to §§ 4007.1, 4007.3, and 4007.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 4263.1 (which incorporates 40 C.F.R. § 263.21 by reference), (failure of transporter to deliver entire quantity of hazardous waste to designated facility, alternate designated facility, next designated transporter, or a place outside the United States; or to contact generator for further directions).
- (b) 20 DCMR § 4263.1 (which incorporates 40 C.F.R. § 263.30(a) by reference), (failure of transporter to take immediate action to protect human health and the environment in the event of discharge during transport);
- (c) 20 DCMR § 4263.1 (which incorporates 40 C.F.R. § 263.30(c) and (d) by reference), (failure of transporter to comply with discharge notification and reporting requirements);
- (d) 20 DCMR § 4263.1 (which incorporates 40 C.F.R. § 263.31 by reference), (failure of transporter to clean up any hazardous waste discharge, or to take required or approved response action);
- (e) 20 DCMR § 4263.2 (transporter storing manifested shipments of hazardous waste at a transfer facility without a RCRA permit);

- (f) 20 DCMR § 4263.3 (transporter parking a vacuum or pump truck or tanker containing hazardous waste at a transfer facility or any other location in the District of Columbia for more than twenty-four (24) hours);
- (g) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.1(j)(1) by reference), (failure of owner or operator of remediation waste management site to obtain EPA identification number);
- (h) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.1(j)(3) by reference), (failure of owner or operator of remediation waste management site to control access to the site);
- (i) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.1(j)(4) by reference), (failure of owner or operator of remediation waste management site to inspect site);
- (j) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.1(j)(4) by reference), (failure of owner or operator of remediation waste management site to remedy identified hazards);
- (k) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.1(j)(5) by reference), (failure of owner or operator of remediation waste management site to provide personnel with required training);
- (l) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.1(j)(6) by reference), (failure of owner or operator of remediation waste management site to take precautions with respect to ignitable, reactive, and incompatible wastes);
- (m) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.1(j)(7) by reference), (failure of owner or operator of remediation waste management site to meet design, construction, operation, or maintenance requirements for units located within a one hundred-year (100-year) floodplain);
- (n) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.1(j)(10) by reference), (failure of owner or operator of remediation waste management site to develop and maintain procedures to prevent accidents or to develop and maintain a contingency and emergency plan);
- (o) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.1(j)(11) by reference), (failure of owner or operator of remediation waste management site to designate employee to coordinate emergency response measures);
- (p) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.11 and 265.11 by reference), (failure of owner or operator to obtain EPA identification number);

- (q) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.14(a)-(b) and 265.14(a)-(b) by reference), (failure of owner or operator to control access to active portion of facility);
- (r) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.15(a) and 265.15(a) by reference), (failure of owner or operator to inspect facility);
- (s) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.17 or 265.17 by reference), (failure of owner or operator to take precautions to prevent accidental ignition or reaction of ignitable or reactive waste);
- (t) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.56 or 265.56 by reference), (failure of owner or operator to follow required emergency procedures);
- (u) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.73 or 265.73 by reference), (failure of owner or operator to comply with operating record requirements);
- (v) 20 DCMR §§ 4264.1 and 4265.1 (which incorporate 40 C.F.R. §§ 264.74 or 265.74 by reference), (failure of owner or operator to furnish records upon request and make records available for inspection);
- (w) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.111 or 265.111 by reference), (failure of owner or operator to comply with closure performance standard);
- (x) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.114 or 265.114 by reference), (failure of owner or operator to properly dispose of or decontaminate equipment, structures, or soils);
- (y) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.117 or 265.117 by reference), (failure of owner or operator to comply with requirements for post-closure care and use of property); or
- (z) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.172 or 265.172 by reference), (failure of owner or operator to use a container that will not react with, or otherwise be incompatible with, the waste to be stored).

4007.3

In addition to §§ 4007.1, 4007.2, and 4007.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.176 and 265.176 by reference), (failure of owner or operator to place containers holding ignitable or reactive waste required distance from facility property line);
- (b) 20 DCMR § 4264.1 (which incorporate 40 C.F.R. § 264.178, by reference), (failure of owner or operator storing containers of hazardous waste to comply with closure standards in 40 C.F.R. § 264.178);
- (c) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.194 or 265.194 by reference), (failure of owner or operator of tank system to comply with general operating requirements for tank or containment systems);
- (d) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.195 or 265.195 by reference), (failure of owner or operator of tank system to perform required inspections);
- (e) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.196 or 265.196 by reference), (failure of owner or operator of tank system to comply with requirements for response to leaks, spills, or disposition of tank systems or secondary containment systems that are unfit for use);
- (f) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.197 or 265.197 by reference), (failure of owner or operator of tank system to perform required closure or post-closure care);
- (g) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.198 or 265.198 by reference), (failure of owner or operator of tank system to comply with special requirements for ignitable or reactive wastes);
- (h) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.199 or 265.199 by reference), (failure of owner or operator of tank system to comply with special requirements for incompatible wastes or incompatible wastes and materials);
- (i) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.1102 or 265.1102 by reference) (failure of owner or operator of containment building to comply with closure or post-closure care standards);
- (j) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.1201 or 265.1201 by reference), (failure of owner or operator storing munitions or explosive hazardous wastes to comply with the design and operating standards);

- (k) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.1202 or 265.1202 by reference), (failure of owner or operator storing munitions or explosive hazardous waste to comply with the standards for closure or post-closure care);
- (l) 20 DCMR § 4270.1 (which incorporates 40 C.F.R. § 270.1(c) by reference), (failure to have required RCRA permit);
- (m) 20 DCMR § 4270.1 (which incorporates 40 C.F.R. § 270.10(f) by reference), (physical construction of hazardous waste management facility without finally effective RCRA permit);
- (n) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. §§ 273.11(a) or 273.31(a) by reference), (universal waste handler disposing of universal waste);
- (o) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. §§ 273.11(b) or 273.31(b) by reference), (universal waste handler diluting or treating universal waste);
- (p) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. §§ 273.13(b) or 273.33(b) by reference), (failure of universal waste handler to manage universal waste pesticides in a way that prevents releases to the environment);
- (q) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. §§ 273.17(a) or 273.37(a) reference), (failure of universal waste handler to immediately contain all releases);
- (r) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. § 273.51(a) by reference), (universal waste transporter disposing of universal waste);
- (s) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. § 273.51(b) by reference), (universal waste transporter diluting or treating universal waste);
- (t) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. § 273.54(a) by reference), (failure of universal waste transporter to immediately contain release of universal waste or other residues from universal waste);
- (u) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. § 273.55(a) by reference), (universal waste transporter transporting universal waste to a place other than a universal waste handler, destination facility, or foreign destination);

- (v) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. § 273.60(a) by reference), (failure of owner or operator of destination facility to comply with notification requirements and permitting requirements of 40 C.F.R. 264, 265, 266, 268, 270, and 124);
- (w) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. § 273.61(a) by reference), (owner or operator of destination facility sending or taking universal waste to a place other than a universal waste handler, another destination facility, or foreign destination);
- (x) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. § 273.61(b) by reference), (failure of owner or operator of destination facility to comply with requirements for rejected shipments);
- (y) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. § 273.61(c) by reference), (failure of owner or operator of destination facility to immediately notify the Department of illegal shipments); or
- (z) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. § 273.62 by reference), (failure of owner or operator of destination facility to keep and retain a record of universal waste shipments received at the facility).

4007.4

In addition to §§ 4007.1, 4007.2, and 4007.3, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. §§ 279.22(d), 279.43(c), 279.45(h), or 279.54(g) by reference), (failure to respond to release or discharge of used oil);
- (b) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.42 by reference), (failure of transporter to obtain EPA identification number before engaging in used oil activity);
- (c) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.43(a) by reference), (failure of used oil transporter to deliver all used oil received to specified facilities);
- (d) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.45(c) by reference), (failure of owner or operator of used oil transfer facility to comply with requirements for containers and above ground tanks used to store used oil);
- (e) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.45(d), (e), or (f) by reference), (failure of owner or operator of used oil transfer facility to meet requirements for secondary containment for containers or tanks);

- (f) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.51(a) by reference), (failure of used oil processor or re-refiner to obtain EPA identification number before engaging in used oil activity);
- (g) 20 DCMR § 4279.6(a) (management of used oil in surface impoundments or waste piles);
- (h) 20 DCMR § 4279.6(b) (use of used oil as a dust suppressant);
- (i) 20 DCMR § 4279.6(c) (burning of used oil, whether on-specification or off-specification);
- (i) 20 DCMR § 4301.1 (unlawfully denying entry to a place or vehicle where materials subject to regulation are or have been located);
- (j) 20 DCMR §§ 4305.2 and 4305.3 (failure or refusal to conduct monitoring or testing, or to take response or corrective measures as directed in a Notice of Violation, Threat, or Release);
- (k) D.C. Official Code § 8-1055(c)(15) (failure of owner or operator of solid waste facility to develop and submit to the Department an inspection, monitoring, and control plan to detect and prevent handling of hazardous, infectious, or radioactive wastes);
- (l) D.C. Official Code § 8-1055(c)(16) (failure of owner or operator of solid waste facility to immediately notify the Department, detain, and secure a shipment containing hazardous, infectious, or radioactive waste); or
- (m) D.C. Official Code § 8-1055(c)(17) (failure of owner or operator of solid waste facility to properly dispose of hazardous, infectious, or radioactive waste).

4007.5 In addition to §§ 4007.6, 4007.7, and 4007.8, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 4206.1 (failure to retain records on-site);
- (b) 20 DCMR § 4261.1 (which incorporates 40 C.F.R. § 261.4(a)(24)(v) and (vii) by reference), (failure of generator of hazardous secondary material to comply with requirements for handling, reclamation facility determinations, recordkeeping, or notice);
- (c) 20 DCMR § 4261.1 (which incorporates 40 C.F.R. § 261.4(a)(24)(vi) and (vii) by reference), (failure of reclaimer of hazardous secondary material to comply with requirements for handling, recordkeeping, financial assurance, or notice);

- (d) 20 DCMR § 4261.7(a) (failure of conditionally exempt small quantity generator to comply with the notification requirements of § 3010 of RCRA);
- (e) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.20(d) by reference), (failure of generator to designate alternate facility or instruct transporter to return waste, if transporter is unable to deliver the hazardous waste to designated facility);
- (f) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.30 by reference), (failure of generator to package hazardous waste in accordance with DOT regulations);
- (g) 20 DCMR § 4262.1 (which incorporate 40 C.F.R. § 262.34(a)(2) by reference), (failure by generator to clearly mark accumulation start date on each container);
- (h) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.34(a)(3) by reference), (accumulation of hazardous waste by generator without labeling or marking container or tank with the words "hazardous waste");
- (i) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.34(a)(4) by reference), (accumulation of hazardous waste by generator without meeting requirements of 40 C.F.R. Part 265, subparts C and D; § 265.16; or § 268.7(a)(5));
- (j) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.40(a) by reference), (failure of generator to keep copy of each manifest for the required period of time);
- (k) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.40(b) by reference), (failure of generator to keep a copy of each biennial report and exception report for the required period of time);
- (l) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.40(c) by reference), (failure of generator to keep records of test results, waste analyses, or other determinations for the required period of time);
- (m) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.41 by reference), (failure to submit biennial report meeting regulatory requirements by March 1st of each even-numbered year);
- (n) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.42(a)(1) by reference), (failure of large quantity generator to contact transporter or

owner or operator of designated facility if generator does not receive properly signed copy of manifest within thirty-five (35) days);

- (o) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.42(a)(2) by reference), (failure of large quantity generator to submit required exception report);
- (p) 20 DCMR § 4262.1 (which incorporates 40 C.F.R. § 262.42(b) by reference), (failure of generator of greater than one hundred (100) kilograms but less than one thousand (1000) kilograms of hazardous waste in a calendar month to comply with requirements for exception reporting);
- (q) 20 DCMR § 4263.1 (which incorporates 40 C.F.R. § 263.20(a) by reference), (acceptance of hazardous waste by transporter without a properly signed manifest; or, for exports, an EPA Acknowledgement of Consent or tracking document, as applicable);
- (r) 20 DCMR § 4263.1 (which incorporates 40 C.F.R. § 263.20(b) by reference), (failure of transporter to sign and date manifest and return signed copy of the manifest to generator before leaving the generator's property);
- (s) 20 DCMR § 4263.1 (which incorporates 40 C.F.R. § 263.20(c) by reference), (failure of transporter to ensure that manifest, or for exports, EPA Acknowledgement of Consent or tracking document, as applicable, accompanies the hazardous waste);
- (t) 20 DCMR § 4263.1 (which incorporates 40 C.F.R. § 263.20(d) by reference), (failure of transporter to obtain date of delivery and required signature on manifest, and to keep and deliver appropriate copies);
- (u) 20 DCMR § 4263.1 (which incorporates 40 C.F.R. § 263.20(f) by reference), (failure of initial rail transporter to meet manifest requirements);
- (v) 20 DCMR § 4263.1 (which incorporates 40 C.F.R. § 263.20(g) by reference), (failure of transporter who transports hazardous waste outside of United States to meet manifest requirements);
- (w) 20 DCMR § 4263.1 (which incorporates 40 C.F.R. § 263.22 by reference), (failure of transporter to maintain copies of manifest and shipping papers, as required);
- (x) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.1(j)(12) by reference), (failure of owner or operator of remediation waste management

site to develop, maintain, and implement a plan to meet the requirements in 40 C.F.R. § 264.1(j)(2) through (j)(6) and (j)(9) through (j)(10));

- (y) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.1(j)(13) by reference), (failure of owner or operator of remediation waste management site to maintain records documenting compliance with 40 C.F.R. § 264.1(j)(1) through (j)(12)); or
- (z) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.13 or 265.13), (failure to comply with waste analysis requirements).

4007.6

In addition to §§ 4007.5, 4007.7, and 4007.8, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.14(c) or 265.14(c) by reference), (failure of owner or operator to post required warning sign(s));
- (b) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.15(d) or 265.15(d) by reference), (failure of owner or operator to record inspections in an inspection log or summary, as required, or to retain records for three (3) years from the date of the inspection);
- (c) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.16 or 265.16 by reference), (failure of owner or operator to ensure that facility personnel successfully complete required training or instruction program);
- (d) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.32 or 265.32 by reference), (failure of owner or operator to equip facility as required);
- (e) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.33 or 265.33 by reference), (failure of owner or operator to test and maintain required equipment);
- (f) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.34 or 265.34 by reference), (failure of owner or operator to provide required access to communications or alarm systems);
- (g) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.35 or 265.35 by reference), (failure of owner or operator to maintain required aisle space);
- (h) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.51 or 265.51 by reference), (failure of owner or operator to have a facility contingency plan, or failure to follow contingency plan);

- (i) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.71 or 265.71 by reference), (failure of owner or operator to comply with manifest system requirements);
- (j) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.75 or 265.75 by reference), (failure of owner or operator to submit a completed biennial report to the Director by March 1 of each even-numbered year);
- (k) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.76 or 265.76 by reference), (failure of owner or operator to submit unmanifested waste report to Director within fifteen (15) days of receiving the waste);
- (l) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.77 or 265.77 by reference), (failure of owner or operator to submit to the Director required additional reports);
- (m) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.90, 264.97, or 265.90 by reference), (failure to comply with groundwater monitoring requirements);
- (n) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.143, 264.145 or 265.143, 265.145 by reference), (failure of owner or operator to comply with financial assurance requirements);
- (o) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.147 or 265.147 by reference), (failure of owner or operator to comply with liability coverage requirements);
- (p) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.171 or 265.171 by reference), (failure of owner or operator to transfer hazardous waste from a container that is not in good condition);
- (q) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.173 or 265.173 by reference), (failure of owner or operator to properly manage containers);
- (r) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.174 or 265.174 by reference), (failure of owner or operator to inspect areas where containers are stored, as required);
- (s) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.175 by reference), (failure of owner or operator to design or operate containment system in accordance with the requirements of 40 C.F.R. § 264.175);

- (t) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.177 or 265.177 by reference), (failure of owner or operator to comply with special requirements for incompatible wastes and materials);
- (u) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.193 or 265.193 by reference), (failure of owner or operator of tank system to provide secondary containment, as required);
- (v) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.1101 or 265.1101 by reference), (failure of owner or operator of containment building to comply with design or operating standards);
- (w) 20 DCMR § 4265.1 (which incorporates 40 C.F.R. § 265.201 by reference), (failure of generator of between one hundred (100) and one thousand (1,000) kilograms per month that accumulates hazardous waste in tanks to comply with the special requirements in 40 C.F.R. § 265.201);
- (x) 20 DCMR § 4266.1 (which incorporates 40 C.F.R. § 266.70(b)(1) by reference), (failure of person who generates, transports, or stores recyclable materials utilized for precious metal recovery to comply with notification requirements under § 3010 of RCRA);
- (y) 20 DCMR § 4266.1 (which incorporates 40 C.F.R. § 266.70(c) by reference), (failure of persons who store recycled materials utilized for precious metal recovery to comply with recordkeeping requirements); or
- (z) 20 DCMR § 4266.1 (which incorporates 40 C.F.R. § 266.80(b)(1)(i) and (2)(i) by reference), (failure of owner or operator of facility that stores spent lead-acid batteries before reclaiming them, but that does not reclaim them through regeneration, to comply with notification requirements under § 3010 of RCRA).

4007.7

In addition to §§ 4007.5, 4007.6 and 4007.8, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 4270.1 (which incorporates 40 C.F.R. 270.30 by reference), (failure to comply with all conditions of RCRA permit);
- (b) 20 DCMR §§ 4273.1 or 4273.2 (failure of universal waste handler to submit written notification of universal waste management and obtain EPA identification number before generating universal waste or receiving universal waste from other universal waste handlers);
- (c) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. §§ 273.13(a) or 273.33(a) by reference), (failure of universal waste handler to manage

universal waste batteries in a way that prevents releases to the environment);

- (d) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. §§ 273.13(c) or 273.33(c) by reference), (failure of universal waste handler to manage universal waste mercury-containing equipment in a way that prevents releases to the environment);
- (e) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. §§ 273.13(d) or 273.33(d) by reference), (failure of universal waste handler to manage universal waste lamps in a way that prevents releases to the environment);
- (f) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. §§ 273.14 and 273.34 by reference), (failure of universal waste handler to label or mark a universal waste to identify the type of universal waste);
- (g) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. §§ 273.15 or 273.35 by reference), (accumulation by universal waste handler of a universal waste for longer than one (1) year without meeting requirements for extension of time);
- (h) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. §§ 273.16 or 273.36 by reference), (failure to inform employees of handling and emergency procedures for universal waste);
- (i) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. §§ 273.18(a) or 273.38(a) by reference), (universal waste handler sending or taking universal waste to a place other than another universal waste handler, a destination facility, or foreign destination);
- (j) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. § 273.39(a) by reference), (failure of large quantity universal waste handler to keep a record of universal waste shipments received at a facility);
- (k) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. § 273.39(b) by reference), (failure of large quantity universal waste handler to keep a record of universal waste shipments sent from the handler to other facilities);
- (l) 20 DCMR § 4273.1 (which incorporates 40 C.F.R. § 273.39(c) by reference), (failure of large quantity universal waste handler to comply with record retention requirements);
- (m) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.22(a) by reference), (storage of used oil in units other than tanks, containers, or units subject to regulation under 40 C.F.R. Parts 264 or 265);

- (n) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.22(b) by reference), subject to modification in 20 DCMR § 4279, (failure to comply with requirements for containers and above ground tanks used to store used oil);
- (o) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.22(c) by reference), (failure to clearly label or mark container, tank, or fill pipe with the words "used oil");
- (p) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.24 by reference), (failure of used oil generator to ensure that used oil is transported by transporter that has obtained an EPA identification number);
- (q) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.43(b) by reference), (failure of used oil transporter to comply with applicable DOT requirements);
- (r) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.45(b) by reference), (owner or operator of used oil transfer facility storing used oil in units other than containers, tanks, or other units subject to regulation under 40 C.F.R. Parts 264 or 265);
- (s) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.45(g) by reference), (failure of owner or operator of used oil transfer facility to clearly label or mark containers, tanks, or fill pipes with the words "used oil");
- (t) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.46 by reference), (failure of used oil transporter to comply with tracking or record retention requirements);
- (u) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.52 by reference), (failure of used oil processor or re-refiner to comply with general facility standards);
- (v) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.54 by reference), (failure of used oil processor or re-refiner to comply with used oil management standards);
- (w) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.56 by reference), (failure of used oil processor or re-refiner to comply with tracking or record retention requirements);

- (x) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.57 by reference), (failure of used oil processor or re-refiner to comply with operating record and reporting requirements);
- (y) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.58 by reference), (failure of used oil processor or re-refiner to use a used oil transporter who has obtained an EPA identification number to ship used oil off-site); or
- (z) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.71 by reference), (used oil fuel marketer initiating shipment of off-specification used oil in violation of prohibitions).

4007.8 In addition to §§ 4007.5, 4007.6 and 4007.7, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.72(b) by reference), (failure of used oil generator, transporter, or processor/re-refiner to comply with record retention requirements);
- (b) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.73(a) by reference), (failure of used oil fuel marketer to obtain EPA identification number);
- (c) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.74 by reference), (failure of used oil fuel marketer to comply with tracking or record retention requirements); or
- (d) 20 DCMR § 4279.1 (which incorporates 40 C.F.R. § 279.75 by reference), (failure of used oil generator, transporter, or processor/re-refiner to obtain burner certification).

4007.9 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 4261.1 (which incorporates 40 C.F.R. § 261.4(d) and (e) by reference), (failure of generator or sample collector to comply with requirements for the proper labeling and packaging of testing or treatability study samples);
- (b) 20 DCMR § 4261.7(c) (failure of conditionally exempt small quantity generator to comply timely and fully with self-certification of compliance);
- (c) 20 DCMR § 4262.5 (failure of generator of greater than one hundred (100) kilograms but less than one thousand (1000) kilograms of hazardous waste in a calendar month to comply with self-certification of compliance);

- (d) 20 DCMR § 4264.1 (which incorporates 40 C.F.R. § 264.12(b)) (failure of owner/operator to inform generator of required permits and retaining copy of notice);
- (e) 20 DCMR § 4265.1 (which incorporates 40 C.F.R. § 265.373 by reference), (failure of owner or operator to comply with general operating requirements for thermal treatment);
- (f) 20 DCMR § 4265.1 (which incorporates 40 C.F.R. § 265.377 by reference), (failure of owner or operator to comply with monitoring and inspection requirements when thermally treating hazardous waste);
- (g) 20 DCMR § 4265.1 (which incorporates 40 C.F.R. § 265.381 by reference), (failure of owner or operator at closure to remove all hazardous waste and hazardous waste residues from thermal treatment process or equipment);
- (h) 20 DCMR § 4265.1 (which incorporates 40 C.F.R. § 265.401 by reference), (failure of owner or operator of facility that treats hazardous waste by chemical, physical, or biological methods to comply with general operating requirements);
- (i) 20 DCMR § 4265.1 (which incorporates 40 C.F.R. § 265.403 by reference), (failure of owner or operator of facility that treats hazardous waste by chemical, physical, or biological methods to comply with inspection requirements);
- (j) 20 DCMR § 4265.1 (which incorporates 40 C.F.R. § 265.404 by reference), (failure of owner or operator of facility that treats hazardous waste by chemical, physical, or biological methods, at closure, to remove all hazardous waste and hazardous waste residues);
- (k) 20 DCMR § 4265.1 (which incorporates 40 C.F.R. § 265.405 by reference), (failure of owner or operator of facility that treats hazardous waste by chemical, physical, or biological methods, to comply with special requirements for ignitable or reactive waste);
- (l) 20 DCMR § 4265.1 (which incorporates 40 C.F.R. § 265.406 by reference), (failure of owner or operator of facility that treats hazardous waste by chemical, physical, or biological methods to comply with special requirements for incompatible wastes or incompatible wastes and materials);
- (m) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.573 or 265.443 by reference), (failure of owner or operator of drip pad to comply with design or operating requirements);

- (n) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.575 or 265.445 by reference), (failure of owner or operator of drip pad to comply with closure standards);
- (o) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 C.F.R. §§ 264.1030-1090 or 265.1030-1090 by reference), (failure of owner or operator to comply with air emission standards or recordkeeping);
- (p) D.C. Official Code § 8-1055(c)(17) (owner or operator of solid waste facility allowing hazardous, infectious, or radioactive waste to remain on-site for more than twenty-four (24) hours); or
- (q) D.C. Official Code § 8-1055(c)(18) (failure of owner or operator of solid waste facility to provide monthly report to the Department).

4007.10 Violation of any provision 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 §§ 8-1301 to 8-1314 (2012 Repl.)), or the Hazardous Waste Management Regulations, 20 DCMR Chapters 42 and 43, that is not cited elsewhere in this section, shall be a Class 3 infraction.

Section 3651, UNDERGROUND STORAGE TANK INFRACTIONS, is repealed and replaced with a new Section 4008, UNDERGROUND STORAGE TANK INFRACTIONS, to read as follows:

4008 UNDERGROUND STORAGE TANK INFRACTIONS

4008.1 In addition to §§ 4008.2, 4008.3, and 4008.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) D.C. Official Code § 8-113.09(c) (continuing work stopped by a Department order);
- (b) 20 DCMR § 5502.2 (installing an underground storage tank (UST) system listed in 20 DCMR § 5502.1 that fails to meet specified requirements);
- (c) 20 DCMR § 5601.14 (depositing or dispensing regulated substance into a UST for which registration has been denied);
- (d) 20 DCMR § 5602.1 (failure to cooperate fully with inspections, monitoring, or testing conducted by the Director, as well as requests for document submission, testing, or monitoring);
- (e) 20 DCMR § 5602.2 (failure to submit specified information and documentation as required);

- (f) 20 DCMR § 5700.1 (failure of petroleum UST system to meet specified performance standards or requirements for upgrade, corrective action, or closure);
- (g) 20 DCMR § 5700.2 (failure of UST system to satisfy release detection requirements set forth in 20 DCMR Chapter 60);
- (h) 20 DCMR § 5700.3 (failure of hazardous substance UST system installed after November 12, 1993 to meet performance standards set forth in 20 DCMR § 5702);
- (i) 20 DCMR § 5700.4 (failure of hazardous substance UST system to meet performance standards set forth in 20 DCMR § 5702 or permanent closure and corrective action requirements in 20 DCMR Chapters 61 and 62);
- (j) 20 DCMR § 5700.8 (failure to meet any applicable requirements of 20 DCMR Chapter 57, for an UST system installed after December 22, 1988);
- (k) 20 DCMR § 5701.1 (failure of petroleum UST to meet specified construction and material requirements);
- (l) 20 DCMR § 5701.2 (failure of petroleum steel tank to be cathodically protected as specified);
- (m) 20 DCMR § 5701.7 (failure of motor fuel dispenser system to contain under-dispenser containment as specified);
- (n) 20 DCMR § 5702.1 (failure of hazardous substance UST to meet specified construction and material requirements);
- (o) 20 DCMR § 5702.2 (failure of hazardous substance steel tank to be cathodically protected as specified);
- (p) 20 DCMR § 5703.1 (failure of heating oil UST to meet specified construction and material requirements);
- (q) 20 DCMR § 5703.2 (failure of heating oil steel tank to be cathodically protected as specified);
- (r) 20 DCMR § 5704.2 (failure of UST system piping to meet specified construction and material requirements);
- (s) 20 DCMR § 5704.3 (failure of steel UST piping to be cathodically protected as specified);

- (t) 20 DCMR § 5705.1 (failure to use spill prevention equipment);
- (u) 20 DCMR § 5800.1 (failure of petroleum UST system to comply with specified upgrade requirements, performance standards, permanent closure requirements, or corrective action requirements);
- (v) 20 DCMR § 5800.2 (depositing a regulated substance into a petroleum UST that has not met upgrade requirements in 20 DCMR § 5800.1);
- (w) 20 DCMR § 5800.3 (failure of hazardous substance UST system to comply with specified performance standards, permanent closure requirements, or corrective action requirements);
- (x) 20 DCMR § 5801.4 (failure to repair or replace UST linings that have lost adhesion, cracked, or otherwise fail to meet original design specifications);
- (y) 20 DCMR § 5803.1 (failure to comply with UST system spill and overflow prevention equipment requirements, in accordance with 20 DCMR § 5705); or
- (z) 20 DCMR § 5900.10 (failure to report, investigate, or clean up spills or overfills, in accordance with 20 DCMR Chapter 62).

4008.2 In addition to §§ 4008.1, 4008.3, and 4008.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 6000.1 (failure to provide release detection method(s) that meet the requirements of 20 DCMR § 6000);
- (b) 20 DCMR § 6000.3 (failure to comply with release detection requirements for all pressurized piping, in accordance with 20 DCMR § 6004);
- (c) 20 DCMR § 6000.6 (release detection system incapable of detecting a release from all portions of the tank and connected underground piping);
- (d) 20 DCMR § 6000.8 (failure of release detection method to meet applicable performance requirements of 20 DCMR §§ 6004 through 6013);
- (e) 20 DCMR § 6000.10 (failure of release detection method installed after December 22, 1990, to be capable of detecting leak rate or quantity with specified probability of detection);
- (f) 20 DCMR § 6000.12 (failure to repair or replace leak detection system within 45 days in accordance with 20 DCMR Chapter 60);

- (g) 20 DCMR § 6000.14 (failure to notify Director of suspected release, in accordance with 20 DCMR Chapter 62);
- (h) 20 DCMR § 6000.15 (failure to provide release detection for heating oil UST that is 15 years or older with capacity of 1,100 gallons or more, in accordance with 20 DCMR § 5503);
- (i) 20 DCMR § 6000.16 (failure to provide release detection for an UST system that is 15 years or older and stores fuel for use by an emergency generator, in accordance with 20 DCMR § 5505);
- (j) 20 DCMR § 6002.1 (failure to provide release detection for a hazardous substance UST system that meets the requirements of 20 DCMR § 6002);
- (k) 20 DCMR § 6002.2 (failure of release detection system for a new hazardous substance UST system to meet requirements of 20 DCMR §§ 6003 and 6004);
- (l) 20 DCMR § 6002.6 (failure of existing hazardous substance UST system to meet release detection requirements of 20 DCMR §§ 6003 and 6004);
- (m) 20 DCMR § 6003.1 (failure to provide release detection for a petroleum UST system, in accordance with 20 DCMR § 6003);
- (n) 20 DCMR § 6003.2 (failure of release detection methods to meet requirements of 20 DCMR §§ 6005 through 6012);
- (o) 20 DCMR § 6004.2 (failure of release detection method for petroleum UST system piping to meet the requirements of 20 DCMR § 6004);
- (p) 20 DCMR § 6004.3 (failure of petroleum UST piping that conveys regulated substances under pressure to be equipped with an automatic line leak detector);
- (q) 20 DCMR § 6100.6 (failure to immediately comply with the requirements of 20 DCMR § 6100.7 and 20 DCMR Chapter 62 if a release is suspected or confirmed when UST system is temporarily closed);
- (r) 20 DCMR § 6101.11 (failure to begin corrective action in accordance with 20 DCMR Chapter 62 if specified mandatory clean-up criteria are exceeded during Closure Assessment);
- (s) 20 DCMR § 6101.12 (stockpiling of contaminated soils on site or failure to properly store, treat, or dispose of soil);

- (t) 20 DCMR § 6101.13 (returning untreated contaminated soils to the excavation pit or using the soils on-site);
- (u) 20 DCMR § 6101.14 (failure during tank removal to remove, treat, and properly dispose of contaminated or grossly contaminated soils at an approved facility);
- (v) 20 DCMR § 6201.1 (failure to take immediate action to contain and clean up any spill or overflow of a regulated substance from an UST system);
- (w) 20 DCMR § 6201.2 (failure to immediately report to the Director and to the Fire Chief any spill or overflow where there is danger of fire or explosion);
- (x) 20 DCMR § 6201.3 (failure to immediately contain and clean up a spill or overflow of petroleum that is less than 25 gallons and to immediately notify the Director if the cleanup cannot be completed within 24 hours);
- (y) 20 DCMR § 6201.4 (failure to report to the Director within 24 hours a petroleum release that is more than 25 gallons or that causes a sheen on any nearby surface water, and to begin corrective action, in accordance with 20 DCMR §§ 6203.9 through 6212); or
- (z) 20 DCMR § 6201.5 (failure to immediately report any spill or overflow of a hazardous substance to the Director, the Fire Chief, and the D.C. Office of Emergency Management, immediately contain and clean up the spill or overflow, and begin corrective action in accordance with 20 DCMR §§ 6203.9 through 6212 if the cleanup cannot be completed within 24 hours).

4008.3 In addition to §§ 4008.1, 4008.2, and 4008.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 6201.6 (failure to report to the National Response Center and begin corrective action in accordance with 20 DCMR §§ 6202 through 6212, where a spill or overflow of a hazardous substance results in release to the environment that equals or exceeds its reportable quantity under CERCLA (40 C.F.R. Part 302));
- (b) 20 DCMR § 6202.1 (failure to notify the Director within 24 hours of a suspected release from an UST);
- (c) 20 DCMR § 6202.3 (failure to notify UST owner or operator immediately and the Director within 24 hours if a release is known or if reason exists to know of or suspect a release from an UST);

- (d) 20 DCMR § 6202.5 (knowingly allowing a release from an UST system to continue);
- (e) 20 DCMR § 6202.6 (failure to timely report to the Director and to follow procedures in 20 DCMR § 6203 for any of the conditions specified);
- (f) 20 DCMR § 6202.7 (failure to immediately investigate, conduct initial abatement, and confirm release to the Director within seven days of suspected release);
- (g) 20 DCMR § 6203.1 (failure to conduct systems tests in accordance with tightness testing requirements of 20 DCMR §§ 6007 and 6013.3 when a release is suspected);
- (h) 20 DCMR § 6203.2 (failure to repair, replace, or upgrade an UST system and begin corrective action in accordance with 20 DCMR §§ 6203.9 through 6212 if test results indicate a release has occurred);
- (i) 20 DCMR § 6203.3 (failure to conduct a site investigation as set forth in 20 DCMR §§ 6203.4 through 6203.6 if a release exists or is suspected based on test results or on visual or analytical data of environmental contamination);
- (j) 20 DCMR § 6203.4 (failure to test for a release where contamination is most likely to be present at an UST site);
- (k) 20 DCMR § 6203.7 (failure to perform specified initial response actions upon confirmation of a release);
- (l) 20 DCMR § 6203.9 (failure to take specified initial abatement actions);
- (m) 20 DCMR § 6203.10 (failure to remedy hazards posed by excavated or exposed contaminated soils and comply with all applicable laws and regulations if remedies include treatment or disposal of soils);
- (n) 20 DCMR § 6203.12 (failure to determine whether free product is present and begin free product removal as soon as practicable, in accordance with 20 DCMR § 6204);
- (o) 20 DCMR § 6203.13 (failure to achieve upper concentration limits for benzene in groundwater);
- (p) 20 DCMR § 6204.1 (failure to remove measurable free product to the maximum extent practicable in accordance with schedule approved by the Director);

- (q) 20 DCMR § 6204.2 (failure to remove free product in a manner that minimizes the spread of contamination by using appropriate recovery techniques);
- (r) 20 DCMR § 6204.3 (failure to recover and dispose of free product in a manner that properly treats, discharges, recycles, or disposes of recovery byproducts in compliance with all applicable laws and regulations);
- (s) 20 DCMR § 6204.5 (failure to ensure that flammable substances are handled in a manner that will prevent fire and explosion);
- (t) 20 DCMR § 6205.1 (failure to submit a Comprehensive Site Assessment in a form satisfactory to the Director within 60 days of submission of a work plan);
- (u) 20 DCMR § 6205.2 (failure to perform Comprehensive Site Assessment in the time and manner set forth in 20 DCMR § 6205);
- (v) 20 DCMR § 6206.2 (failure to comply with specified requirements before initiating a risk-based decision-making process);
- (w) 20 DCMR § 6207.1 (failure to submit a Corrective Action Plan required by Director, according to a schedule and format established by the Director);
- (x) 20 DCMR § 6207.2 (failure to submit and modify as necessary a Corrective Action Plan that provides for adequate protection of human health and the environment);
- (y) 20 DCMR § 6207.3 (failure of Corrective Action Plan to propose corrective action option as specified); or
- (z) 20 DCMR § 6207.4 (failure of Corrective Action Plan to provide for proper disposal of contaminated soils and to prohibit placement of contaminated soils back into the ground).

4008.4 In addition to §§ 4008.1, 4008.2, and 4008.3, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 6207.5 (failure to prepare, prior to any site activities, a site-specific QA/QC Plan that covers all actions proposed in the Corrective Action Plan and complies with guidelines of the Department);
- (b) 20 DCMR § 6207.6 (failure to prepare site-specific Health and Safety Plan that addresses all applicable federal OSHA regulations, in conjunction with the Corrective Action Plan);

- (c) 20 DCMR § 6207.9 (beginning soil and groundwater remediation prior to approval of Corrective Action Plan without meeting specified requirements for doing so);
- (d) 20 DCMR § 6207.10 (beginning implementation of Corrective Action Plan prior to approval of plan without meeting specified requirements for doing so);
- (e) 20 DCMR § 6207.11 (failure to begin implementation of approved Corrective Action Plan within 30 days or other period approved by Director);
- (f) 20 DCMR § 6207.14 (implementing modifications to the Corrective Action Plan which have not been approved by the Director);
- (g) 20 DCMR § 6207.15 (failure to take additional corrective action responses as required by Director);
- (h) 20 DCMR § 6300.1 (failure to provide entry to the Director as provided in 20 DCMR § 6300); or
- (i) 20 DCMR § 6301.5 (failure to cooperate fully with inspections, monitoring, or testing conducted by the Director, as well as requests for document submission, testing, or monitoring).

4008.5 In addition to §§ 4008.6, 4008.7, 4008.8, 4008.9, and 4008.10, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 5600.1 (failure to submit required UST notification);
- (b) 20 DCMR § 5600.2 (failure to properly complete required UST notification form);
- (c) 20 DCMR § 5600.3 (failure to deliver UST notification form within time prescribed and to include required information with form);
- (d) 20 DCMR § 5600.4 (failure to file timely notification form for heating oil tank);
- (e) 20 DCMR § 5600.7 (failure to sign UST notification form and certify compliance with specified requirements);
- (f) 20 DCMR § 5600.9 (failure to timely file a new notification form following purchase of existing UST);

- (g) 20 DCMR § 5600.10 (failure to provide timely notification following discovery of previously unknown UST);
- (h) 20 DCMR § 5600.11 (failure to inform UST owner or lessee of notification requirements of 20 DCMR § 5600);
- (i) 20 DCMR § 5600.12 (failure to file timely amended notification form and other required information);
- (j) 20 DCMR § 5600.13 (failure to ensure proper certification of compliance with requirements of 20 DCMR § 5801 for upgrade or modification of UST system);
- (k) 20 DCMR § 5600.14 (failure to file timely closure notification form following permanent closure of an UST system by removal or abandonment);
- (l) 20 DCMR § 5601.12 (depositing a regulated substance into an UST without first confirming that current registration certificate is present at facility and that facility is not on prohibited delivery list);
- (m) 20 DCMR § 5601.13 (dispensing or permitting dispensing of regulated substance from an UST that has not satisfied registration requirements);
- (n) 20 DCMR § 5603.1 (failure to provide required advance written notice of each installation, removal, abandonment, repair, or upgrade of an UST system);
- (o) 20 DCMR § 5603.2 (failure to provide notice of the exact time and date of the installation, removal, abandonment, repair, or upgrade of an UST system at least 24 hours in advance to schedule site inspection);
- (p) 20 DCMR § 5603.3 (failure to provide timely notice of emergency removal or repair to Director and Fire Chief);
- (q) 20 DCMR § 5603.4 (failure to timely submit and obtain approval for plans, design, and specifications for installation or upgrade of an UST system);
- (r) 20 DCMR § 5603.7 (failure to timely provide required notice of tank tightness test to Fire Chief in cases of suspected release);
- (s) 20 DCMR § 5604.1 (failure to timely provide required notice of the existence or removal of any UST to prospective buyer of real property);

- (t) 20 DCMR § 5604.2 (failure to inform prospective buyers of commercial property of prior use of property that suggests the existence of an UST of which the seller has actual knowledge);
- (u) 20 DCMR § 5606.2 (third party inspector having a financial interest in the facility or UST system);
- (v) 20 DCMR § 5700.7 (failure of each UST system located within 100 feet of a subsurface transit structure to meet the requirements of the BOCA National Fire Prevention Code, the Fire Prevention Code, and the National Fire Protection Association 130);
- (w) 20 DCMR § 5700.9 (failure of UST to be properly designed, constructed, and protected from corrosion as specified);
- (x) 20 DCMR § 5701.3 (failure to operate and maintain cathodic protection system in new petroleum UST, in accordance with 20 DCMR § 5901);
- (y) 20 DCMR § 5701.4 (failure to meet requirements for design, construction, and installation of secondary containment systems in a new petroleum UST); or
- (z) 20 DCMR § 5701.5 (failure to meet requirements for design, construction, and installation of double-walled tanks in a new petroleum UST).

4008.6 In addition to §§ 4008.5, 4008.7, 4008.8, 4008.9, and 4008.10, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 5701.6 (failure to meet requirements for design, construction, and installation of external liner systems (including vaults) in a new petroleum UST);
- (b) 20 DCMR § 5702.3 (failure to operate and maintain each cathodic protection system in a hazardous substance UST system, in accordance with 20 DCMR § 5901);
- (c) 20 DCMR § 5702.4 (failure to meet requirements for design, construction, and installation of double-walled tanks in a new hazardous substance UST);
- (d) 20 DCMR § 5703.3 (failure to operate and maintain each cathodic protection system in a new heating oil UST system, in accordance with 20 DCMR § 5901);

- (e) 20 DCMR § 5703.4 (failure to meet requirements for design, construction, and installation of secondary containment systems in a new heating oil UST system);
- (f) 20 DCMR § 5703.5 (failure to meet requirements for design, construction, and installation of double-walled tanks in a new heating oil UST system);
- (g) 20 DCMR § 5703.6 (failure to meet requirements for design, construction, and installation of external liner systems (including vaults) in a new heating oil UST system);
- (h) 20 DCMR § 5704.1 (failure of UST piping that is in contact with earthen materials to be designed, constructed, and protected from corrosion as specified);
- (i) 20 DCMR § 5704.4 (failure to operate and maintain cathodic protection system in UST piping, in accordance with 20 DCMR § 5901);
- (j) 20 DCMR § 5704.5 (failure to meet requirements for design and construction of secondary containment systems in UST piping as set forth in 20 DCMR § 5701.4);
- (k) 20 DCMR § 5705.2 (failure of spill prevention equipment to have a minimum capacity of five gallons);
- (l) 20 DCMR § 5705.3 (failure to use overfill prevention equipment that meets specified requirements);
- (m) 20 DCMR § 5705.4 (failure to use an automatic shutoff valve to comply with 20 DCMR § 5705.3 in tanks that are susceptible to over-pressurization);
- (n) 20 DCMR § 5706.1 (failure to install an UST system as specified);
- (o) 20 DCMR § 5706.2 (failure to ensure that each UST is installed by an UST System Technician as set forth in 20 DCMR Chapter 65);
- (p) 20 DCMR § 5706.3 (failure to complete all work listed in the manufacturer's installation checklist for each UST installation);
- (q) 20 DCMR § 5706.4 (failure to obtain inspection and approval by the Director prior to placement of backfill for completion of installation);
- (r) 20 DCMR § 5706.5 (failure to perform a precision test upon installation of an UST system prior to its use);

- (s) 20 DCMR § 5802.1 (failure to cathodically protect metal piping that is in contact with earthen materials, in accordance with code of practice);
- (t) 20 DCMR § 5802.2 (failure to cathodically protect metal piping that is in contact with earthen materials, in accordance with requirements of 20 DCMR § 5704.3(a) or (b) and 20 DCMR § 5704.4);
- (u) 20 DCMR § 5802.3 (failure to replace metal piping that is in contact with earthen materials that does not meet the requirements of 20 DCMR §§ 5802.1 or 5802.2, with new piping that satisfies the requirements of 20 DCMR § 5704);
- (v) 20 DCMR § 5804.1 (failure to perform a tank tightness test as set forth in 20 DCMR § 6007 upon completion of an UST system upgrade and prior to placing the UST system in operation);
- (w) 20 DCMR § 5900.1 (failure to ensure that releases due to spilling or overfilling do not occur and to follow code of practice);
- (x) 20 DCMR § 5900.2 (failure to ensure that the available tank volume is greater than the volume of product to be transferred to the tank before each transfer is made);
- (y) 20 DCMR § 5900.3 (failure to ensure that each transfer operation is monitored constantly to prevent overfilling or spilling and is performed in accordance with the UST manufacturer's specifications); or
- (z) 20 DCMR § 5900.4 (failure to hold delivery nozzles open manually where product is transferred by means of pressurized delivery).

4008.7 In addition to §§ 4008.5, 4008.6, 4008.8, 4008.9, and 4008.10, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 5900.5 (failure to install a vent alarm device on accessible tanks where product is transferred by means of pressurized delivery);
- (b) 20 DCMR § 5900.6 (failure to discontinue delivery where vent alarm indicates an obstruction to the vent);
- (c) 20 DCMR § 5900.7 (failure to keep spill prevention equipment clean and dry);
- (d) 20 DCMR § 5900.8 (failure to ensure that all fill lines for the UST system are clearly marked to indicate the size of tank and type of regulated substance in accordance with specified methods);

- (e) 20 DCMR § 5900.9 (marking pipes or other openings in a way that could be associated with a regulated substance if they are not used for the transfer of that substance);
- (f) 20 DCMR § 5901.1 (failure of a steel tank UST system or a steel-fiberglass-reinforced plastic composite UST system with corrosion protection to comply with requirements of 20 DCMR § 5901);
- (g) 20 DCMR § 5901.2 (failure to follow code of practice in complying with tank corrosion protection requirements);
- (h) 20 DCMR § 5901.3 (failure to operate and maintain each corrosion protection system to continuously provide corrosion protection);
- (i) 20 DCMR § 5901.4 (failure to have cathodic protection system inspected by a qualified cathodic protection tester within six months of installation and every three years thereafter);
- (j) 20 DCMR § 5901.5 (failure to conduct cathodic protection testing in accordance with criteria set forth in a code of practice);
- (k) 20 DCMR § 5901.6 (failure to inspect UST system with an impressed current cathodic protection system every 60 days);
- (l) 20 DCMR § 5901.7 (failure to maintain specified operational records of cathodic protection for an UST system, in accordance with 20 DCMR § 5602);
- (m) 20 DCMR § 5902.1 (failure to ensure that repairs to an UST system are made using the proper materials and techniques and that repairs will prevent releases);
- (n) 20 DCMR § 5902.2 (failure to follow a code of practice in complying with repair or replacement requirements for an UST system);
- (o) 20 DCMR § 5902.5 (failure to replace metal pipe sections or fittings that have released a regulated substance or that constitute a threat of release, in accordance with 20 DCMR § 5704);
- (p) 20 DCMR § 5902.6 (failure to replace fiberglass pipe sections and fittings that have released a regulated substance or that constitute a threat of release, in accordance with 20 DCMR § 5704 and manufacturer's specifications);

- (q) 20 DCMR § 5902.7 (failure to replace flexible pipes that have released a regulated substance or that constitute a threat of release, in accordance with 20 DCMR § 5704 and manufacturer's specifications);
- (r) 20 DCMR § 5902.8 (failure to test repaired tank and piping for tightness, in accordance with 20 DCMR §§ 6007 and 6013.3, upon completing repair prior to being placed back in service);
- (s) 20 DCMR § 5902.9 (failure to test the cathodic protection system in accordance with 20 DCMR §§ 5901.4 through 5901.6 within six months following repair);
- (t) 20 DCMR § 5902.10 (failure to maintain repair records for the remaining operating life of repaired UST);
- (u) 20 DCMR § 5902.11 (failure to ensure that an UST system repair is carried out by a certified UST System Technician);
- (v) 20 DCMR § 5903.1 (failure to use an UST system that is made of or lined with materials that are compatible with the substance stored in the UST system);
- (w) 20 DCMR § 6000.4 (failure to complete closure requirements of 20 DCMR Chapter 61 when release detection method in compliance with 20 DCMR Chapter 60 cannot be applied);
- (x) 20 DCMR § 6000.13 (failure to notify Director within 24 hours and to comply with temporary closure requirements of 20 DCMR § 6100 if release detection system is not repaired or replaced within 45-day period);
- (y) 20 DCMR § 6002.3 (failure to check secondary containment systems for evidence of a release at least every 30 days); or
- (z) 20 DCMR § 6002.5 (failure to obtain approval for alternate release detection method prior to installation or operation of new UST system).

4008.8 In addition to §§ 4008.5, 4008.6, 4008.7, 4008.9, and 4008.10, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 6003.3 (failure to monitor tanks for releases at least once every 30 days using specified methods);
- (b) 20 DCMR § 6003.5 (failure to construct a new or replaced UST system to include secondary containment and interstitial monitoring, in accordance with 20 DCMR §§ 5701.4, 5701.5, and 5701.6);

- (c) 20 DCMR § 6004.1 (failure to regularly monitor petroleum UST system underground piping, in accordance with 20 DCMR § 6004);
- (d) 20 DCMR § 6004.4 (use of automatic line leak detectors that do not meet specified standard or failure to conduct an annual test of the operation of the leak detector in accordance with the manufacturer's requirements);
- (e) 20 DCMR § 6004.5 (failure to perform an annual line tightness test for underground piping that conveys regulated substances under pressure, in accordance with 20 DCMR § 6004.7, or to conduct monthly monitoring of piping, in accordance with 20 DCMR § 6004.9);
- (f) 20 DCMR § 6004.6 (failure to perform a line tightness test every three years for underground piping that conveys regulated substances under suction, in accordance with 20 DCMR § 6004.7, or to conduct monthly monitoring of piping, in accordance with 20 DCMR § 6004.9);
- (g) 20 DCMR § 6004.10 (failure to check secondary containment systems on underground piping installed or replaced after February 8, 2007, for evidence of a release at least every 30 days using interstitial monitoring);
- (h) 20 DCMR § 6005.1 (failure to conduct Inventory Control [Statistical Inventory Reconciliation (SIR)] monthly);
- (i) 20 DCMR § 6005.6 (failure to measure water level at the bottom of the tank once each month to the nearest one-eighth inch);
- (j) 20 DCMR § 6006.2 (failure to conduct manual tank gauging, in accordance with 20 DCMR § 6006);
- (k) 20 DCMR § 6006.5 (failure to follow requirements of 20 DCMR Chapter 62 following specified variation in liquid level measurements);
- (l) 20 DCMR § 6007.2 (failure to conduct a tightness test to satisfy the installation, upgrade, and repair requirements set forth in 20 DCMR Chapters 57, 58, and 59 before the operation of UST system);
- (m) 20 DCMR § 6100.2 (failure to comply with the requirements of 20 DCMR § 6100 when an UST system is temporarily closed);
- (n) 20 DCMR § 6100.5 (failure to continue operation and maintenance of corrosion protection in accordance with 20 DCMR § 5901 and release detection in accordance with 20 DCMR Chapter 60 during temporary closure of UST system);

- (o) 20 DCMR § 6100.7 (failure to empty UST system, open vent lines, and cap and secure all other lines, pumps, manways and ancillary equipment within 90 days after an UST system is temporarily closed);
- (p) 20 DCMR § 6100.7(d) (failure to submit required contractor certification form after completing requirements for temporary closure of an UST system);
- (q) 20 DCMR § 6101.1 (failure to comply with 20 DCMR § 6101 when an UST system is permanently closed or undergoes a change-in-service);
- (r) 20 DCMR § 6101.2 (failure to properly empty and clean the tank prior to each change-in-service);
- (s) 20 DCMR § 6101.3 (failure to submit UST/LUST Activity Notification form not less than two weeks before beginning either a permanent closure or a change-in-service);
- (t) 20 DCMR § 6101.4 (failure to follow a code of practice when complying with requirements for permanent closure or change-in-service);
- (u) 20 DCMR § 6101.5 (failure to properly empty and clean UST system prior to removing it from the ground);
- (v) 20 DCMR § 6101.6 (failure to provide proper notice of an UST system that is to be closed permanently and to then remove UST from the ground);
- (w) 20 DCMR § 6101.9 (failure to conduct Closure Assessment of the excavation zone prior to permanent closure or a change-of-service of an UST system);
- (x) 20 DCMR § 6101.10 (failure to consider specified factors when selecting sample types, sample locations, and measurement methods for the Closure Assessment and to comply with other requirements of the Director for number of samples or location of borings or wells);
- (y) 20 DCMR § 6101.15 (failure to evaluate the UST system and excavation zone for permanent closure at specified excavation depths and screening levels in the case of a release of a regulated substance); or
- (z) 20 DCMR § 6101.16 (failure to submit a Closure Assessment Report, including a closure notification form within 30 days after completing the permanent closure or change-in-service activities).

4008.9

In addition to §§ 4008.5, 4008.6, 4008.7, 4008.8, and 4008.10, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 6102 (failure to properly assess the excavation zone and close an UST system that was previously abandoned, removed, or permanently closed, as directed);
- (b) 20 DCMR § 6202.4 (failure to include required information in notification of release or suspected release);
- (c) 20 DCMR § 6203.5 (failure to consider appropriate selection factors and to comply with Departmental directives and protocols for sample types, sample locations, and measurement methods);
- (d) 20 DCMR § 6203.11 (failure to conduct Initial Site Assessment to evaluate on-site conditions in accordance with specified requirements and any applicable protocols of the Department);
- (e) 20 DCMR § 6205.3 (failure to conduct site assessment activities in accordance with an appropriate Health and Safety Plan and make plan available for inspection);
- (f) 20 DCMR § 6207.12 (failure to provide the Director with an opportunity to inspect the site prior to implementation of the Corrective Action Plan);
- (g) 20 DCMR § 6211.7 (failure to remove all equipment and ensure that all wells are properly abandoned following notice of no further action or case closure);
- (h) 20 DCMR § 6301.6 (failure to submit records, documents, or other information within 20 days of a request, or other time frame specified by the Director);
- (i) 20 DCMR § 6500.1 (failure to ensure that an UST system or any component of an UST system is installed under continuous on-site supervision of a certified and licensed UST System Technician);
- (j) 20 DCMR § 6500.2 (failure to ensure that an UST system is abandoned or removed under the continuous on-site supervision of a certified and licensed UST System Technician or UST Closure Specialist);
- (k) 20 DCMR § 6500.3 (failure to ensure that tightness test is conducted under the continuous on-site supervision of a certified and licensed UST System Tester);

- (l) 20 DCMR § 6500.4 (failure of business that provides services for UST system installation, upgrade, retrofit, repair, or permanent closure to be certified and licensed to perform UST activities);
- (m) 20 DCMR § 6500.5 (failure of an UST System Technician, UST Closure Specialist, or UST System Tester to be certified and licensed to perform UST system activities);
- (n) 20 DCMR § 6500.8 (transferring an UST system certification or license);
- (o) 20 DCMR § 6502.1 (failure to designate at least one Class A, one Class B, and one Class C operator for each active UST facility);
- (p) 20 DCMR § 6502.2 (dispensing or storing a regulated substance when Class A, B, and C operators have not been designated and trained as required by 20 DCMR § 6502);
- (q) 20 DCMR § 6502.3 (failure of trained operators to be readily available to respond to suspected or confirmed releases, other unusual operating conditions, emergencies, or equipment failures);
- (r) 20 DCMR § 6502.4 (failure to prominently display at the facility emergency contact information and emergency procedures for users of unmanned facilities);
- (s) 20 DCMR § 6502.5 (failure of designated operators to successfully complete initial training required by 20 DCMR § 6502 by August 8, 2012);
- (t) 20 DCMR § 6502.7 (failure of Class A and Class B operators for a petroleum UST system to complete required re-training within 60 days of being notified that an UST system is out of compliance);
- (u) 20 DCMR § 6502.13 (failure to provide required training and annual briefings to Class C operators);
- (v) 20 DCMR § 6502.16 (failure of an owner to ensure that all Class A, B, and C operators are trained no later than August 8, 2012);
- (w) 20 DCMR § 6502.17 (failure to train a replacement Class A or B operator within 30 days of the operator assuming duties);
- (x) 20 DCMR § 6502.18 (failure to train Class C operators prior to assuming duties as a Class C operator);

- (y) 20 DCMR § 6502.20 (failure to keep on-site and readily available for inspection, certificates of training for Class A and B operators, required facility list of designated operators, and Class C operator instructions or procedures); or
- (z) 20 DCMR § 6502.21 (failure to conspicuously post required Class C operator and owner contact information at unmanned facilities).

4008.10 In addition to §§ 4008.5, 4008.6, 4008.7, 4008.8, and 4008.9, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 6503.1 (failure of training providers to obtain written approval from the Director prior to delivering training courses for Class A and B Operators);
- (b) 20 DCMR § 6700.8 (failure to immediately file a Certification of Financial Responsibility for an existing UST);
- (c) 20 DCMR § 6700.9 (failure to file a Certification of Financial Responsibility with the Director within 30 days after installation of a new UST);
- (d) 20 DCMR § 6700.10 (failure to demonstrate minimum required per-occurrence amount of financial responsibility for specified petroleum USTs);
- (e) 20 DCMR § 6700.11 (failure to demonstrate minimum required per-occurrence amount of financial responsibility for petroleum USTs not covered by 20 DCMR § 6700.10);
- (f) 20 DCMR § 6700.12 (failure to demonstrate minimum required annual aggregate amount of financial responsibility);
- (g) 20 DCMR § 6700.16 (failure to meet new financial responsibility requirements on anniversary of effective date of financial responsibility mechanism, following acquisition or installation of additional USTs);
- (h) 20 DCMR § 6701.1 (failure to utilize mechanism(s) listed in 20 DCMR §§ 6703 through 6711 to demonstrate financial responsibility);
- (i) 20 DCMR § 6701.7 (failure to obtain alternate assurance of financial responsibility within 30 days after the owner receives notice of any condition set forth in 20 DCMR § 6701.7(a)-(d));

- (j) 20 DCMR § 6702.8 (failure to submit current evidence of financial responsibility within 30 days after identifying an UST release required to be reported under 20 DCMR §§ 6201 or 6204);
- (k) 20 DCMR § 6702.9 (failure to submit current evidence of financial responsibility within 30 days after receiving notice of the incapacity of a provider of assurance under 20 DCMR § 6701.7);
- (l) 20 DCMR § 6702.11 (failure to submit evidence of financial assurance or other relevant information as required by Director);
- (m) 20 DCMR § 6703.4 (failure to obtain alternative coverage within specified time period when no longer meeting requirements of financial tests of self-insurance set forth in 20 DCMR §§ 6704 or 6705);
- (n) 20 DCMR § 6703.5 (failure to provide reports of financial condition as required by Director or failure to timely obtain alternate coverage following notification by Director);
- (o) 20 DCMR § 6703.6 (failure to notify the Director of the failure to timely obtain alternate assurance as required under 20 DCMR §§ 6703.4 or 6703.5);
- (p) 20 DCMR § 6706.1 (failure to comply with criteria in 20 DCMR § 6706 when obtaining a guarantee to meet financial responsibility requirements of 20 DCMR § 6700);
- (q) 20 DCMR § 6707.1 (failure to comply with requirements of 20 DCMR § 6707 when obtaining liability insurance to meet financial responsibility requirements of 20 DCMR § 6700);
- (r) 20 DCMR § 6708.1 (failure to comply with requirements of 20 DCMR § 6708 when obtaining a surety or performance bond to meet financial responsibility requirements of 20 DCMR § 6700);
- (s) 20 DCMR § 6709.1 (failure to comply with requirements of 20 DCMR § 6709 when obtaining a letter of credit to meet financial responsibility requirements of 20 DCMR § 6700);
- (t) 20 DCMR § 6710.1 (failure to comply with requirements of 20 DCMR § 6710 when establishing a trust fund to meet financial responsibility requirements of 20 DCMR § 6700);
- (u) 20 DCMR § 6714.4 (failure to send a copy of each notice of cancellation or termination of financial assurance to the Director at the same time that notice is sent to the owner);

- (v) 20 DCMR § 6714.5 (failure to obtain alternative financial assurance coverage within 60 days after receipt of notice of cancellation or non-renewal of financial assurance);
- (w) 20 DCMR § 6714.6 (failure to submit notification and required information following the failure to obtain alternate coverage within 60 days after receipt of a notice of termination);
- (x) 20 DCMR § 6715.1 (failure to provide proper and timely notification of commencement of bankruptcy proceedings and to submit appropriate forms listed in 20 DCMR §§ 6702.4 through 6702.7 documenting financial responsibility);
- (y) 20 DCMR § 6715.4 (failure to obtain alternate financial assurance in accordance with 20 DCMR Chapter 67 within 30 days after receiving notice of the bankruptcy, incapacity, or suspension or revocation of authority of provider of financial assurance); or
- (z) 20 DCMR § 6715.5 (failure to provide notification of failure to obtain alternate coverage within 30 days after notification of bankruptcy or incapacity).

4008.11 In addition to §§ 4008.12, 4008.13, and 4008.14, violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 5601.2 (failure to register an UST and pay required fee);
- (b) 20 DCMR § 5601.3 (failure to register an UST and pay required fee before deposit of regulated substance);
- (c) 20 DCMR § 5601.4 (failure to register a heating oil tank with a capacity of 1,100 gallons or greater);
- (d) 20 DCMR § 5601.5 (failure to initiate the registration process and pay the required registration fee within the time specified in the invoice);
- (e) 20 DCMR § 5601.10 (failure to renew an UST registration);
- (f) 20 DCMR § 5601.15 (failure of seller of UST to provide required notifications);
- (g) 20 DCMR § 5602.4 (failure to maintain specified records and information for each UST facility, in accordance with 20 DCMR Chapter 56);

- (h) 20 DCMR § 5602.5 (failure to maintain specified records for required period and have records immediately available for inspection);
- (i) 20 DCMR § 5602.6 (failure to have specified records available for inspection);
- (j) 20 DCMR § 5602.7 (failure to deliver permanent closure records as approved by Director);
- (k) 20 DCMR § 5602.8 (failure to maintain records for required period);
- (l) 20 DCMR § 5603.6 (failure to provide notice at least twenty-four hours in advance of the time and date of any tank tightness test);
- (m) 20 DCMR § 5706.6 (failure to ensure that UST System Technician completes certification of compliance on UST notification form);
- (n) 20 DCMR § 5801.1 (failure to upgrade steel tanks in accordance with requirements of 20 DCMR Chapter 58 and with manufacturer's specifications or established procedures and practices);
- (o) 20 DCMR § 5801.2 (failure to comply with specified requirements for upgrading an UST by internal lining);
- (p) 20 DCMR § 5801.3 (failure to inspect the interior of a lined tank within 10 years after lining or every five years thereafter, in order to ensure the lining is structurally sound, free of corrosion holes, and performing in accordance with original design specifications);
- (q) 20 DCMR § 5801.5 (upgrading a tank by cathodic protection without meeting the requirements of 20 DCMR § 5701.2 (a) or (b) and § 5701.3, and without following specified methods for ensuring the integrity of the tank);
- (r) 20 DCMR § 5801.6 (upgrading a tank by both internal lining and cathodic protection without meeting the requirements of 20 DCMR § 5902, § 5701.2 (a) or (b), and § 5701.4);
- (s) 20 DCMR § 5902.12 (failure to ensure that certified UST System Technician completes certification of compliance on UST Notification form);
- (t) 20 DCMR § 6000.7 (failure to install, calibrate, operate, and maintain each release detection system in accordance with the manufacturer's instructions);

- (u) 20 DCMR § 6000.9 (failure of performance claim for a release detection system to be in writing and to describe how claim was derived or tested);
- (v) 20 DCMR § 6001.1 (failure to properly maintain records demonstrating compliance with 20 DCMR Chapter 60);
- (w) 20 DCMR § 6001.2 (failure to maintain for at least 10 years written performance claims for release detection systems);
- (x) 20 DCMR § 6001.3 (failure to maintain for at least three years the results of any sampling, testing, or monitoring of an UST system);
- (y) 20 DCMR § 6001.4 (failure to retain results of tank tightness testing until the next test of the UST system); or
- (z) 20 DCMR § 6001.5 (failure to maintain written documentation of all calibration, maintenance, and repair of release detection equipment for at least three years).

4008.12 In addition to §§ 4008.11, 4008.13, and 4008.14, violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 6001.6 (failure to retain for at least 10 years all schedules of required calibration and maintenance provided by the release detection equipment manufacturer);
- (b) 20 DCMR § 6005.2 (failure to evaluate the accuracy of the selected Statistical Inventory Reconciliation (SIR) method and maintain evaluation records for 10 years);
- (c) 20 DCMR § 6005.3 (failure to use equipment capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth inch);
- (d) 20 DCMR § 6005.4 (failure to make each delivery through a drop tube that extends to within six inches of the tank bottom);
- (e) 20 DCMR § 6005.5 (failure to meter or record the dispensing of regulated substances according to specified standards);
- (f) 20 DCMR § 6006.3 (failure to properly take tank liquid level measurements and record measurements on approved form);
- (g) 20 DCMR § 6006.4 (failure to use proper manual tank gauging equipment);

- (h) 20 DCMR § 6007.1 (failure to use a tank tightness test that meets specified requirements);
- (i) 20 DCMR § 6008.1 (failure to use automatic tank gauging equipment that meets requirements of 20 DCMR § 6008);
- (j) 20 DCMR § 6008.2 (failure to ensure proper installation of tank-gauging probe);
- (k) 20 DCMR § 6008.3 (failure to use automatic product level monitor test that meets specified requirements);
- (l) 20 DCMR § 6008.4 (failure to install tanks horizontally without tank tilt if automatic tank gauging is used);
- (m) 20 DCMR § 6009.2 (failure to assess the excavation zone to ensure compliance with 20 DCMR § 6009);
- (n) 20 DCMR § 6009.3 (failure to use proper backfill materials);
- (o) 20 DCMR § 6009.4 (failure of stored regulated substance or tracer compound to have sufficient volatility);
- (p) 20 DCMR § 6009.5 (vapor measurement rendered inoperative or reduced in effectiveness due to ground water, rainfall, soil moisture, or other known interference);
- (q) 20 DCMR § 6009.6 (background contamination in the excavation zone interfering with the vapor monitoring method);
- (r) 20 DCMR § 6009.7 (failure to use vapor monitor that is properly designed and operated);
- (s) 20 DCMR § 6009.8 (failure to assess the excavation zone as required before using vapor monitoring);
- (t) 20 DCMR § 6009.9 (failure to clearly and properly mark and secure monitoring wells);
- (u) 20 DCMR § 6010.1 (failure to test and monitor for regulated substances on the ground water or in the tank excavation zone, in accordance with 20 DCMR § 6010);
- (v) 20 DCMR § 6010.2 (failure of the regulated substance stored to be immiscible in water and have a specific gravity of less than one);

- (w) 20 DCMR § 6010.3 (ground water more than 20 feet from the ground surface or hydraulic conductivity of the soils less than 0.01 cm/sec if testing or monitoring for regulated substances on ground water);
- (x) 20 DCMR § 6010.4 (failure to design slotted portion of monitoring well casing to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well);
- (y) 20 DCMR § 6010.5 (failure to seal monitoring wells from the ground surface to the top of the filter pack); or
- (z) 20 DCMR § 6010.6 (failure of monitoring wells or devices to intercept the excavation zone or be as close to the excavation zone as is technically feasible).

4008.13 In addition to §§ 4008.11, 4008.12, and 4008.14, violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 6010.7 (failure to assess the excavation zone as required before using ground-water monitoring);
- (b) 20 DCMR § 6010.8 (failure to use continuous monitoring devices or manual methods capable of detecting at least one eighth (1/8) inch of free regulated substance);
- (c) 20 DCMR § 6010.9 (failure to clearly mark and secure each monitoring well to avoid unauthorized access or tampering);
- (d) 20 DCMR § 6011.1 (improper use of interstitial monitoring);
- (e) 20 DCMR § 6011.2 (failure to use sampling or testing method for a double-walled UST system capable of detecting a release through the inner wall);
- (f) 20 DCMR § 6011.3 (failure to properly maintain the vacuum in vacuum monitoring, to report a suspected release, or to reinstitute a vacuum more than once every three months without prior approval);
- (g) 20 DCMR § 6011.4 (failure to use an automated device capable of detecting a release between the inner wall and the internally fitted liner and to use a liner that is compatible with the substance stored);
- (h) 20 DCMR § 6011.5 (failure of secondary barrier within the excavation zone to meet specified requirements);

- (i) 20 DCMR § 6011.6 (failure to use sampling or testing method capable of detecting a release between the UST system and the secondary barrier within the excavation zone, or use of testing or sampling method that is rendered inoperative or reduced in effectiveness due to ground water, rainfall, soil moisture, or other known interference);
- (j) 20 DCMR § 6011.7 (failure to assess the site for an UST system with a secondary barrier within the excavation zone to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain);
- (k) 20 DCMR § 6011.8 (failure to clearly mark and secure monitoring wells for each UST system with a secondary barrier within the excavation zone to avoid unauthorized access or tampering);
- (l) 20 DCMR § 6011.9 (failure to use interstitial monitoring to check for evidence of a release at least every 30 days on secondary containment systems on underground tanks or piping installed or replaced after February 8, 2007);
- (m) 20 DCMR § 6012.4 (failure to comply with any conditions imposed on the use of an alternative method of release detection);
- (n) 20 DCMR § 6100.4 (failure to submit amended Notification Form within seven days of the date an UST system is temporarily closed);
- (o) 20 DCMR § 6100.8 (failure to begin procedures to permanently close an UST system in accordance with 20 DCMR § 6101 at the end of 12 months after an UST system is temporarily closed);
- (p) 20 DCMR § 6101.8 (failure to empty, clean, and fill tank with an inert solid material and comply with 20 DCMR §§ 5600.14 and 6101 when a tank removal variance is granted);
- (q) 20 DCMR § 6103.1 (failure to maintain records of compliance with closure requirements, in accordance with 20 DCMR § 5602);
- (r) 20 DCMR § 6103.2 (failure to properly maintain Closure Assessment results for at least three years after completion of permanent closure or change-in-service);
- (s) 20 DCMR § 6203.14 (failure to submit Initial Site Assessment report and any applicable monthly status report within 60 days after release confirmation or failure to submit a work plan for future site activities);
- (t) 20 DCMR § 6204.6 (failure to prepare and submit a status report on the removal of any free product, commencing 45 days after release

confirmation and quarterly thereafter, in accordance with specified format and content requirements);

- (u) 20 DCMR § 6207.13 (failure to monitor, evaluate, and timely report the results of Corrective Action Plan in a format established by Director);
- (v) 20 DCMR § 6207.16 (failure to evaluate effectiveness of Corrective Action Plan or amendment at end of one year of implementation);
- (w) 20 DCMR § 6211.2 (failure to maintain for at least three years all records and reports documenting the transport and disposal of wastes generated at an UST site while Corrective Action Plan is being carried out);
- (x) 20 DCMR § 6404.6 (failure of contractors who perform corrective action to maintain records on a site-specific basis or to bill the District for activities performed on a site-specific basis in accordance with District procurement regulations or policies);
- (y) 20 DCMR § 6500.6 (failure of business certified to perform UST system activities to provide list of employees who are not certified but who perform supervised on-site UST activities); or
- (z) 20 DCMR § 6500.7 (failure of certified UST System Technician, Closure Specialist, or Tester to carry and make available for inspection the identification card or certificate issued by the Director at all times while conducting the applicable UST activity).

4008.14 In addition to §§ 4008.11, 4008.12, and 4008.13, violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 6500.9 (failure to surrender certification or license to the Director within 10 business days after close or termination of a business);
- (b) 20 DCMR § 6502.8 (failure of a Class A operator to meet all requirements or duties, as provided under 20 DCMR § 6502.8(a)-(c));
- (c) 20 DCMR § 6502.9 (failure of a Class B operator to meet all requirements or duties, as provided under § 6502.9(a)-(c));
- (d) 20 DCMR § 6502.10 (failure of a Class C operator to meet all requirements or duties, as provided under § 6502.10(a)-(b));
- (e) 20 DCMR § 6502.19 (failure to maintain required list of designated operators);

- (f) 20 DCMR § 6702.1 (failure to maintain a copy of each financial assurance mechanism until released from financial responsibility requirements under 20 DCMR §§ 6700.5 or 6700.6);
- (g) 20 DCMR § 6702.2 (failure to make available to the Director upon request, records of financial assurance maintained off-site);
- (h) 20 DCMR § 6702.3 (failure to maintain a copy of the appropriate assurance instrument in the prescribed form);
- (i) 20 DCMR § 6702.4 (failure to maintain a copy of chief financial officer's letter of assurance when using a financial test of self-insurance or guarantee);
- (j) 20 DCMR § 6702.5 (failure to maintain a copy of signed standby trust fund agreement when using a guarantee, surety bond, or letter of credit);
- (k) 20 DCMR § 6702.6 (failure to maintain a copy of signed insurance policy or risk retention group coverage policy and endorsement or certificate or insurance);
- (l) 20 DCMR § 6702.7 (failure to maintain and update copy of certification of financial responsibility in prescribed form);
- (m) 20 DCMR § 6706.4 (failure to properly demonstrate to the owner within 120 days after the close of each financial reporting year that the guarantor meets the financial test criteria of 20 DCMR § 6703);
- (n) 20 DCMR § 6706.5 (failure to timely notify the owner by certified mail before cancellation or non-renewal of the guarantee if the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year);
- (o) 20 DCMR § 6706.6 (failure to timely notify owner by certified mail if guarantor no longer meets the requirements of the financial test of §§ 6704 or 6705 and 6703.3);
- (p) 20 DCMR § 6711.1 (failure of an owner using any of the financial responsibility mechanisms authorized under 20 DCMR §§ 6706, 6708, or 6709 to establish a standby trust fund when the mechanism is acquired);
- (q) 20 DCMR § 6711.2 (failure of a standby trust fund to have trustee with authority to act as a trustee and whose trust operations are regulated and examined by an agency of the federal government or the District of Columbia);

- (r) 20 DCMR § 6711.3 (failure of standby trust agreement or trust agreement to be in the prescribed form and accompanied by certification of acknowledgement in the prescribed form);
- (s) 20 DCMR § 6712.1 (failure to place funds in standby trust as required by the Director);
- (t) 20 DCMR § 6712.2 (failure to place funds in standby trust as required by the Director);
- (u) 20 DCMR § 6713.1 (failure to timely replenish the value of financial assurance or acquire another financial assurance mechanism if amount in a standby trust is reduced below full amount of coverage required);
- (v) 20 DCMR § 6714.2 (termination of guarantee, surety bond, or letter of credit prior to 120 days following owner's receipt of notice of termination);
- (w) 20 DCMR § 6714.3 (termination of insurance or risk retention group coverage prior to 60 days following owner's receipt of notice of termination or, in the case of non-payment of premiums or misrepresentation, prior to 10 days following owner or operator's receipt of notice of termination); or
- (x) 20 DCMR § 6715.2 (failure of guarantor to provide proper and timely notification to owner of bankruptcy proceeding as required under terms of the guarantee specified in 20 DCMR § 6706).

4008.15 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 20 DCMR § 5601.11 (failure to post a copy of the current UST registration certificate in a visible location at the facility at all times); or
- (b) Violation of any provision of the District of Columbia Underground Tank Management Act of 1990, effective March 8, 1991, as amended (D.C. Law 8-242; D.C. Official Code §§ 8-113.01 to 8-113.12), or the District of Columbia Underground Storage Tank Regulations, 20 DCMR Chapters 55-67, which is not cited elsewhere in this section, shall be a Class 4 infraction.

Section 3644, WATER QUALITY INFRACTIONS, is repealed and replaced with a new Section 4009, WATER QUALITY INFRACTIONS, to read as follows:

4009 WATER QUALITY INFRACTIONS

4009.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) D.C. Official Code § 8-103.02 (discharging a pollutant to the waters of the District without a permit);
- (b) D.C. Official Code § 8-103.07(d) (discharging oil, gasoline, anti-freeze, acid or other hazardous substance, pollutant or nuisance material into a public space in a quantity sufficient to constitute a hazard or nuisance);
- (c) D.C. Official Code § 8-103.13(b) (constructing a treatment facility without prior approval);
- (d) D.C. Official Code § 8-103.13a(a) (constructing a well without a permit);
- (e) D.C. Official Code § 8.103.16(b)(1) (knowingly making a false statement in an application, record, report, plan, or other document maintained under the Water Pollution Control Act);
- (f) 21 DCMR §§ 1401.1 or 1401.3 (harvesting, cutting, removing, or eradicating submerged aquatic vegetation without plan approval); or
- (g) 21 DCMR § 1407.1 (using an herbicide or chemical to control submerged aquatic vegetation without approval).

4009.2

Violation of any of the following provisions shall be a Class 2 infraction:

- (a) D.C. Official Code § 8.103.06(a) (discharging into a sewer material that is corrosive, flammable, explosive or may adversely affect the structure of a sewer line);
- (b) D.C. Official Code § 8-103.06(b) (failure to comply with a permit or permit condition);
- (c) D.C. Official Code § 8.103.07(e) (discharging used motor oil into a sewer);
- (d) D.C. Official Code § 8.103.08(a)(1) (failure to notify the Mayor of a discharge of pollutant from a vessel or facility);
- (e) D.C. Official Code § 8-103.13a(c) (failure to comply with procedure for abandoning a well); or
- (f) D.C. Official Code § 8-103.15(b) (failure to allow an inspection or sampling related to the regulation of water quality; failure to allow an inspection or copying of a document required to be maintained).

- 4009.3 Violation of the following provision shall be a Class 3 infraction:
- (a) D.C. Official Code § 8.103.06(m) (discharging sanitary sewage, wash or process water, oil laden bilge water, refuse or litter from a watercraft).
- 4009.4 Violation of any provisions of the Water Pollution Control Act of 1984, effective March 16, 1985, as amended (D.C. Law 5-188; D.C. Official Code §§ 8.103.01 to 8.103.20), which is not cited elsewhere in this section, shall be a Class 4 infraction.

Section 3646, SOIL EROSION AND SEDIMENT CONTROL AND STORM WATER MANAGEMENT INFRACTIONS, is repealed and replaced with a new Section 4010, SOIL EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT INFRACTIONS, to read as follows:

4010 SOIL EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT INFRACTIONS

- 4010.1 Violation of any of the following provisions shall be a Class 1 infraction:
- (a) 21 DCMR § 504.1 (upon notice from the Department, failure to stop work identified);
 - (b) 21 DCMR § 504.5 (unauthorized removal of a posted stop work order);
 - (c) 21 DCMR § 504.6 (continuing work stopped by a Department order);
 - (d) 21 DCMR § 509.1 (failure to correct soil erosion occurring as the result of natural forces or past land-disturbing activities after an inspection and an order from the Department);
 - (e) 21 DCMR § 516.1 (failure to obtain a Department-approved stormwater management plan);
 - (f) 21 DCMR § 519.1(b) (failure to comply with the maintenance activities in a Department-approved stormwater management plan);
 - (g) 21 DCMR § 527.2 (failure to maintain or achieve the off-site retention volume);
 - (h) 21 DCMR § 528.1 (failure to conduct maintenance required by the stormwater management plan approved by the Department);

- (i) 21 DCMR § 528.3 (failure to ensure that a best management practice or a land cover on a lot or parcel is maintained in good working order);
- (j) 21 DCMR § 528.4 (converting natural land cover associated with a stormwater retention requirement to compacted or impervious land cover, resulting in the loss of retention capacity associated with the land conversion);
- (k) 21 DCMR § 528.5 (converting compacted land associated with a stormwater retention requirement to impervious land cover, resulting in the loss of retention capacity associated with the land conversion);
- (l) 21 DCMR § 531.3 (failure to maintain the retention capacity for a best management practice or land cover for the period of time for which the Department certified a Stormwater Retention Credit);
- (m) 21 DCMR § 532.5(b) (failure to replace a certified Stormwater Retention Credit associated with a retention failure);
- (n) 21 DCMR § 534.2 (failure to maintain the retention capacity for a best management practice or land cover for the period of time for which the Department certified the Stormwater Retention Credit);
- (o) 21 DCMR § 532.5 (failure to replace a Stormwater Retention Credit (SRC) for which retention failure has occurred with another SRC or pay the in-lieu fee corresponding to the SRC);
- (p) 21 DCMR § 540.1 (engaging in razing or land-disturbing activity, including stripping, clearing, grading, grubbing, excavating, and filling of land, without obtaining the Department's approval of a soil erosion and sediment control plan); or
- (q) 21 DCMR § 540.5 (working outside the scope of the Department-approved soil erosion and sediment control plan).

4010.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 21 DCMR § 502.2 (failure to conduct all work in accordance with a Department-approved plan or approved plan change);
- (b) 21 DCMR § 503.3 (changing a Department-approved plan or its implementation without Department approval);
- (c) 21 DCMR § 503.6 (proceeding past a stage of construction without obtaining the required Department inspection and approval);

- (d) 21 DCMR § 503.13 (upon notice from the Department, failure to promptly correct work that fails to comply with a Department-approved plan);
- (e) 21 DCMR § 516.3(b) (failure to comply with the terms and conditions of the Department-approved stormwater management plan);
- (f) 21 DCMR § 516.3(c) (failure to comply with the Department's orders and directions to achieve compliance with the Department-approved stormwater management plan);
- (g) 21 DCMR § 516.5 (failure to comply with a Department-approved stormwater management plan);
- (h) 21 DCMR § 518.12 (failure to submit a complete as-built stormwater management plan package within twenty-one (21) days of the Department's final construction inspection);
- (i) 21 DCMR § 518.13 (failure to submit an as-built stormwater management plan or a Record Drawing for a project consisting entirely of work in the public right-of-way);
- (j) 21 DCMR § 528.10 (using soil media removed from a best management practice receiving drainage from an area intended for use or storage of motor vehicles for planting or as fill material);
- (k) 21 DCMR § 528.11 (failure to dispose non-vegetative waste material from cleaning, maintaining, repairing, or replacing a best management practice into a landfill or other facility approved for processing these materials);
- (l) 21 DCMR § 533.3 (transferring ownership of a Stormwater Retention Credit without the Department's approval);
- (m) 21 DCMR § 540.2 (engaging in a demolition project that results in debris, dust, or sediment leaving the site without instituting the necessary control measure(s));
- (n) 21 DCMR § 540.3 (failure to apply each necessary control measure upon receiving instruction to do so by the Department after exposing erodible material and causing erosion);
- (o) 21 DCMR § 542.12 (failure to request the Department's approval at the scheduled stage(s) of construction);
- (p) 21 DCMR § 543.3 (failure to use adequate soil erosion and sediment control measures to prevent transportation of sediment from the site);

- (q) 21 DCMR § 543.5 (failure to protect a best management practice from sedimentation and other damage during construction);
- (r) 21 DCMR § 543.6 (failure to have adequate erosion and sediment control measures in place before and during land disturbance);
- (s) 21 DCMR § 543.7 (failure to have soil erosion and sediment control measures in place to stabilize an exposed area as soon as practicable after construction activity has temporarily or permanently ceased);
- (t) 21 DCMR § 543.9 (failure to implement measures to prevent the discharge of erodible material or waste material to District sewers or District waterbodies);
- (u) 21 DCMR § 543.10(a) (failure to comply with a stormwater pollution prevention plan);
- (v) 21 DCMR § 543.12 (except for the area undergoing construction, failure to stabilize area and install perimeter controls within one (1) week of initial land disturbance or redisturbance);
- (w) 21 DCMR § 543.13 (failure to control runoff from the site by either diverting or conveying the runoff through areas with soil erosion and sediment control measures, such as through the installation of lined conveyance ditches, channels, or checkdams);
- (x) 21 DCMR § 543.14 (failure to apply critical area stabilization to each cut and fill slope);
- (y) 21 DCMR § 543.16(a) (failure to establish and maintain perimeter controls around the stockpile material that is actively being used during a phase of construction); or
- (z) 21 DCMR § 543.16 (b) (failure to stabilize stockpiled material with mulch, temporary vegetation, hydro-seed, or plastic within fifteen (15) calendar days after last use or addition of material).

4010.3

In addition to § 4010.2, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 21 DCMR § 543.17 (failure to install required sediment traps or basins and other soil erosion and sediment controls);
- (b) 21 DCMR § 543.18 (failure to seed and mulch or install a sod or a stabilization blanket immediately after building debris basins, diversions, waterways, or related structures);

- (c) 21 DCMR § 543.19 (failure to install measures to minimize off-site vehicle tracking at the construction site access);
- (d) 21 DCMR § 543.20 (failure to remove off-site accumulations of sediment);
- (e) 21 DCMR § 543.21 (failure to maintain and prevent stabilized areas from becoming unstabilized);
- (f) 21 DCMR § 545.2 (failure to install measures to achieve a non-eroding velocity for stormwater exiting from a roof or downspout or to temporarily pipe that stormwater directly to a storm drain);
- (g) 21 DCMR § 545.3 (failure to maximize the preservation of natural vegetation and limit the removal of vegetation to that is necessary for construction or landscaping activity);
- (h) 21 DCMR § 546.1(a) (exposing more than five hundred linear feet (500 ft) of open trench at any one time for land-disturbing activity that involves work on an underground utility);
- (i) 21 DCMR § 546.1 (b) (failure to place all excavated material on the uphill side of a trench for land-disturbing activity that involves work on an underground utility);
- (j) 21 DCMR § 546.1 (c) (failure to install interim or permanent stabilization upon completion of refilling for land-disturbing activity that involves work on an underground utility);
- (k) 21 DCMR § 546.1 (d) (failure to use mulches and matting to minimize soil erosion when natural or artificial grass filter strips are used to collect sediment from excavated material for land-disturbing activity that involves work on an underground utility); or
- (l) 21 DCMR § 547.1 (failure to ensure that a responsible person (as described in the chapter) is present or available if a site involves a land disturbance of five thousand square feet (5,000 ft²) or more).

4010.4

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 21 DCMR § 502.4 (failure to notify the Department of a material change in the performance provided for in a Department-approved stormwater pollution prevention plan, including a material change in the volume of stormwater flowing into a best management practice (BMP), a shared BMP, or a land cover);

- (b) 21 DCMR § 503.7(a) (failure to schedule a preconstruction meeting or field visit with the Department at least three (3) business days before commencement of a land-disturbing activity);
- (c) 21 DCMR § 503.7(b) (failure to schedule a preconstruction inspection with the Department at least three (3) business days before beginning construction of a best management practice);
- (d) 21 DCMR § 503.7(c) (failure to schedule an inspection required for a stage of construction or other construction event at least three (3) business days before the anticipated inspection);
- (e) 21 DCMR § 503.7(d) (failure to give notice to the Department within two (2) weeks of completion of the land-disturbing activity); or
- (f) 21 DCMR § 503.7(e) (failure to request a final construction inspection one (1) week before completion of a best management practice).

4010.5 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 21 DCMR § 542.2 (failure to make the Department-approved soil erosion and sediment control plan for a project available on site for Department review);
- (b) 21 DCMR § 543.10(b) (failure to post a copy of the Department-approved stormwater pollution prevention plan on site);
- (c) 21 DCMR § 543.22 (failure to post a sign that notifies the public to contact the Department in the event of soil erosion or other pollution); or
- (d) Violation of any provision of the District of Columbia Stormwater Management, Soil Erosion and Sedimentation Control Regulations (21 DCMR, Chapter 5) that is not cited elsewhere in this section.

Section 3645, AQUATIC ANIMAL PROTECTION AND FISHING INFRACTIONS, is repealed and replaced with a new Section 4015, AQUATIC ANIMAL PROTECTION AND FISHING INFRACTIONS, to read as follows:

4015 AQUATIC ANIMAL PROTECTION AND FISHING INFRACTIONS

4015.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 19 DCMR § 1503.1(a) (introducing a species of fish or other aquatic organism not indigenous to the District of Columbia into the waters of the District of Columbia);

- (b) 19 DCMR § 1560.1 (killing or taking wildlife not in accordance with the law or regulations); or
- (c) 19 DCMR § 1560.2 (killing or taking depredating wildlife on private property by inhumane means).

4015.2 [RESERVED]

4015.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 19 DCMR § 1503.1(e) (capturing, harassing, harming, or failing to return to the water immediately an organism listed as a threatened or endangered species); or
- (b) 19 DCMR § 1503.1(f) (using explosives, chemicals, firearms, or electricity to take, kill, or injure a fish or other aquatic organisms).

4015.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 19 DCMR § 1502.1 (taking a fish or other aquatic organism for sale or profit);
- (b) 19 DCMR § 1503.1(b) (possessing a fish under the minimum legal size);
- (c) 19 DCMR § 1503.1(c) (possessing more fish of a particular species than allowable);
- (d) 19 DCMR § 1503.1(d) (possessing a fish with a size or weight limitation where the head or tail has been removed);
- (e) 19 DCMR § 1503.1(g) or (i) (taking, catching, or possessing sturgeon, striped bass, American shad, hickory shad, chain pickerel, northern pike, or hybrid striped bass); or
- (f) 19 DCMR § 1503.1(h) (taking fish illegally).

4015.5 Violation of any of the following provisions shall be a Class 5 infraction:

- (a) 19 DCMR § 1501.1 (fishing without a valid D.C. Fishing License);
- (b) 19 DCMR § 1501.3 (failure to display license or allow inspection of license upon request);
- (c) 19 DCMR § 1501.4 (collecting fish or other aquatic organisms for scientific purposes without a permit);

- (d) 19 DCMR §§ 1502.2 to 1502.7 (fishing with unauthorized equipment or methods);
- (e) 19 DCMR § 1503.2 (fishing with nets of any kind); or
- (f) 19 DCMR § 1503.3 (digging for bait in Rock Creek Park).

4015.6 Violation of any provision of section 4 of the Water Pollution Control Act of 1984, effective March 16, 1985, as amended (D.C. Law 5-188; D.C. Official Code § 8-103.03) or the implementing rules in 19 DCMR Chapter 15, which is not cited elsewhere in this section, shall be a Class 5 infraction.