

18.534. Costs.

A. Costs may be awarded to the Department of Environmental Quality if the Department of Environmental Quality is the prevailing party in the review.

B. Such costs, may be awarded in an amount deemed to be reasonable by the trial court, based upon the expense the Department of Environmental Quality has reasonably incurred in preparing the record of the proceedings before trial and participating in the review process.

18.535. Appellate Review.

The final decision, order, judgment, or decree of the Community Court entered for an action to review a decision of the Department of Environmental Quality may be appealed to the Gila River Indian Community Court of Appeals.

18.536. Rules of Civil Procedure.

Where applicable, all rules of civil procedure in the Community Court, including rules relating to appeals to the Gila River Indian Community Court of Appeals, shall apply to all proceedings.

18.537. Appropriation.

The C-TERC, through the department, shall annually propose a program budget to the Community Council in order to provide for the implementation and enforcement of this chapter.

CHAPTER 6. MEDICAL WASTE MANAGEMENT**18.601. Purpose and Applicability.****A. Purpose.**

1. The purpose of this chapter is to protect the health, safety and welfare of the members and lawful residents of the Gila River Indian Community ("Community") and the surrounding area of the Community by preventing the spread of disease, the creation of nuisances, damage to property, and by minimizing environmental pollution through regulating the management of hospital/medical/infectious waste within the exterior boundaries of the Reservation.
2. The Community through the Community Council has the inherent authority and the absolute right to take those actions necessary within the external boundaries of the Gila River Indian Reservation (the "Reservation") to protect the health of its members and their environment.

3. The Community enacts this chapter to regulate certain activities within the Reservation, including the management or treatment of hospital/medical/infectious waste, which if improperly managed poses a direct and serious threat to the health of Community members as well as their environment.
4. The privilege of operating a facility for the management of hospital/medical/infectious waste including the incineration of such waste on land within the external boundaries of the Reservation is granted only on the condition that the owner or operator of the facility has consented to the regulation of the facility's activity by the Community.
5. Further the Community regulates these activities as prescribed under *Montana v. United States*, 450 U.S. 544 (1981), which extends the authority of the Community to regulate activities of non-members: (1) where the non-members enter into commercial dealing, contracts, leases or other arrangements that create a consensual relationship between the non-member and the Community; (2) the conduct of the non-member threatens or affects the political integrity, economic security or health and welfare of the Community; and (3) the Community provides to non-members the privileges and benefits of tribal services or other advantages of civilized society.

B. Applicability. The following definitions and regulations shall apply to generators, transporters, persons that store or stockpile, hospital/medical/infectious/waste and treatment facilities that generate, transport, offer for transport, store, or otherwise manage, treat, incinerate, or dispose of hospital/medical/infectious waste generated within, transported onto, transported off of, or transported through the exterior boundaries of the Reservation.

C. Exemptions. A household generator residing in a private, public, or semi-public residence who generates infectious waste in the administration of self care or the agent of the household generator who administers medical care are exempt from this regulation.

D. Compliance. Compliance with this chapter shall not preclude a person from complying with applicable federal laws, including but not limited to, 40 Code of Federal Regulation, Part 60, Subpart Ce, 40 C.F.R. Part 60, Subpart Ec and 40 C.F.R. Part 62, Subpart HHH.

E. Conflicts with federal regulations. In the event that a provision or requirement of this chapter conflicts with an applicable federal regulation including 40 CFR Subparts Ce or Ec and 40 CFR Part 62, Subpart HHH, the more stringent provision or requirement shall apply.

18.602. Definitions and References.

A. The following definitions apply to this chapter:

1. *Administrative Law Judge* means an individual, appointed by the Governor, who sits as an administrative law judge, and conducts administrative hearings for appealable department administrative actions.

2. *Administrative Law Judge Decision* means the findings of fact, conclusions of law, and recommended decision issued by an administrative law judge.
3. *Appealable Department Action* means an action that is subject to administrative appeal pursuant to Community ordinance.
4. *Autoclave* means any device using a combination of heat, steam, pressure, and time to achieve sterile conditions.
5. *Biologicals* means preparations made from living organisms or their products, including vaccines, cultures, or other biological products intended for use in diagnosing, immunizing, or treating humans or animals or in research pertaining thereto.
6. *Blood Products* means any products derived from human blood, including but not limited to blood plasma, platelet, red or white corpuscles, and other derived licensed products, such as interferon.
7. *Body Fluids* means liquid emanating from humans and limited to blood; cerebrospinal, synovial, peritoneal, and pericardial fluids; semen and vaginal secretions.
8. *Bypass* means the period of time that combustion gases and other air pollutants are routed in a manner that bypass any portion of the pollution abatement system.
9. *Central Collection Point* means a location where a generator stores or stockpiles hospital/medical/infectious waste brought together from original generation points prior to its transport off-site or its treatment on-site.
10. *Community* means the Gila River Indian Community.
11. *Community Council* means the legislative branch of the Gila River Indian Community as established in the Constitution and Bylaws of the Gila River Indian Community (1960).
12. *Community Court* means courts of the Gila River Indian Community, including trial courts and courts of appeal.
13. *Decontamination* means the process of reducing or eliminating the presence of harmful substances, such as infectious agents, so as to reduce the likelihood of disease transmission from those substances.
14. *Department* means the Gila River Indian Community Department of Environmental Quality ("the department").
15. *Director* means the Director of the Gila River Indian Community, Department of Environmental Quality.
16. *Disposal* means the process of placing in an approved landfill pursuant to federal regulations for the disposal of hazardous or solid waste, which ever is applicable, the residue from hospital/medical/infectious waste which has previously been treated.

17. *Facility* means all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, destroying, storing, or disposing of hospital/medical/infectious waste. A facility may consist of several treatment, storage, or disposal operational units.
18. *Final Administrative Decision* means a decision by the Gila River Department of Environmental Quality that is subject to review by the Gila River Indian Community Court pursuant to Section 18.615 of this chapter.
19. *General Counsel* means the Community Law Office.
20. *Generator* means any person, by site, whose act or process produces hospital/medical/infectious waste as defined herein or whose act first causes a hospital/medical/infectious waste to become subject to regulation, in the case where more than one generator is located in the same building, each individual business entity is a separate generator for the purposes of this Section.
21. *Governor* means the individual elected to serve as the Chief Executive Officer of the Gila River Indian Community.
22. *High Level Radioactive Waste* means
 - a. The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and
 - b. Any other highly radioactive material determined by the federal government as requiring permanent isolation.
23. *HMIWI* means a hospital/medical/infections waste incinerator.
24. *Hospital/Medical/Infectious Waste Incinerator Operator* means any person who operates, controls, or supervises the day-to-day operation of a HMIWI.
25. *Hospital/Medical/Infectious Waste Treatment Facility* means any hospital/medical/infectious waste incinerator (HMIWI) that combusts any amount of hospital waste and/or medical/infectious waste and any autoclave that treats any hospital/medical/infectious waste using a combination of heat, steam, pressure, and time to achieve sterile conditions.
26. *Hospital Waste* means general refuse, laboratory and pharmaceutical chemicals and containers, and pathological wastes which may not contain wastes classified as hazardous under the Resource Conservation and Recovery Act ("RCRA"), 40 C.F.R. Parts 260, et seq. in excess of de minimis levels. For purposes of this chapter, hospital waste does not include human corpses, remains, or anatomical parts that are intended for interment or cremation.
27. *Incinerator* means any device that combusts hospital/medical/infectious waste so as to destroy the pathogenic organisms in the waste.

28. *Infectious Agent* means any organism (virus, rickettsia, bacteria, fungus, protozoan, helminth) that is capable of producing infection or infectious disease.
29. *Infectious Waste* means any solid waste which is generated in the diagnosis, treatment such as the provision of medical services, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals as listed below. For purposes of this chapter, infectious waste does not include any hazardous waste identified, listed, or defined under 40 C.F.R. Parts 261, et seq.
- a. Cultures and stocks of infectious agents and associated biologicals, including but not limited to; cultures from medical and pathological laboratories; from research and industrial laboratories; wastes from the production of biologicals and serums; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.
 - b. Pathological wastes including all human tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.
 - c. Human blood and blood products including
 - i. Liquid waste human blood;
 - ii. Products of blood;
 - iii. Items saturated and/or dripping with human blood; or
 - iv. Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing or laboratory analysis or development of pharmaceuticals. Intravenous bags are also included in this category.
 - d. Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories that may cause punctures or cuts including hypodermic needles, syringes (with or without the attached needle), Pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes with or without the presence of infectious waste agents. Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.
 - e. Animal waste including contaminated animal carcasses, body parts, and bedding of animals that were exposed to infectious agents during research (including research in veterinary hospitals) production of biologicals, or testing of pharmaceuticals.
 - f. Isolation waste including biological waste and discarded materials contaminated with blood, excretion, exudates, or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.

- g. Unused sharps including the following unused, discarded sharps hypodermic needles, suture needles, syringes, and scalpel blades.
 - h. Laboratory waste that has come into contact with pathogenic organisms, including culture dishes, transfer devices, paper, and cloth.
 - i. Surgical waste means all materials discarded from surgical procedures, including but not limited to disposable gowns, soiled dressings, sponges, casts, lavage tubes, drainage sets, underpads. and surgical gloves.
 - j. Chemotherapy waste, including all materials that have had contact with and that have no more than trace amounts of cytotoxic/antineoplastic agents. Chemotherapy waste shall only be destroyed by incineration.
30. *Laboratory* means any research, analytical, or clinical facility that performs health care related analysis or service. This includes medical, pathological, pharmaceutical, and other research, commercial, or industrial laboratories.
31. *Landfill* means a disposal facility or part of a facility where infectious waste is placed in or on the land and that is not a land treatment facility, a surface impoundment, or an injection well.
32. *Low Level Radioactive Waste* means waste that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable Federal standards for unrestricted release Low-level radioactive waste is not high level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2).
33. *Manifest* means the tracking form that shall accompany applicable shipments of hospital/medical/infectious waste generated, treated, transported into, out of (for disposal), or through, the exterior boundaries of the Reservation.
34. *Medical Waste* means any non-gaseous waste, including infectious waste, which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in production or testing of biological agents and substances. Medical waste does not include any waste identified under subtitle C of the Resource Conservation and Recovery Act as hazardous or as household waste, but includes those pharmaceuticals which are not identified as hazardous by the Clean Air Act.
35. *Original Generation Point* means the location where infectious waste is generated. Waste may be transported from original generation points to a central location point prior to transport out of the Community or transported to an on-site treatment facility either in or out of the Community.
36. *Oversized Infectious Waste* means infectious waste that is too large to be placed in a plastic bag or standard container.

37. *Owner/Operator* means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.
38. *Person* means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, Community, state, any interstate or intertribal body, or any department, agency or instrumentality of the United States.
39. *Pharmaceutical Waste* means any prescription medicine, over-the-counter medicine, or controlled substance, used in the diagnosis, treatment, or immunization of a human being or animal, that the generator intends to abandon. The term does not include hazardous waste or controlled substances regulated by the United States Drug Enforcement Agency.
40. *Reservation* means any land within the exterior boundaries of the Gila River Indian Reservation, any land outside such boundaries held in trust for the Community or any of its members by the United States, and any other land constituting the Community's "Indian country" within the meaning of 18 U.S.C. § 1151 or any successor provision.
41. *Shutdown* means the period of time after all waste has been combusted in the primary chamber. For a continuous HMIWI, shutdown shall commence no less than two hours after the last charge to the incinerator. For an intermittent HMIWI, shutdown shall commence no less than four hours after the last charge to the incinerator. For a batch HMIWI, shutdown shall commence no less than five hours after the high-air phase of combustion has been completed.
42. *Solid Waste* means a solid waste as defined under The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 et seq. or Title 18, Chapter 2, of the GRIC Code.
43. *Startup* means the period of time between the activation of the system and the first charge to the unit. For a batch HMIWI, startup means the period of time between activation of the system and ignition of the waste.
44. *Storage or Stockpiling* means the temporary holding of hospital/medical/infectious waste at a designated accumulation area before treatment or disposal, or transport to another location.
45. *Transfer Facility* means any transportation facility including loading docks, parking areas, storage areas and other similar areas where shipments of hospital/medical/infectious waste are held or managed after being picked up from the point of origin and during the course of transportation.
46. *Transportation* means the shipment or conveyance of hospital/medical/infectious waste by air, rail, land, or water.

47. *Treated Infectious Waste* means infectious waste that has been treated to eliminate its potential for causing disease or substantially reduce its potential for causing disease in accordance with Sections 18.638 and 18.639 of this chapter.
48. *Treatment of Hospital/Medical/Infectious Waste* means the treatment process by incineration or by an autoclave that alters hospital/medical/infectious waste so that its potential for causing disease is eliminated or substantially reduced.
49. *Universal Biohazard Symbol* means the symbol design shown in 29 C.F.R. § 1910.145(f)(8)(ii).
50. *Untreated Infectious Waste* means infectious waste that has not been treated to eliminate its potential for causing disease.

B. The following materials are incorporated in this chapter by reference. These incorporations by reference do not include any later amendments or editions:

1. 40 C.F.R. § 60.8 (General Performance Testing Requirements).
2. 40 C.F.R. Part 60, Appendix A, Methods 1, 2, 3, 3A, 5, 9, 10, 10B, 23, 26, 26A, 29 (Specific Test Methods for Performance Testing).
3. 40 C.F.R. Part 60, Appendices B and F (Performance Requirements and Quality Assurance Requirements for Constant Emission Monitors).
4. "An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities," American Society for Healthcare Environmental Services, 840 North Lake Shore Drive, Chicago, Illinois 60611 (1993) (Publication by The American Hospital Association that is Incorporated by Reference as a Guidance Document for Developing Waste Management Plans).

18.603. Department of Environmental Quality; Medical Waste; Powers and Duties.

The Department of Environmental Quality, as authorized by the Community Council of the Gila River Indian Community, shall administer this chapter and, in addition to any other lawful powers and duties, shall:

A. Require the submission of reports, plans, and specifications for hospital/medical/infectious waste treatment facilities that will handle hospital/medical/infectious waste as necessary to implement the provisions, requirements, and standards of this chapter, 40 C.F.R. Part 60, Subpart Ce or the permit;

B. Issue permits and charge fees established herein under Section 18.607 of this chapter. Such fees shall be deposited with the Community Treasurer to be placed in a Community fund and used for the purpose of hospital/medical/infectious waste regulation;

C. Conduct inspections of hospital/medical/infectious treatment facilities and issue Notices of Violation and/or Compliance Orders as necessary to carry out the purposes of this chapter, provisions of 40 C.F.R. Part 60, Subpart Ce, 40 C.F.R. Part 60, Subpart Ec or the permit;

D. Require the sampling and analysis of the ash from treated hospital/medical/infectious waste for metal content in accordance with 40 C.F.R. § 261.24, Toxicity Characteristic Leaching Procedure method (TCLP method);

E. Prohibit treated and untreated hospital/medical/infectious wastes from storage, stock-piling, transport, treatment and/or disposal within the Reservation in a manner inconsistent with this chapter, 40 C.F.R., Part 60, Subpart Ce or the permit if the Department of Environmental Quality has evidence that a significant threat exists to the health, safety, or welfare of transporters, facility employees, users of solid waste management facilities, and/or the public; and

F. Review and comment on any proposed land use contract or extension or agreement thereof between any industrial park, governmental department, or person for the handling, treatment, destruction or disposal of hospital/medical/infectious wastes.

18.604. General Provisions.

Any person engaged in the generation, hauling, handling treatment, and disposal of untreated hospital/medical/infectious waste shall:

A. Protect the public health, safety, and welfare;

B. Prevent the creation of a nuisance, unsanitary condition, or environmental or public health hazard as determined by the director in coordination with the GRIC Department of Public Health;

C. Conform to all applicable federal and Community laws, ordinances and regulations pertaining to air quality, noise control, water pollution control, radiation control, hazardous waste control, solid waste control, zoning, odor control and all other applicable laws;

D. Obtain all applicable construction, testing, and operating licenses and permits;

E. Maintain and provide to the Department of Environmental Quality all requested records and reports;

F. Make no falsification of any record or report;

G. Perform no salvage of materials from infectious wastes, except to the extent authorized in a waste minimization plan/recycling plan approved by the Department of Environmental Quality;

H. Prevent the protection or propagation of insects or rodents, or conditions which would encourage the transmission of disease;

I. Pay any and all applicable fees or penalties;

J. Make no misrepresentation as to services or risks or provide remuneration of any kind in order to obtain a competitive advantage or benefit;

K. Make no interference with Community employees who are administering the provisions of this chapter, a permit issued under this chapter or 40 C.F.R. Part 60, Subpart Ce;

L. Comply with any lawful notice or order issued by the Community pursuant to this chapter, a permit issued under this chapter, 40 C.F.R. Part 60, Subpart Ce or 40 C.F.R. Part 60, Subpart Ec; and

M. Make no construction, expansion, or modification of any hospital/medical/infectious waste treatment facility without the approval of the Department of Environmental Quality. This does not include required maintenance, like component replacement or replacement of worn equipment necessary to maintain the integrity of the treatment system.

18.605. Medical Waste Treatment Facility; Operating Permit Required.

A. Any person operating or proposing to operate a hospital/medical/infectious waste treatment facility, including an HMIWI, shall first apply for and obtain a permit from the Department of Environmental Quality. The applicant shall follow the requirements set forth below and provide all of the information required on a permit application provided by the Department of Environmental Quality.

B. Any person required to obtain a permit under Section 18.605.A of this chapter because they are currently operating a HMIWI shall submit a permit application within 90 days of the effective date of this chapter. Persons shall be required to submit a permit application upon change of ownership or change of operator of the affected facility within 90 days of ownership/operator change. The permittee shall be in compliance with all provisions of this chapter, 40 CFR, Part 60, Subpart Ce or any other applicable federal or Community requirements within 90 days from the date this chapter becomes effective. The date this chapter becomes effective shall be the date that the Community Council approves the chapter under resolution ratifying the ordinance into law.

18.606. Issuance of Operating Permits; Application; Procedures.

A. Review of Application and Supporting Documentation.

1. Upon submission of all required information, including supporting documentation and payment of the applicable fees, the Department of Environmental Quality shall review the permit application for completeness and shall provide notice to the applicant of any elements of the permit application that are incomplete.
2. Supporting documents shall include but not be limited to:
 - a. Performance test results, including particulate emissions tests, conducted in accordance with EPA Method 9.
 - b. Incinerator operation and performance test results as measured in accordance with test methods stated in 40 C.F.R., Part 60, Subpart Ec, § 60.56c, (a) through (j), which is hereby incorporated by reference. The results of the performance test shall not exceed the emission limits stated in this chapter.
 - c. A facility operations and maintenance ("O & M") Plan, which shall include but is not limited to an equipment maintenance schedule and procedures, start-up, shutdown and normal operation procedures, autoclave and incinerator waste

loading procedures, vehicle unloading/loading procedures, screening procedures for radioactive materials, container sanitization procedures, theory and design of the equipment, recommended spare parts inventory, equipment operating parameter ranges established during a performance test documenting compliance with emission limits contained in Section 18.643 of this chapter and contingency measures, which shall include provisions for operation of air pollution control equipment during loss of water or power.

B. Procedures for Permit Issuance.

1. The Department of Environmental Quality shall issue or deny a permit within 120 days after the application for the permit has been determined to be complete.
2. Within 60 days of the determination of completeness, the department shall provide notice of the proposed permit in the *Gila River Indian News* and to persons on a mailing list developed by the department. The notice shall describe what action the department proposes to take with respect to the permit and shall contain a statement that written comments on the proposed permit action will be accepted by the department for a period of at least 20 days.
3. The department may, at its discretion, based upon the level of public interest, present the proposed permit at one or more public meetings to receive oral and written comments. In the event that the department decides to convene a public meeting(s), the notice shall state the time and place of the meeting(s).

C. Permits shall be valid for five years from the date of issuance. In the event, however, that the Community adopts a permit program under Title V of the Federal Clean Air Act and 40 CFR Part 70, a permittee shall obtain a permit under the new permit program in accordance with a schedule prescribed by the Department of Environmental Quality and the new permit shall supersede the permit issued pursuant to this chapter.

18.607. Operating Permits; Fees.

Applications for operating permits shall be submitted to the Department of Environmental Quality. A fee of \$10,000.00 shall be paid on an annual basis to the Community Treasurer, with the annual fee being paid on the anniversary date of the issuance of the permit. The permit fee shall be paid in addition to any other business license fee required pursuant to Community ordinance, including any Title V permit fees under 40 C.F.R. Parts 70 and 71.

18.608. Denial or Revocation of Permits.

A. Permits issued by the Department of Environmental Quality under the provisions of this chapter may be revoked by the Department of Environmental Quality for non-compliance with the permit, this chapter or any applicable provisions of 40 C.F.R. Part 60, Subpart Ce.

B. The Department shall deny a permit if the permit applicant fails to demonstrate that the facility is capable of meeting the requirements of this chapter.

C. An order by the department denying or revoking a permit is appealable to an administrative law judge ("ALJ") and the final order of denial or revocation from the director is appealable to Community Court in accordance with Sections 18.614 and 18.615 of this chapter.

18.609. Violations; Administrative Civil Penalties.

Any violation of this chapter, an order requiring compliance with this chapter, or any provision of a permit shall be subject to the following:

A. The director may issue a compliance order requiring compliance immediately or within a specified period of time and may impose an administrative civil penalty of up to \$1,000.00 per day per violation. Each day of failure to perform any act or duty required by this chapter, applicable provisions of 40 C.F.R. Part 60, Subpart Ce or a permit shall constitute a separate offense.

B. A compliance order shall state with reasonable specificity the nature of the violation, a time for compliance if applicable and the right to appeal in accordance with Sections 18.614 and 18.615 of this chapter.

C. A compliance order shall be transmitted to the alleged violator by certified mail, return receipt requested, or by personal service.

D. A compliance order becomes final and enforceable in the Community Court unless within 30 days after receipt of the compliance order the alleged violator requests an appeal to the ALJ pursuant to Sections 18.614 and 18.615 of this chapter. If an appeal is requested, the compliance order does not become final until the ALJ has issued a recommended decision on the appeal to the director and the director has issued a final decision.

E. At the request of the director, the General Counsel may file an action in Community Court to enforce compliance orders issued under this Section after the compliance order becomes final.

18.610. Judicial Remedies; Actions; Injunctive Relief.

A. Failure to perform any act or duty required by this chapter, a permit or an applicable provision of 40 C.F.R. Part 60, Subpart Ce or on a final compliance order shall be subject to a judicial civil penalty of up to \$10,000.00 per day per violation. The General Counsel may authorize the filing of cases arising from violations of this chapter in the Community Court. Each day of a failure to perform any act or duty constitutes a separate offense.

B. The penalty assessment criteria in Section 113(e) of the Clean Air Act shall be used in determining penalties.

C. At the request of the director, the General Counsel may file an action for a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief provided by law if the director has reasonable cause to believe that any of the following is occurring:

1. A person has violated or is in violation of any provision of this chapter, a rule adopted pursuant to this chapter or a permit issued pursuant to this chapter.

2. A person has violated or is in violation of an effective compliance order.
3. A person is creating an imminent and substantial endangerment to the public health or the environment.

18.611. Criminal Penalties.

A. The General Counsel shall consult with and, as appropriate, refer for federal prosecution any person who is alleged to have willfully or knowingly violated this chapter, a permit issued under this chapter, 40 C.F.R. Part 60, Subpart Ce or any provisions of 40 C.F.R. Part 62, Subpart HHH.

B. If the violation is knowing, information concerning the violation may be forwarded to the EPA Region IX under a Memorandum of Agreement or other appropriate arrangement to be developed between the Community and EPA, for criminal prosecution under Section 113(c) of the Clean Air Act.

18.612. Inspection of Medical Waste Treatment Facilities.

The Department of Environmental Quality or its authorized representative shall inspect hospital/medical/infectious waste treatment facilities in accordance with the following provisions:

A. Inspections shall be conducted at the discretion of the Department of Environmental Quality at reasonable times and may be conducted without prior notice.

B. Department of Environmental Quality inspectors shall be allowed access to all portions of facilities and to records required to be kept by any owner or operator of a hospital/medical/infectious waste treatment facility.

C. There shall be an on-site designated agent authorized to represent those designed fixed facilities and to cooperate with Department of Environmental Quality inspectors at all times during operating hours. Access to facility records shall be made available upon request during regular office hours of the facility.

D. Drivers of hospital/medical/infectious waste collection vehicles shall be authorized by their respective organizations to allow Department of Environmental Quality inspectors to inspect their vehicles within the exterior boundaries of the Reservation.

E. After conducting an inspection, the Department of Environmental Quality shall make an inspection report available to the authorized agent of the inspected facility. The Department of Environmental Quality shall maintain a copy of the report on file.

F. If the Department of Environmental Quality inspectors are denied access to a hospital/medical/infectious waste treatment facility by the owner or authorized agent, the Department of Environmental Quality may request authority to conduct an inspection from the Community Court. The Department of Environmental Quality may also request assistance from the EPA under Section 114 of the Clean Air Act to conduct a joint inspection.

G. Denial of access for inspection to Department of Environmental Quality inspectors is a violation of this chapter and is grounds for issuance of an order or civil penalties. A second occurrence is grounds for permit revocation.

18.613. Emergencies.

A. For purposes of this chapter, an emergency means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, where such situation requires immediate corrective action to restore normal operations and causes the source to exceed the emission limits in Section 18.643, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include non-compliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation or operator error.

B. An emergency constitutes an affirmative defense to an action brought for non-compliance with such emission limits if the conditions of Section 18.613.C. are met.

C. The affirmative defense of an emergency episode shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An emergency occurred and that the permittee can identify the cause(s) of the emergency;
2. The permitted facility was at the time being properly operated;
3. During the period of the emergency, the permittee took all reasonable steps to minimize the level and duration of emissions that exceeded the emission standards, or other requirements in the permit; and
4. The permittee, as soon as possible, contacted the Department of Environmental Quality giving notice of the emergency, and submitted a notice of the emergency to the Department of Environmental Quality by certified mail, facsimile, or hand delivery, within two working days of the time when emission limitations were exceeded due to the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, corrective action taken, and an estimate of excess emissions resulting from the emergency.

D. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

E. Use of the bypass stack (except during startup, shutdown, or emergency for which the Department of Environmental Quality grants relief) shall constitute a violation of the emission limits as listed in Section 18.643. A bypass event begins when any portion of the abatement system is bypassed and ends when either of the following occur:

1. The incinerator exhaust is routed through the abatement system, or
2. All combustible material and ash have been removed from the incinerator combustion chamber.

F. No HMIWI subject to this Section shall cause or allow any emissions that cause greater than ten percent opacity, including periods of emergency, as measured on a six minute block average, according to EPA Method 9, 40 C.F.R. 60, Appendix A, from any stack used by an HMIWI. Exceedance of the ten percent opacity limit as measured in accordance with EPA Method 9 (except during startup, shutdown, or emergency for which the Department of Environmental Quality grants relief) from any stack used by the HMIWI shall constitute a violation of the opacity limit.

G. This provision is in addition to any emergency or upset provision contained in any applicable federal requirement.

18.614. Administrative Appeal Procedures; Hearings; Decision.

A. **Appeal of a Department Action.** This Section applies to all appealable department actions including but not limited to:

1. The issuance or denial of an air quality permit;
2. Revocation of an air quality permit;
3. The issuance of a compliance order;
4. The imposition, by order, of an administrative civil penalty.

B. Notice of Appealable Department Action: Hearing.

1. At the time an action is taken that is appealable under Section 18.614.A, the Department of Environmental Quality shall serve notice of the action pursuant to Section 18.614.C.1. The notice shall identify the ordinance or rule that is alleged to have been violated or on which the action is based and shall include a description of the party's right to request a hearing on the matter.
2. A party may obtain a hearing on an appealable department action by filing a notice of appeal with the Department of Environmental Quality within 30 days after receiving the notice prescribed in Section 18.614.B.1. The notice may be filed by a party whose legal rights, duties, privileges were determined by the appealable department action. A notice of appeal may also be filed by a party who will be adversely affected by the issuance or denial of a permit and who exercised any right to comment on the action as provided by ordinance, provided that the grounds for appeal are limited to issues raised in that party's comment.
3. The notice of appeal shall identify the party, the party's address, the action being appealed and shall contain a concise statement of the reasons for the appeal. The Department of Environmental Quality shall notify the Governor of the appeal and the Governor shall schedule a hearing pursuant to Section 18.614.D.

C. Service.

1. Every notice or decision shall be served by personal delivery or certified mail, return receipt requested, or by any other method reasonably calculated to effect actual notice to every party to the action. Notice shall be served to the party's last address of record with the Department of Environmental Quality.
2. Each party shall inform the Department of Environmental Quality and if applicable, the administrative law judge of any change of address within five days of the change.

D. Request for Hearing.

1. The Director of the Department of Environmental Quality shall notify the Governor's office of the appeal within five business days.
2. The Department of Environmental Quality shall provide the following information to the Governor's Office:
 - a. Caption of the matter, including the names of the parties.
 - b. The date the party appealed the department action.
 - c. Estimated time for the hearing.
 - d. Proposed hearing dates.
 - e. Any request to expedite or consolidate the matter.
 - f. Any agreement of the parties to waive the applicable time limits to set the hearing.
 - g. Information regarding the nature of the proceeding, including the specific allegation.

E. Assignment of Administrative Law Judge: Setting the Hearing. Within 30 days of the Governor's receipt of a request for a hearing, the Governor shall provide, in writing, to the Department of Environmental Quality:

1. The name of the administrative law judge assigned to hear the matter.
2. The date, time, and location of the hearing.

F. Scheduling of Hearing.

1. Except as provided in Section 18.614.F.2, hearings for appealable department actions shall be held within 60 days after the notice of appeal is filed.
2. The date scheduled for the hearing may be advanced or delayed upon the agreement of the parties or on a showing of good cause.
3. The administrative law judge shall prepare and serve a notice of hearing on all parties to the appeal at least 30 days before the hearing. The notice shall include:
 - a. A statement of the time, place, and nature of the hearing.

- b. A statement of legal authority and jurisdiction under which the hearing is to be held.
 - c. A reference to the particular sections of the ordinance involved.
 - d. A short and plain statement of the matters asserted.
4. Notwithstanding Section 18.614.F.3, a hearing shall be expedited upon a showing of extraordinary circumstances or the possibility of irreparable harm if the parties to the appeal have actual notice of the hearing date. Any party to the appeal may file a motion with the administrative law judge asserting the party's right to an expedited hearing.

G. Pre-Hearing Conference.

1. Upon written request of any party or upon the administrative law judge's own motion, the administrative law judge may schedule a pre-hearing conference to:
 - a. Clarify or limit procedural, legal, or factual issues.
 - b. Consider amendments to any pleadings.
 - c. Identify and exchange lists of witnesses and exhibits intended to be introduced at the hearing.
 - d. Obtain stipulations or rulings regarding testimony, exhibits, facts, or law.
 - e. Schedule deadlines, hearing dates, and locations if not previously set.
 - f. Allow the parties the opportunity to discuss settlement.
2. The administrative law judge may issue a pre-hearing order outlining the issues to be discussed. This order shall control the subsequent course of the action.
3. The administrative law judge shall record any agreements reached during a prehearing conference by electronic or mechanical means or memorialize them in an order reciting the action taken.

H. Hearing.

1. The parties to an appealable department action have the right to be represented by counsel or to proceed without counsel, to submit evidence and to cross-examine witnesses.
2. The administrative law judge may issue subpoenas to compel the attendance of witnesses and the production of documents. The subpoenas shall be served and enforced in a manner provided by the GRIC Code for the service and enforcement of subpoenas in civil matters.
3. All parties shall have the opportunity to respond and present evidence and argument on all relevant issues. All relevant evidence is admissible, but the administrative law judge may exclude evidence if its probative value is outweighed by danger of unfair prejudice, by confusion of the issues or considerations of undue delay, waste of time, or needless presentation of cumulative evidence. The

administrative law judge shall exercise reasonable control over the manner and order of cross-examining witnesses and presenting evidence to make cross-examination and presentation effective for ascertaining the truth, avoiding needless consumption of time and protecting witnesses from harassment or undue embarrassment.

4. The administrative law judge shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding at the Department of Environmental Quality's expense. Any party requesting a transcript shall pay the costs of the transcript.
5. Informal disposition may be made by stipulation, agreed settlement, consent order, or default.
6. The hearing may be conducted in an informal manner and without the adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings is grounds for reversing any administrative decision if the evidence supporting the decision is substantial, reliable, and probative.

I. Final Administrative Decision: Review.

1. The administrative law judge shall issue a written recommended decision within 20 days after the hearing is concluded. The recommended decision shall include findings of fact and conclusions of law, separately stated, and a concise explanation of the reasons supporting the recommended decision.
2. The administrative law judge shall serve a copy of the recommended decision and a record of the hearing on the director of the Department of Environmental Quality.
3. Within 30 days after the date the administrative law judge sends a copy of the recommended decision to the director, the director may review the decision and accept, reject or modify it. The director shall be bound by the administrative law judge's findings of fact unless it is clearly erroneous but may make an independent determination of the issues of law or policy in accordance with the following requirements:
 - a. If the director declines to review the administrative law judge's decision or accepts the decision, the Department of Environmental Quality shall serve the decision on all parties.
 - b. Prior to rejecting or modifying the decision, the director shall consult with and obtain the consent of the Governor or his or her designee. The director shall thereafter serve on all parties a copy of the administrative law judge's decision with the rejection or modification and a written justification setting forth reasons for the rejection or modification.

4. The director's final decision shall state separately the findings of fact and conclusions of law. If no appeal is taken within 35 days, the decision shall become final.
5. A party may appeal a final administrative decision pursuant to Section 18.615.

18.615. Judicial Review of Final Administrative Decisions.

A. Scope.

1. This Section applies to and governs every action to review judicially a final administrative decision of the Department of Environmental Quality.
2. Unless review is sought of an administrative decision within the time and in the manner provided in Section 18.615.B, the parties to the proceeding shall be barred from obtaining judicial review of such decision.

B. Commencement of Action. An action to review a final administrative decision shall be commenced by the affected party by filing a complaint within 35 days from the date when a copy of the decision sought to be reviewed is served upon the party affected. The decision shall be deemed to have been served when personally delivered or mailed by registered mail to the party affected at the last recorded residence or place of business.

C. Jurisdiction. Jurisdiction to review final administrative decisions is vested in the Gila River Indian Community Court.

D. Service of Process. In an action to review a decision of the Department of Environmental Quality, a copy of the summons and complaint shall be served as in civil actions and as provided by the GRIC Code, upon the Director of the Department of Environmental Quality.

E. Appearance of Defendants. Within 20 days after service of the summons and complaint, the Department of Environmental Quality shall answer the complaint.

F. Pleadings and Record on Review.

1. The complaint shall contain a statement of the findings and decision or part thereof for which review is sought, and shall clearly specify the grounds upon which review is sought. It shall also state what portion of the record the party asserts is relevant to the review it is seeking and which shall be filed by the Department of Environmental Quality as part of the record on review.
2. Except as otherwise provided, the Department of Environmental Quality shall file an answer which shall contain the original or a certified copy of the portion of record designated in the complaint. The answer of the Department of Environmental Quality may also contain other portion of the record as the Department of Environmental Quality deems relevant. By order of the court or by stipulation of all parties to the action, the record may be shortened or supplemented.

3. If, as a result of judicial review, the cause is remanded to the Department of Environmental Quality and a review thereafter is sought of the administrative decision, the original and supplemental record, or so much thereof as is determined by court order or stipulation of all parties, shall constitute the record on review.

G. Scope of Review.

1. An action to review a final administrative decision shall be heard and determined within a reasonable time. The hearing and determination shall be extended to all questions of law and fact presented by the entire record before the court. No new or additional evidence in support of or in opposition to a finding, order, or decision of the Department of Environmental Quality shall be heard by the court, except in the event of a trial de novo or in cases where in the discretion of the court, justice demands the admission of such evidence.
2. The trial shall be de novo if a trial de novo is demanded in the complaint or answer and if no hearing was held by an administrative law judge or the proceedings before the administrative law judge were not stenographically reported or mechanically recorded so that a transcript might be made.
3. A party who has demanded a trial de novo in the complaint or answer pursuant to Section 18.615.G.2 shall file prior to the time for filing the opening appellate brief, a motion explaining the need for a trial de novo with citation to legal authority supporting the demand. Any party opposing the motion may file a response thereto.
4. The Gila River Indian Community Court may not reverse the director's finding of fact unless it is clearly erroneous and may not reverse the director's final administrative decision unless it has no substantial evidentiary basis in the record or is erroneous as a matter of law.

H. Authority of the Gila River Indian Community Court.

1. The Gila River Indian Community Court may:
 - a. With or without bond, unless required by ordinance under authority of which the administrative decision was entered, and before or after answer, stay the decision in whole or in part pending final disposition of the case, after notice to the Department of Environmental Quality and for substantial good cause shown.
 - b. Make any order that it deems proper for the amendment, completion, or filing of the record of the proceedings by the Department of Environmental Quality.
 - c. Allow substitution of parties by reason of marriage, death, bankruptcy, assignment or other cause.
 - d. Dismiss parties or realign parties plaintiff and defendant.
 - e. Modify, affirm, or reverse the decision in whole or in part.

- f. Specify questions or matters requiring further hearing or proceedings and give other proper instructions.
 - g. When a hearing has been held by the administrative law judge, remand for the purpose of taking additional evidence when from the state of the record or otherwise it appears that such action is just.
 - h. In the case of affirmance or partial affirmance of an administrative decision requiring payment of money, enter judgment for the amount justified by the record and for costs, upon which execution may issue.
2. Technical errors in the proceedings before the administrative law judge or failure to observe technical rules of evidence shall not constitute grounds for reversal of the decision, unless the trial court determines that the error or failure affected the rights of a party and resulted in injustice to that party.
 3. On motion of a party before rendition of judgment, the trial court shall make findings of fact and state conclusions of law upon which its judgment is based.

I. Appellate review. The final decision, order, judgment, or decree of the Gila River Indian Community Court entered for an action to review a decision of the Department of Environmental Quality may be appealed to the Gila River Indian Community Court of Appeals.

J. Rule of Civil Procedure. Where applicable, all rules of civil procedure in the Gila River Indian Community Court, including rules relating to appeals to the Gila River Indian Community Court of Appeals, shall apply to all proceedings.

18.616. Financial Responsibility; Form; Proof.

A. Prior to issuance or renewal of a permit for a hospital/medical/infectious waste treatment facility, the Department of Environmental Quality shall require proof of financial responsibility in the amount of \$1,000,000.00 for closure and post-closure or such other amount as the permittee can demonstrate, to the satisfaction of the director, using financial information consistent with generally accepted accounting practices, that the amount is sufficient to cover all closure and post-closure costs under any reasonable worst case situation. The financial mechanism used may include, but is not limited to, the following: financial statements, corporate guarantees, insurance, letters of credit, trust funds, escrow accounts, and/or surety bonds. The financial mechanism must be approved by the Department of Environmental Quality and shall remain in place throughout the term of the permit.

B. No later than January 15th of each year, the permittee shall file with the Department of Environmental Quality an annual proof of financial responsibility describing the specific financial mechanism then in effect.

18.617. Medical Waste Management Plan.

The owner or operator of a hospital/medical/infectious/waste treatment facility shall prepare a complete, approvable waste management plan and submit it to the Department of

Environmental Quality within six months from implementation of this chapter. The waste management plan shall identify both the feasibility and the approach to separate certain components of solid waste from the health care waste stream in order to reduce the amount of toxic emissions from incinerated waste. A waste management plan may include, but is not limited to, elements such as paper, cardboard, plastics, glass, battery or metal recycling; or purchasing recycled or recyclable products. A waste management plan may include different goals or approaches for different areas or departments of the facility and need not include new waste management goals for every waste stream. It shall identify, where possible, reasonably available additional waste management measures, taking into account the effectiveness of waste management measures already in place, the cost of additional measures, the emission reductions expected to be achieved, and any other environmental or energy impacts they might have. The American Hospital Association publication entitled "An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities" (incorporated by reference) shall also be considered in the development of the waste management plan. This plan shall be made available for inspection upon request by the Department of Environmental Quality.

18.618. Infectious Waste Segregation and Minimization.

A hospital/medical/infectious waste treatment facility shall comply with the following waste segregation and treatment procedures:

A. Infectious waste shall not be compacted, ground, or otherwise physically altered prior to treatment unless such alteration is an integral part of the treatment process and occurs within the treatment equipment.

B. A hospital/medical/infectious waste treatment facility shall not accept waste for treatment unless the hospital/medical/infectious waste is segregated, packaged and managed in accordance with this chapter, 40 C.F.R. Part 60, Subpart Ce and any other applicable federal regulations.

18.619. General Treatment Requirements.

A. All hospital/medical/infectious waste transported onto the Reservation and destined for treatment at a hospital/medical/infectious waste treatment facility within the Reservation shall be treated at a hospital/medical/infectious waste treatment facility inspected and issued a permit by the Department of Environmental Quality.

B. There shall be no disposal of any hospital/medical/infectious waste or its residue in any landfill or open dump on lands within the exterior boundaries of the Reservation.

18.620. Packaging of Medical Waste.

A. A generator who sets hospital/medical/infectious waste out for collection for off-site treatment or disposal shall package the hospital/medical/infectious waste in either of the following:

1. A red disposable plastic bag that is:
 - a. Leak resistant.

- b. Impervious to moisture.
 - c. Of sufficient strength to prevent tearing or bursting under normal conditions of use and handling.
 - d. Sealed to prevent leakage during transport.
 - e. Puncture resistant for sharps.
 - f. Conspicuously labeled with one of the following: "INFECTIOUS WASTE," "BIOHAZARD," or with the International Biohazard symbol and the word "BIOHAZARD."
 - g. Placed in a secondary container. This container shall be constructed of materials that will prevent breakage of the bag in storage and handling during collection and transportation and bear the universal biohazard symbol. The secondary container may be either disposable or reusable.
2. A reusable container that bears the universal biohazard symbol and that is:
- a. Leak-proof on all sides and bottom, closed with a fitted lid, and constructed of smooth, easily cleanable materials that are impervious to liquids and resistant to corrosion by disinfection agents and hot water.
 - b. Used for the storage or transport of hospital/medical/infectious waste and cleaned after each use unless the inner surfaces of the container have been protected by disposable liners, bags, or other devices removed with the waste. "Cleaning" means agitation to remove visible particles combined with one of the following:
 - i. Exposure to hot water at a temperature of at least 180 degrees Fahrenheit for a minimum of 15 seconds.
 - ii. Exposure to an EPA-approved chemical disinfectant used under established protocols and regulations.
 - iii. Any other method that the department determines is acceptable, if the determination of acceptability is made in advance of the cleaning.

B. A generator shall handle any container used for the storage or transport of hospital/medical/infectious waste that is not capable of being cleaned as described in Section 18.620.A.2.b or that is disposable packaging, as hospital/medical/infectious waste.

C. A generator shall not use reusable containers described in Section 18.620.A.2 for any purpose other than the storage of hospital/medical/infectious waste.

D. A generator shall not reuse disposable packaging and liners and shall manage such items as hospital/medical/infectious waste.

18.621. Storage of Medical Waste.

A. A generator may place a container of hospital/medical/infectious waste alongside a container of solid waste if the hospital/medical/infectious waste is identified and is not allowed to co-mingle with the solid waste. The storage area shall not be used to store substances for human consumption or for medical supplies.

B. Once hospital/medical/infectious waste has been packaged for shipment off site, a generator shall provide a storage area for hospital/medical/infectious waste until the waste is collected by a transporter and shall comply with both of the following requirements:

1. Secure the storage area in a manner that restricts access to, or contact with the hospital/medical/infectious waste to unauthorized persons.
2. Display the universal biohazard symbol and post warning signs worded as follows for hospital/medical/infectious waste storage areas: "CAUTION — BIOHAZARDOUS MEDICAL WASTE STORAGE AREA — UNAUTHORIZED PERSONS KEEP OUT."

C. Beginning at the time the waste is set out for collection, a generator who stores hospital/medical/infectious waste shall comply with all of the following requirements:

1. Putrescible hospital/medical/infectious waste may be stored unrefrigerated if it does not create a nuisance.
2. Store hospital/medical/infectious waste for 90 days or less unless the generator has obtained approval from the Department of Environmental Quality.
3. Keep the storage area free of visible contamination.
4. Protect hospital/medical/infectious waste from contact with water, precipitation, wind, or animals. A generator shall ensure that the waste does not provide a breeding place or a food source for insects or rodents.
5. Handle spills by re-packaging the hospital/medical/infectious waste, re-labeling the containers and cleaning any soiled surface as prescribed in this chapter.
6. Notwithstanding Section 18.621.C.1., if odors become a problem, a generator shall minimize objectionable odors and the off-site migration of odors. If the department determines that a generator has not acted or adequately addressed the problem, the department shall require the waste to be removed or refrigerated at 40 degrees Fahrenheit or less.

D. All hospital/medical/infectious waste shall be contained and stored in accordance with this chapter and a waste management plan approved by the Department of Environmental Quality pursuant to Section 18.617 of this chapter.

E. Medical sharps shall be handled as follows:

1. A generator who treats hospital/medical/infectious waste on site shall place medical sharps in a sharps container after rendering them incapable of creating a stick hazard by using an encapsulation agent or any other process that prevents a stick hazard. Medical sharps encapsulated or processed in this manner are considered to be solid waste.

2. A generator who ships hospital/medical/infectious waste off site for treatment shall either:
 - a. Place medical sharps in a medical sharps container and follow the requirements of Sections 18.620 and 18.621 of this chapter.
 - b. Package and send medical sharps to a treatment facility via a mail-back system as prescribed by the instructions provided by the mail-back system operator. A treatment facility shall render medical sharps incapable of creating a stick hazard by using an encapsulation agent or any other process that prevents a stick hazard.
3. A person operating a treatment facility who accepts medical sharps for treatment shall use any process that minimizes the possibility of a stick hazard prior to treatment of the waste.

18.622. Transportation of Medical Waste; Prohibitions.

Each hospital/medical/infectious waste hauler shall be responsible for the collection and the transportation of hospital/medical/infectious waste from the generating facility and/or any other central collection point to the infectious waste treatment facility. A hospital/medical/infectious waste hauler engaged in the collection and the transportation of hospital/medical/infectious waste shall not:

A. Allow for hospital/medical/infectious waste to be stored or remain in a trailer on the premises of the Reservation, streets, roads, or highway within the exterior boundaries of the Reservation except for emergency situations such as severe weather conditions, equipment breakdown or an accident;

B. Haul, convey, and/or transport any hospital/medical/infectious waste in vehicles that do not contain completely enclosed compartments;

C. Collect, convey, or transport materials that are not authorized by this chapter, permit or 40 C.F.R. Part 60, Subpart Ce or that are smoldering, smoking, burning, and/or in the process of reacting by producing significant heat, gases, and/or chemicals that may cause fire, explosion, and/or a hazard as determined by the Department of Environmental Quality;

D. Collect, convey, and/or transport hazardous waste regulated under federal, and/or Community law unless in quantities defined as de minimis under federal regulations;

E. Collect, convey, and/or transport any material which due to its radioactivity is deemed a hazard under federal or Community law or exceeds any federal standards for ionizing radiation emissions as defined by the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2);

F. Collect, convey, and/or transport any material that may create a condition within the hauling vehicle that exceeds the applicable lower flammable limit;

G. Violate any waste control law set forth in this chapter, a waste management plan approved by the Department of Environmental Quality or any other federal or Community regulation;

H. Decontaminate any hauling vehicle on Community land unless the decontamination process is conducted in such a manner that all waste water and contaminants are discharged to a sanitary sewer in a manner consistent with all pretreatment permit requirements;

I. Accept hospital/medical/infectious waste unless packaged as prescribed in Sections 18.620 and 18.621 of this chapter;

J. Treat any materials or waste that is not specifically defined as hospital/medical/infectious waste in Section 18.602 of this chapter.

18.623. Treatment as Contaminated Materials.

All materials placed in a collection vehicle with infectious waste such as products, empty containers, and container handling equipment shall be treated as contaminated materials and deemed infectious waste. Such waste shall be disinfected and/or disposed of in accordance with this chapter as necessary prior to use or delivery. Materials that cannot be properly disinfected must be handled, hauled, treated, and disposed of as infectious waste.

18.624. Unloading of Medical Waste.

Hospital/medical/infectious waste that is collected and/or transported within the exterior boundaries of the Reservation shall be unloaded at an inspected, approved and permitted hospital/medical/infectious waste treatment facility. Except as provided for in Sections 18.622.A and 18.633.C, all unloading shall be conducted in accordance with a Department of Environmental Quality-approved Operations and Maintenance Plan, which shall include procedures for the unloading of hospital/medical/infectious waste at a hospital/medical/infectious waste treatment facility. Under emergency conditions, such as severe weather conditions, equipment breakdown, or an accident, unloading may occur for the purpose of truck to truck transfer of the hospital/medical/infectious waste, to ensure the hospital/medical/infectious waste are ultimately unloaded at an approved hospital/medical/infectious waste treatment facility.

18.625. Hauling Operations; Reports.

If a hospital/medical/infectious waste hauling operation is owned or operated by a hospital/medical/infectious waste treatment facility located within the exterior boundaries of the Reservation, the owner or operator shall submit a written report, no later than May 1 of each year, to the Department of Environmental Quality summarizing the quantity of hospital/medical/infectious waste accepted throughout the previous year. Quantities of waste received may be estimated using either weight of each container received or the number of containers accepted. The hospital/medical/infectious waste treatment facility shall maintain the above information on file for a minimum period of three years.

18.626. Medical Waste Transportation; Tracking.

This Section applies to all generators offering hospital/medical/infectious waste for transport off site to a hospital/medical/infectious waste treatment facility and transporters of hospital/medical/infectious waste.

A. A generator shall obtain a copy of the tracking document signed by the transporter signifying acceptance of the hospital/medical/infectious waste. A generator shall keep a copy of the tracking document for one year from the date of acceptance from the transporter. The tracking document shall contain all of the following information:

1. Name and address of the generator, transporter, and hospital/medical/infectious waste treatment, storage, transfer, or disposal facility, as applicable.
2. Quantity of hospital/medical/infectious waste collected by weight, volume, or number of containers.
3. Identification number attached to bags or containers.
4. Date the transporter accepts waste from the generator.

B. A generator of chemotherapy waste, cultures and stocks, or animal waste shall handle the waste as prescribed in Sections 18.622 through 18.630 of this chapter.

C. A generator of medical sharps shall handle the waste as prescribed in Section 18.621.E of this chapter.

D. A transporter who accepts hospital/medical/infectious waste from a generator shall leave a copy of the tracking document described in this Section with the person from whom the waste is accepted. A transporter shall ensure that a copy of the tracking document accompanies the person who has physical possession of the hospital/medical/infectious waste. Upon delivery to a department-approved transfer, storage, treatment, or disposal facility, the transporter shall obtain a copy of the tracking document, signed by a person representing the receiving facility, signifying acceptance of the hospital/medical/infectious waste.

E. The hospital/medical/infectious waste treatment facility shall have on hand written procedures stating that hospital/medical/infectious waste is to be accepted from a transporter only if the waste is accompanied by a tracking form and written procedures that require compliance with both of the following:

1. The hospital/medical/infectious waste treatment facility/hauler or authorized agent shall sign the tracking document and keep a copy of the acceptance documentation for one year.
2. If a hospital/medical/infectious waste container is damaged or leaking upon arrival at the treatment facility, improperly labeled, or otherwise unacceptable, a hospital/medical/infectious waste treatment facility shall do one of the following:
 - i. Reject the waste and return it to the generator.
 - ii. Accept the waste and transfer it directly from the transporting vehicle to the treatment processing unit.
 - iii. If the waste will not be treated immediately, repackage the waste for storage.

18.627. Hauling Operations; Transportation Plan.

Each hospital/medical/infectious waste hauling operator shall have a written transportation plan (the "plan") approved by the Department of Environmental Quality for the collection, transportation, and delivery of hospital/medical/infectious waste to the hospital/medical/infectious waste treatment facility. The plan shall include, but not be limited to, requirements of Sections 18.620 through 18.630 of this chapter. The plan shall also comply with the following:

A. The plan shall be approved by the Department of Environmental Quality as part of the permit for each waste treatment facility.

B. Each collection vehicle owned/operated by the hospital/medical/infectious waste treatment facility shall carry a copy of the approved plan at all times.

C. Each collection vehicle operator and all persons involved in collection, handling and transportation of hospital/medical/infectious waste shall be trained in the requirements of the plan.

D. The plan and training shall include but not be limited to:

1. The proper and safe operation of the hospital/medical/infectious waste collection vehicle;
2. The standards and safety precautions for collecting, transporting and unloading hospital/medical/infectious waste;
3. A description of the characteristics and hazards of hospital/medical/infectious waste;
4. The procedures to follow in the event a person is contaminated by hospital/medical/infectious waste;
5. The procedures to follow in the event of a spillage of hospital/medical/infectious waste including but not limited to cleanup and disinfection of contaminated surfaces;
6. The procedures to follow in the event that a load of hospital/medical/infectious waste becomes hot, burning and/or reactive;
7. The procedures to follow in the event unauthorized waste material is detected in the collection containers for hospital/medical/infectious waste;
8. The procedures to follow to complete the manifest and to maintain other records required under this chapter, 40 C.F.R. Part 60, Subpart Ce and any other federal or Community regulations;
9. The procedures to follow to properly disinfect the hospital/medical/infectious waste collection vehicle.

18.628. Vehicle Construction Requirements.

All vehicles transporting hospital/medical/infectious waste to the hospital/medical/infectious waste treatment facility shall:

- A. Insure that the cargo department is fully enclosed with lockable doors.
- B. Insure that the cargo department be non-porous and impervious to hospital/medical/infectious waste and physically separated from the driver's compartment.
- C. Be bermed or sealed to preclude leakage of liquids from the enclosed areas.
- D. Provide unrestricted access to the hospital/medical/infectious waste containers for purpose of loading and unloading.
- E. Contain no capability for compacting hospital/medical/infectious waste.
- F. Ensure that the cargo compartment of a vehicle dedicated to the transportation of hospital/medical/infectious waste can be secured to limit access to unauthorized persons at all times except during loading and unloading. In addition, the cargo compartment shall be constructed in compliance with one of the following:
 - 1. Have a fully enclosed, leak-proof cargo compartment consisting of a floor, sides, and a roof that are made of a non-porous material impervious to hospital/medical/infectious waste and physically separated from the driver's compartment.
 - 2. Haul a fully enclosed, leak-proof cargo box made of a non-porous material impervious to hospital/medical/infectious waste.
 - 3. Tow a fully enclosed leak-proof trailer made of a non-porous material impervious to hospital/medical/infectious waste.

18.629. Vehicle Maintenance Requirements.

In addition to the construction requirements set forth in Section 18.628, all vehicles transporting hospital/medical/infectious wastes to the hospital/medical/infectious waste treatment facility shall:

- A. Be maintained in a mechanically safe condition.
- B. Be maintained in compliance with all requirements in Section 18.628.
- C. Comply with all applicable noise control, emission control and safety inspection laws.

18.630. Vehicle Identification.

All vehicles transporting hospital/medical/infectious wastes to the hospital/medical/infectious waste treatment facility shall comply with all applicable Federal Department of Transportation ("DOT") requirements.

18.631. Incinerator or Autoclave Facility; Owner/Operator Requirements.

The owner or operator of an incinerator or autoclave treatment facility receiving area shall be required to:

A. Develop a screening procedure to ensure that no radioactive materials, as defined by the Atomic Energy Act of 1954, 42 U.S.C. 2014(e)(2), enter the facility.

B. Develop a procedure to verify that materials unloaded are consistent with the manifest.

C. Develop a procedure to ensure that hospital/medical/infectious waste is unloaded in an appropriate receiving area.

D. Submit in writing to the Department of Environmental Quality, procedures that will be employed to comply with Sections 18.631.A, B, and C of this chapter as part of the operation and maintenance plan required by Section 18.606 of this chapter.

18.632. Incineration or Treatment Prohibited.

Incineration or treatment of the following types of materials in a hospital/medical/infectious waste incinerator or an autoclave is prohibited:

A. Industrial waste and sludges.

B. Hazardous wastes as defined by RCRA., 40 C.F.R., Parts 260, et seq.

C. Toxic materials as regulated by the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.

D. Radioactive waste as defined by the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2).

E. Incendiary devices and explosives.

18.633. Storage of Medical Waste; Limitations.

A. Hospital/medical/infectious waste shall be treated or incinerated within 24 hours of delivery to an incinerator or autoclave treatment facility or placed in refrigerated storage for a period not to exceed five days prior to treatment. The refrigerated waste shall be maintained at a temperature of 40 degrees Fahrenheit or less.

B. All hospital/medical/infectious waste placed in storage shall be enclosed in identifiable containers and accompanied by a manifest consistent with DOT shipping requirements. The manifest shall display the date and time the waste was entered into storage.

C. Hospital/medical/infectious waste in transit to a treatment facility that is delayed due to vehicle failure shall be transferred to another vehicle and shipped immediately unless the original vehicle maintains the waste at a temperature of 40 degrees Fahrenheit or less. The hospital/medical/infectious waste at no time shall be allowed to remain standing along a road side or other temporary site within the Reservation in excess of 24 hours.

18.634. Shipping Containers.

Multiple use containers are permissible if they are sanitized and decontaminated before return shipment. A detailed decontamination process shall be included in a Department of Environmental Quality-approved Operation and Maintenance Plan.

18.635. Incinerator or Autoclave Operation.

A. All operators of a hospital/medical/infectious waste incinerator must receive annual training certification in accordance with 40 C.F.R. Part 60, Subpart Ec in order to operate the equipment.

B. The Department of Environmental Quality reserves the right to require operator certification tests pursuant to 40 C.F.R. Part 60, Subpart Ec at any future date.

C. The medical waste incinerator and all attached pollution control equipment shall be operated in accordance with operational parameter ranges established during a passing performance test. Deviation from the established operational parameter ranges may constitute a violation of the permit and this chapter except during startup, shut down or emergency periods for which the department grants relief in accordance with Section 18.613.

D. Incinerator performance tests shall be conducted in accordance with EPA methodology and 40 C.F.R. Part 60, Subpart Ec.

18.636. Treatment Methods.

All hospital/medical/infectious waste treated within the Community shall be treated in accordance with this chapter, 40 C.F.R. Part 60, Subpart Ce and/or a treatment method approved by the Department of Environmental Quality.

18.637. Employee Health and Safety.

A. All employees that handle hospital/medical/infectious waste shall receive appropriate health and safety training in accordance with 29 C.F.R. § 1910.1030 annually and shall be provided with appropriate protective clothing, gear, and equipment.

B. Any employee exposed to or though to be exposed to infectious waste shall report the incident to the Community Department of Public Health in accordance with established Occupational Safety and Health Administration requirements.

18.638. Autoclave Treatment Permit; Application.

Any applicant submitting a permit application to the Department of Environmental Quality for an autoclave treatment facility shall submit an operations plan that describes testing procedures that will demonstrate compliance with Sections 18.638.A and/or B of this

chapter. After initial start-up of the autoclave, documentation and test results shall be submitted monthly to the Department of Environmental Quality demonstrating that the autoclave treatment facility or method meets the following requirements:

- A. Destroys and eliminates all viable pathogen cells; and/or
- B. Reduces viable spores by 95 percent.

18.639. Tests for Autoclave Treatment Methods.

A. Once a month at a minimum, the applicant shall conduct performance tests and submit the results to the Department of Environmental Quality using the organisms listed below to demonstrate that the autoclave treatment method consistently meets the industry treatment performance standards or the requirements of the Department of Environmental Quality for all organisms:

- 1. The test to measure organism treatment performance for autoclave treatment methods using heat treatment shall incorporate the use of the organism *Bacillus stearothermophilus*;
- 2. The test to measure organism treatment performance for autoclave treatment methods not using heat treatment shall incorporate the use of sampling of the most resistant organisms including but not limited to:
 - a. *Mycobacterium*.
 - b. Gram negative species, including *Salmonella* and *Shigella*.
 - c. *Staphylococcus* spp.
 - d. *Streptococcus* spp.
 - e. A representative sampling of pathogenic parasites.

B. The Department of Environmental Quality shall not approve the use of autoclave treatment methods until the organism destruction performance test results submitted by the applicant conclusively demonstrates that the autoclave treatment method consistently meets accepted industry treatment performance standards or the requirements of the Department of Environmental Quality for all organisms.

18.640. Manufacturer's Specifications.

A copy of the information and literature supplied by the manufacturer of the incinerator, air pollution control equipment, and/or autoclave(s) shall be easily accessible for use and review by personnel responsible for operation and maintenance of the equipment. This literature shall include the manufacturer's design specifications, performance guarantee, piping and instrumentation diagram, process flowsheet, material balance information for normal and maximum design conditions, and an instruction manual for the operation and maintenance of all equipment within the facilities.

18.641. Hospital/Medical/Infectious Waste Incinerators (HMIWI); Purposes and Applicability.

A. **Purpose.** Sections 18.641 through 18.646 of this chapter regulates emissions from existing incinerators for hospital, medical, or infectious waste or any combination thereof. The purpose of this Section is to establish emission limits for particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury and dioxins and dibenzo furans from incinerators burning hospital, medical or infectious waste. Reductions are required by 42 U.S.C. §§ 7411(d) and 7429 and 40 C.F.R. Part 60, Subpart Ce.

B. **General Applicability.** The designated facilities to which this chapter applies shall be each incinerator for hospital, medical, or infectious waste or any combination of them within the exterior boundaries of the Gila River Indian Reservation for which construction was commenced on or before June 20, 1996. Any other incinerator constructed, installed or operated within the exterior boundaries of the Gila River Indian Community shall be constructed, installed and operated in compliance with this chapter, 40 C.F.R. Part 60, Subpart Ce and any other applicable Community ordinance or federal regulations.

C. **Exemptions.** Notwithstanding other provisions of this chapter, the following emission units are exempt from the requirements of this chapter due to the applicability of existing federal regulations that apply to these specific emission sources:

1. Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act, 42 U.S.C. § 6925.
2. Any municipal waste combustor that meets the applicability provisions for municipal waste combustors under Subparts Cb, Ea or Eb of 40 C.F.R. Part 60.
3. Any pyrolysis unit (i.e. a unit that uses endothermic gasification to treat hospital waste or medical/infectious waste in order to render such waste harmless).
4. Any cement kiln firing hospital waste or medical/infectious waste.
5. Any HMIWI subject to the Standards of Performance for Hospital/Medical/ Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996 contained in Subpart Ec of 40 C.F.R. 60.50c.

D. **Additional Definitions and References.** The following definitions apply only to Sections 18.641 through 18.646. Definitions found in 40 C.F.R. § 60.51c are adopted and incorporated by reference, with the following substitutions.

1. Substitute Director of the Department of Environmental Quality for all federal regulations references to "Administrator."
2. Substitute "Gila River Indian Community" for all federal regulation references to "States."
3. Substitute the "Department of Environmental Quality" for all references to "State agency" or "State regulatory agency."
4. Substitute "Sections 18.641 through 18.646" for all references to "this subpart."

5. Substitute "40 C.F.R. Part 60" for all references to "this part."
6. Substitute "40 C.F.R." for all references to "this title."

18.642. HMIWI Performance Tests.

A. Performance tests shall be conducted on a HMIWI in accordance with the schedule prescribed by Sections 18.605 and 18.606 of this chapter, or such other schedule prescribed by a permit issued pursuant to this chapter to measure emissions of the following:

1. Particulate matter;
2. Carbon monoxide;
3. Chlorinated dioxins;
4. Chlorinated furans;
5. Hydrogen chloride;
6. Sulfur dioxide;
7. Nitrogen oxides;
8. Lead;
9. Cadmium;
10. Mercury.

B. A meeting shall be held with the Department of Environmental Quality at least 30 days prior to the performance test to allow the Department of Environmental Quality to review a performance test protocol and to arrange for an observer to be present at the test.

C. A written copy of the proposed test protocol shall be submitted to the Department of Environmental Quality no less than seven days prior to the pre-test meeting. A written copy of the final test protocol shall be submitted to the Department of Environmental Quality prior to conducting the performance test.

18.643. HMIWI Emission Limits.

A. During the performance test required in Section 18.642, emission limits for each pollutant listed in the chart below shall not exceed the maximum emission limit as measured for continuous operation. EPA performance testing protocols pursuant to 40 C.F.R. Part 60, Subpart Ec, § 60.56c shall be followed during performance testing to document compliance.

B. Each HMIWI subject to this Section must comply with the emission limits provided in the chart below.

C. No HMIWI subject to this Section shall cause or allow any emissions that cause greater than ten percent opacity, as measured on a six minute block average, according to EPA Method 9, 40 C.F.R. 60, Appendix A, adopted and incorporated by reference, from any stack used by an HMIWI.

<i>MAXIMUM ALLOWABLE EMISSION RATES</i>		
<i>Type of Limit</i>	<i>Emission Limit Citation</i>	<i>Emission Limit</i>
Particulate Matter		30 milligrams per dscm @ 7% O ₂ , dry basis
Carbon monoxide	40 CFR 60.39e Table 1	40 ppmv @ 7% O ₂ , dry basis
Dioxins/furans		80 nanograms per dscm total or 1.9 nanograms per dscm TEQ., both at 7% O ₂ , dry basis
Hydrogen chloride	40 CFR 60.39e Table 1	100 ppmv at 7% O ₂ , dry basis, or 93% reduction
Sulfur dioxide		45 ppmv at 7% O ₂ , dry basis
Nitrogen oxides		210 ppmv at 7% O ₂ , dry basis
Lead		0.10 milligrams per dscm @ 7% O ₂ , dry basis, or 90% reduction
Cadmium		0.05 milligrams per dscm @ 7% O ₂ , dry basis, or 90% reduction
Mercury		0.47 milligrams per dscm @ 7% O ₂ , dry basis or 85% reduction

<i>ABBREVIATIONS USED IN THE MAXIMUM ALLOWABLE EMISSION RATE CHART</i>	
Dscm	dry standard cubic meter
Mg	milligram
O ₂	oxygen
Ng	parts per billion
Micrograms	parts per million
Ppmv	parts per million volume
TEQ	toxic equivalency

18.644. HMIWI Stack Sampling.

The owner or operator of the incinerator shall provide for performance test purposes, sampling ports, platforms and access to the exhaust stack(s) in accordance with EPA performance testing protocols set forth in 40 C.F.R. Part 60, Subpart Ec. Performance testing shall be conducted during normal operating and maintenance conditions and in accordance with EPA test methodology and time frames set forth in 40 C.F.R. Part 60, Subpart Ec or this chapter. The facility operations and maintenance plan in accordance with Section 18.606.A.2.c shall contain the operating parameter ranges (e.g., pressure drop, primary and secondary chamber temperature, feed rates etc.) established during a performance test documenting compliance. These operating parameters shall be maintained within the established ranges except during start-up, shutdown or malfunction provided no waste is charged to the incinerator during startup, shutdown, or malfunction. These operating parameters shall be constantly monitored during operation of the incinerator.

18.645. HMIWI Operator Training; Qualifications.

Each HMIWI subject to this Section shall comply with the requirements of 40 C.F.R. Part 60, Subpart Ec, Section 60.53c for operator training and qualification. These provisions are adopted and incorporated by reference.

18.646. HMIWI Compliance; Performance Testing and Monitoring Guidelines.

A. Each HMIWI subject to this Section shall comply with the requirements for compliance and performance testing found in 40 C.F.R. 60.56c, excluding the fugitive emissions testing requirements under 40 C.F.R. 60.56c(b)(12) and (c)(3). These provisions are adopted and incorporated by reference.

B. Each HMIWI subject to this Section shall comply with the requirements in 40 C.F.R. Part 60, subpart Ec, Section 60.57c for monitoring. These provisions are adopted and incorporated by reference.

18.647. Recordkeeping.

Records of operational performance parameters and activities shall be maintained for the incinerator, autoclave and pollution control equipment in accordance with 40 C.F.R. Part 60, Subpart Ec, Section 60.58c and requirements set forth in this chapter. Such records shall include but not be limited to:

- A. Performance test results.
- B. Waste charging records indicating quantity of waste in pounds incinerated per hour or per day and time of charge.
- C. Continuous primary and secondary chamber temperature charts.
- D. Time and duration of any uncontrolled emissions.
- E. Any other applicable record keeping requirements set forth in 40 C.F.R. Part 60, Subpart Ec, Section 60.58c.

18.648. Record of Baseline Parameters.

A. The baseline operating parameters for a facility shall consist of the parameters established during the initial performance test documenting compliance with emission limits prescribed by this chapter. These parameters shall be included in the operations and maintenance plan in accordance with Section 18.606.A.2.c. At all times, the owner/operator of the hospital/medical/infectious waste incinerator shall operate the incinerator within the baseline parameter ranges established during the initial performance test documenting compliance with emissions limits listed in this chapter except during startup, shutdown or emergency. Operation above the established maximum or below the established minimum operating parameter(s) shall constitute a violation of the operation and maintenance plan and shall be deemed a violation of the facility's permit and this chapter.

B. The baseline parameters for a facility shall be used to compare subsequent operating data for such purposes as identifying deviations from acceptable performance.

C. A performance test documenting compliance with emission limitations in Section 18.643 shall be performed in accordance with Sections 18.605 and 18.606 and thereafter in accordance with 40 C.F.R. Part 60, Subpart Ec, § 60.56c (c).

D. Except as provided in Paragraphs (d)(2) and (h) of § 60.56c, 40 C.F.R. Part 60, Subpart Ec, operation of the affected facility above or below the operational parameter ranges listed in Paragraph (e) of § 60.56c, 40 C.F.R. Part 60, Subpart Ec, shall constitute a violation of the respective emission limitation for the specific pollutant(s).

E. Each HMIWI subject to this Section shall comply with the requirements in 40 C.F.R. § 60.58c(b) excluding (b)(2)(ii) and (b)(7) for record keeping. These provisions are adopted and incorporated by reference.

F. Each HMIWI subject to this Section shall comply with the requirements in 40 C.F.R. § 60.58c(c) through (f) for reporting. These provisions are adopted and incorporated by reference.

18.649. Operating Records.

All hospital/medical/infectious waste treatment facilities within the exterior boundaries of the Reservation shall maintain operating records pertaining to incinerators, wet scrubbers, dry scrubbers, fabric filters and any additional pollution control equipment that may be installed at a later date. Such operating records shall comply with record keeping requirements listed in 40 C.F.R. Part 60, Subpart Ec, the approved operation and maintenance plan, and the data listed below:

A. Incinerator operating records shall include:

1. The charging rate and frequency.
2. The primary combustion chamber temperature.
3. The secondary combustion chamber temperature.
4. The incinerator draft.

B. Fabric filter operating records shall contain:

1. The gas temperature, inlet, and outlet.
2. The static pressure drop across the baghouse.
3. The cleaning cycle frequency.

C. Dry scrubber records shall contain:

1. Lime feed rate per hour.
2. Carbon injection feed rate per hour.

D. Stack emissions data shall contain:

1. The CO emission concentration in ppm.

E. In addition to the numerical values contained in the operating records, a checklist shall be included to confirm conformance with the operation and maintenance plan in accordance with Section 18.606.A.2.c, the operation of fans, limit switches, burners, ram, feeders, pumps, nozzles, and other general physical considerations that may adversely influence the compliance of the facility.

18.650. Maintenance Records.

A. Maintenance records shall provide an operating history of all equipment. Such records shall indicate all occurrences of equipment failure including, but not limited to: where, when and how often the equipment has failed; recurring problems; and remedial actions taken and their efficacy.

B. These records may be used in conjunction with a spare parts inventory to maintain and update a current list of available parts and the costs of these parts.

C. Alternatively, records shall be maintained with a summary of maintenance activities.

D. In the event that the Department of Environmental Quality recommends that the regulated facility install surveillance camera(s) for additional record keeping purposes, the regulated facility shall be notified of such requirement by the Department of Environmental Quality.

18.651. Severability.

Each section of this chapter stands alone. If a section is found not to be valid, the remainder of the chapter shall remain in effect.