

Chapter 852: LAND DISPOSAL RESTRICTIONS**TABLE OF CONTENTS**

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Chapter 852: LAND DISPOSAL RESTRICTIONS

SUMMARY: Identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which such wastes may continue to be land disposed.

NOTE: As used in this ~~Chapter~~rule, “~~d~~Department” has the same meaning as in the *Rule Concerning the Processing of Applications and Other Administrative Matters*, 06-096 C.M.R. ch. 2, and may refer to either the “~~b~~Board” or the “~~e~~Commissioner”. Under certain circumstances, Maine statutes require that the ~~b~~Board, rather than the ~~e~~Commissioner, perform duties that may be described or referenced in ~~this rule~~the *Hazardous Waste Management Rules*, chs. 850 – 858 (e.g. licensing of commercial hazardous waste facilities pursuant to 38 M.R.S. §1319-R; licensing of projects of “statewide significance” pursuant to 38 M.R.S. §341-D).

1. **Legal Authority.** This ~~Chapter~~rule is authorized and adopted under 38 M.R.S. §1319-O and §1319-R(1), and is intended to be consistent with applicable requirements of the *Resource Conservation and Recovery Act of 1976* (RCRA), as amended, 42 U.S.C. 6901, *et seq.* and regulations promulgated by the United States Environmental Protection Agency (EPA) thereunder.
2. **Preamble.** Federal and state policy establish a hierarchy of preferred waste management practices favoring waste reduction, recycling and treatment over land disposal. This ~~Chapter~~rule is intended to encourage waste management practices consistent with such a policy, by restricting the land disposal of hazardous waste without prior treatment to reduce the toxicity and/or mobility of hazardous constituents in the waste.
3. **Definitions.** For purposes of this ~~Chapter~~rule, terms not defined in this section shall have the meaning given them in 38 M.R.S. §361-A and §1303-C. The following terms as used in this ~~Chapter~~rule shall have the following meaning unless the context indicates otherwise:
 - A. **Debris.** “Debris” means solid material exceeding a 60 mm particle size that is intended for disposal and that is: a manufactured object; or plant or animal matter; or natural geologic material. However, the following materials are not debris: any material for which a specific treatment standard is provided in 40 C.F.R. Part 268, namely lead acid batteries, cadmium batteries, and radioactive lead solids, process residuals such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; and intact containers of hazardous waste that are not ruptured and that retain at least 75% of their original volume. For the purposes of this ~~e~~Chapter, mercury-containing items such as thermometers, pumps, manometers, thermostats, jars of elemental mercury, batteries, dental amalgam collection devices, and ampules are containers. A mixture of debris that has not been treated to the standards provided by 40 C.F.R. § 268.45 and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection.

NOTE: Mercury- containing items are subject to the non-debris mercury treatment standards and must be removed and managed separately from any debris.

- BC. Halogenated organic compounds.** "Halogenated organic compounds" or "HOCs" means those compounds having a carbon halogen bond which are listed in Appendix III of this Chapter.
- CD. Hazardous constituent.** "Hazardous constituent" means a constituent listed in Appendix VIII to ~~Chapter~~ 06-096 C.M.R. ch. 850.
- DE. Hazardous Debris.** "Hazardous debris" means debris that contains hazardous waste listed in 06-096 C.M.R. ch. ~~Chapter~~ 850 or that exhibits a characteristic of hazardous waste identified in 06-096 C.M.R. ch. ~~Chapter~~ 850. Any deliberate mixing of prohibited hazardous waste with debris that changes its treatment classification (i.e. from waste to hazardous debris) is not allowed under the dilution prohibition in ~~Chapter 852~~, Section 6 of this Chapter.
- EF. Inorganic metal-bearing waste.** "Inorganic metal-bearing waste" means a waste for which EPA has established treatment standards for metal hazardous constituents, and which does not otherwise contain significant organic or cyanide content as described in 40 C.F.R. § 268.3(c)(1) and is specifically listed in Appendix XI of 40 C.F.R. Part 268.
- FG. Land disposal.** "Land disposal" means placement in or on the land and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes. Land disposal does not include placement in a staging pile or corrective action management unit.
- GH. Non-wastewaters.** "Non-wastewaters" means wastes that do not meet the definition of wastewaters in K below.
- HI. Polychlorinated biphenyls.** "Polychlorinated biphenyls" or "PCBs" are halogenated organic compounds defined in accordance with 40 C.F.R. § 761.3.
- IJ. Soil.** "Soil" means unconsolidated earth material composing the superficial geologic strata (material overlying bedrock), consisting of clay, silt, sand, or gravel size particles as classified by the U.S. Natural Resources Conservation Service, or a mixture of such materials with liquids, sludges or solids which is inseparable by simple mechanical removal processes and is made up primarily of soil by volume based on visual inspection. Any deliberate mix in of prohibited hazardous waste with soil that changes its treatment classification (i.e. from waste to contaminated soil) is not allowed under the dilution prohibition in ~~Chapter 852~~ Section 6 of this Chapter.
- JK. Underlying hazardous constituent.** "Underlying hazardous constituent" means any constituent listed in 40 C.F.R. § 268.48 Table UTS-Universal Treatment Standards, except fluoride, selenium, sulfides, vanadium, and zinc, which can reasonably be expected to be present at the point of generation of the hazardous waste at a concentration above the constituent-specific UTS treatment standards.

KL. **Wastewaters.** “Wastewaters” means wastes that contain less than 1% by weight total organic carbon (TOC) and less than 1% by weight total suspended solids (TSS).

LM. All other terms shall have the meaning specified in 06-096 C.M.R. ch. 854, §Section 3 of Chapter 854 or 40 C.F.R. § 260.10.

4. References to Federal Regulations. Portions of this Chapterrule refer to federal regulations of the United States Environmental Protection Agency (EPA). Unless otherwise specified, the federal regulations referenced are those ~~interim final or final regulations revised as of as~~ amended up to July 1, ~~2019~~2016, as they appear in the volume 40 of the *Code of Federal Regulations* (C.F.R.) and are hereby incorporated by reference. Where specifically stated, the terms of a referenced federal regulation are hereby ~~adopted~~ incorporated as terms of this Chapterrule, except that in regulations incorporated thereby, "EPA", "Administrator", "Regional Administrator" and "Director" shall mean "the Maine Board of Environmental Protection, the Maine Department of Environmental Protection (DEP), the Commissioner of the Department of Environmental Protection or its the Commissioner's designated representative, as applicable"; and the references to the terms or phrases including "treat", "store", and/or "dispose" shall mean "handle". In addition, where the terms of federal regulations hereby incorporated by reference differ from or are inconsistent with other terms of this Chapter or 06-096 C.M.R. chs. 850 - 860~~Chapters 850-860~~, the more stringent of the requirements shall apply. Other changes to regulations incorporated hereby are as expressly made in this Chapterrule.

5. Applicability

- A. This Chapterrule identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.
- B. Except as specifically provided in this Chapter, 06-096 C.M.R. ch. 850~~Chapter 850~~, or 06-096 C.M.R. ch. 851~~Chapter 851~~, the requirements of this Chapter apply to persons who generate or transport hazardous waste, and to owners and operators of hazardous waste treatment, storage, and disposal facilities.
- C. The requirements of this Chapterrule shall ~~do not~~ affect the availability of a waiver under section 121(d)(4) of the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980* (CERCLA).
- D. This Chapter does not apply to de minimis losses of characteristic wastes to wastewaters as provided in 40 C.F.R. § 268.1(e)(4).

NOTE: Farmers complying with 06-096 C.M.R. ch. 851, §Section 10 of Chapter 851, and small quantity generators meeting the exclusion limits and complying with the remaining requirements of 06-096 C.M.R. ch. 851, §Section 3(A)(5) of Chapter 850, are not subject to the requirements of this Chapter.

E. ~~Universal waste handlers and universal waste transporters as defined in 06-096 C.M.R. ch. 858 Chapter 850 are~~ is not subject to the provisions of 40 C.F.R. § 268.7 concerning hazardous waste testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities; and, ~~is not subject to the storage prohibitions of 40 C.F.R. § 268.50 concerning the storage of hazardous wastes listed in Chapter 850 Section 9, Chapter 853 Sections 10 and 11, and Chapter 857 Sections 6, 12, and 13.~~

6. Dilution Prohibition:

- A. No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with the treatment standards of this Chapter, to circumvent the effective date of a prohibition of this Chapter, to otherwise avoid a prohibition of this Chapter or 06-096 C.M.R. ch. 854, §§ Sections 5(C), 5(D) and 5(E) of Chapter 854, or to circumvent a land disposal prohibition imposed by Section 3004 of RCRA, 42 U.S.C. 6924.
- B. Iron filings or other metallic forms of iron may not be added to lead-containing wastes in order to achieve any land disposal restriction treatment standard for lead. Lead-containing wastes include D008 wastes (wastes exhibiting a characteristic due to the presence of lead), all characteristic wastes containing lead as an underlying hazardous constituent, listed wastes containing lead as a regulated constituent, and hazardous media containing any of the aforementioned lead-containing wastes.
- C. Combustion of the hazardous waste codes listed in Appendix XI of 40 C.F.R. Part 268 is prohibited unless in accordance with 40 C.F.R. § 268.3(c).

7. Treatment in Surface Impoundment Exemption Requirements

- A. Wastes which are otherwise prohibited from land disposal under this Chapter may be treated in a surface impoundment or series of impoundments provided that:
- (1) Treatment of such wastes occurs in the impoundments and such treatment is a reasonable and necessary component of a treatment program designed to meet applicable treatment standards;

NOTE: The licensing and other provisions of 06-096 C.M.R. chs. Chapters 854, 855 and 856 also apply to surface impoundments used to treat restricted waste.

(2) The following conditions are met:

- (a) **Sampling and testing.** For wastes with treatment standards in this Chapter and/or prohibition levels specified in this Chapter or Section 3004(d) of RCRA, 42 U.S.C. 6924(d), the residues from treatment are analyzed ~~tested~~, as specified in 40 C.F.R. § 268.7₂ and 268.32, which are hereby adopted and incorporated by

~~reference~~, to determine if they meet the applicable treatment standards, or where no treatment standards have been established for the waste, the applicable prohibition levels of Section 13 of this Chapter or Section 3004(d) of RCRA, 42 U.S.C. 6924(d). The sampling method, specified in the waste analysis plan under 06-096 C.M.R. ch. 854, §Section 6(C)(3) of Chapter 854 or 06-096 C.M.R. ch. 855, §Section 9(A)(3) of 855, whichever is applicable, must be designed such that representative samples of the sludge and supernatant are tested separately rather than mixed to form homogenous samples.

- (b) **Removal.** The following treatment residues (including any liquid waste) must be removed at least annually: residues which do not meet the treatment standards promulgated under this Chapter; residues which do not meet the prohibition levels established in this Chapter or Section 3004 of RCRA, 42 U.S.C. § 6924 (where no treatment standards have been established); residues which are from the treatment of wastes prohibited from land disposal under this Chapter (where no treatment standards have been established and no prohibition levels apply); or residues from managing listed wastes which are not delisted under 06-096 C.M.R. ch. 850Chapter 850. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the supernatant for the purposes of this requirement.
- (c) **Subsequent management.** Treatment residues may not be placed in any other surface impoundment for subsequent management.
- (d) **Record keeping.** The procedures and schedule for the sampling of impoundment contents, the analysis of test data, and the annual removal of residues which do not meet the applicable treatment standards or prohibition levels (where no treatment standards have been established), or which are prohibited from land disposal under this Chapter (where no treatment standards have been established and no prohibition levels apply), must be specified in the facility's waste analysis plan as required under 06-096 C.M.R. ch. 854, §Section 6(C)(3) of Chapter 854 or 06-096 C.M.R. ch. 855, §Section 9(A)(3) of Chapter 855 (whichever is applicable).
- (3) The impoundment meets the design requirements of 06-096 C.M.R. ch. 854, §Section 9(B) of Chapter 854, and is in compliance with applicable ground water monitoring requirements of 06-096 C.M.R. ch. 854 or 855Chapter 854 or 855;
- (4) The owner or operator submits to the Department a copy of the waste analysis plan required under paragraph (2) above; and
- (5) The owner or operator submits to the Department a written certification that the requirements of Section 7(A) of this Chapter are being met and the liners in the impoundment are functioning properly. The following certification is required and must be resubmitted on an annual basis no later than March 1 of each calendar year:

I certify under penalty of law that the requirements of 06-096 C.M.R. ch. 852, § Section 7(A) of Chapter 852 of the rules of the Department of Environmental Protection have been met for all surface impoundments being used to treat restricted waste, that there is no evidence of possible leakage from the impoundment, and the liners in such impoundments are functioning properly. I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

- B.** Notwithstanding the provisions of ~~s~~Section 7(A) above of this Chapter, wastes that are newly identified or listed after November 8, 1984 and are stored in a surface impoundment newly subject to regulation under 06-096 C.M.R. chs. Chapter 850 – 857 as a result of such identification or listing, may continue to be stored or treated in the surface impoundment for a period of time specified by the Department not to exceed 48 months after promulgation of the listing or characteristic, provided the surface impoundment is in compliance with 06-096 C.M.R. ch. 855, §section 9(B) of Chapter 855 within 12 months of the promulgation. Storage or treatment of wastes in the impoundment beyond the date specified by the Department must be in accordance with sSection 7(A) of this Chapter.
- C.** Evaporation of hazardous constituents as the principal means of treatment is not considered to be treatment for purposes of an exemption under this section.

NOTE: See also the prohibition on evaporation in 06-096 C.M.R. ch. 854, §Chapter 854-5(B).

- D.** In an action to enforce the requirements of this Chapter, the owner or operator bears the burden of proving that an impoundment qualifies for an exemption under this section.

8. Procedures for Case-by-Case Extensions of the Effective Date

- A.** In accordance with 40 C.F.R. § 268.5, any person who generates, treats, stores, or disposes of a hazardous waste may submit an application to the EPA Administrator for an extension of the effective date of any applicable restriction established in this Chapter.
- B.** Whenever the EPA Administrator establishes an extension to an effective date under this Chapter, during the period for which such an extension is in effect:
- (1) The storage restrictions of Section 12 of this Chapter do not apply;
 - (2) Such hazardous waste may be disposed in a landfill or surface impoundment only if such unit is in compliance with the technical requirements of the following provisions regardless of whether such unit is new, existing, or a replacement or lateral expansion:

- (a) The landfill is in compliance with 06-096 C.M.R. ch. 854, §Section 8(B) of Chapter 854, the ground water monitoring requirements of 06-096 C.M.R. ch. 854 or 855Chapter 854 or 855 (whichever is applicable), and if disposing of containerized liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm but less than 500 ppm, is also in compliance with the requirements of 40 C.F.R. 761.75 and 06-096 C.M.R. ch. 854 or 855Chapters 854 and 855 (whichever is applicable);
- (b) The surface impoundment is in compliance with 06-096 C.M.R. ch. 854, §Section 9(B) of Chapter 854, or 06-096 C.M.R. ch. 855, § 9(E)(5) of Chapter 855, whichever is applicable, and the ground water monitoring requirements of 06-096 C.M.R. ch. 854 or 855Chapter 854 or 855, whichever is applicable, except as provided in Section 7(B) of this Chapter.
- C. Pending a decision on the application, the applicant is required to comply with all restrictions on land disposal under this Chapter once the effective date for the waste has been reached.

9. No Migration Petitions

- A. Any person seeking an exemption from a prohibition under this Chapter for the disposal of a restricted hazardous waste in a particular unit or units ~~must~~shall submit a petition to the EPA Administrator and the Department demonstrating, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit for as long as the wastes remain hazardous. Such petition ~~shall~~must be submitted in accordance with 40 C.F.R. § 268.6.
- B. After a petition has been approved by the EPA Administrator, and subsequently by the Department (utilizing rulemaking procedures), the owner or operator ~~shall~~must comply with 40 C.F.R. § 268.6(e) and (f), ~~which are hereby adopted and incorporated by reference,~~ provided however, that the references to "40 C.F.R. Part 264 or Part 265" shall mean "06-096 C.M.R. ch. 854 or 855Chapter 854 or Chapter 855". Prior to such approvals, the applicant is required to comply with all restrictions on land disposal under this Chapter once the effective date for the waste has been reached. The approval of a petition does not relieve the petitioner from complying with other applicable requirements of 06-096 C.M.R. ch. 850 - 860Chapters 850-860 of the Department's rules.
- C. The term of a petition ~~shall~~must be no longer than the term of a license if the disposal unit is licensed under 06-096 C.M.R. ch. 856Chapter 856, or up to 5 years from the date of approval by the Department if the unit is operating under interim status. In either case, the term of the granted petition ~~shall~~must expire upon the termination or denial of a license under 06-096 C.M.R. ch. 856Chapter 856, or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of the petition is reached.

- D. Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 500 ppm are not eligible for an exemption under this section.

10. Waste Analysis, Notification, Certification and Record Keeping. Generators, owners or operators of treatment facilities, and owners or operators of land disposal facilities shall comply with the requirements of 40 C.F.R. § 268.7, ~~which are hereby adopted and incorporated by reference,~~ provided however, that references to:

- "this part", or subparts, or sections thereof shall mean "this Chapter", ~~references to~~
- 40 C.F.R. § 264.13 shall mean "06-096 C.M.R. ch. 854, § 6(C)(3) of Chapter 854", ~~references to~~
- 40 C.F.R. § 265.13 shall mean "06-096 C.M.R. ch. 855, § 9(A)(3) of Chapter 855", ~~references to~~
- 40 C.F.R. Part 262.34 shall mean "06-096 C.M.R. ch. 851 Section 8(B) of Chapter 851", ~~references to~~ and any applicable requirements under 06-096 C.M.R. chs. 854 – 857,
- 40 C.F.R. Part ~~261.2, 261.3(f) or 261.6~~ shall mean "06-096 C.M.R. ch. 850 Chapter 850", and

the notification required by 40 C.F.R. § 268.7(d) ~~shall~~ must be sent to the receiving facility and the Department, 40 C.F.R. § 268.7(a)(7) ~~shall apply~~ only to the exclusions authorized under this Chapter and 06-096 C.M.R. ch. 850 Chapter 850, and 40 C.F.R. §§ 268.7(a)(10) and 7(b)(6) ~~shall be~~ deleted. All records must be maintained for at least three years. The retention period is extended automatically during the course of any unresolved enforcement action or as otherwise required by the Department.

11. Special Rules Regarding Wastes that Exhibit a Characteristic

Generators, owners or operators of treatment facilities, and owners or operators of land disposal facilities shall comply with the requirements of 40 C.F.R. § 268.9, ~~are hereby adopted and incorporated by reference,~~ provided that references to 40 C.F.R. Part 268 or sections thereof shall mean "this Chapter", references to subpart C of 40 C.F.R. Part 261 shall mean "06-096 C.M.R. ch. 850, § Chapter 850(3)(B)", and references to subpart D of 40 C.F.R. Part 261 shall mean "06-096 C.M.R. ch. 850, § Chapter 850(3)(C)".

12. Storage of Restricted Wastes

- A. Except as provided in this section, the storage of hazardous wastes restricted from land disposal under this Chapter or Section 3004(d) of RCRA, 42 U.S.C. § 6924 is prohibited, unless the following conditions are met:

- (1) A generator stores such wastes in tanks or containers on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and,
 - (a) the generator complies with the requirements of 06-096 C.M.R. ch. 851 Chapter 851 including the 90 day accumulation time, or

- (b) if the waste contains PCBs at concentrations greater than or equal to 50 ppm, the generator complies with the requirements of 06-096 C.M.R. ch. 851~~Chapter 851~~ and 40 C.F.R. § 761.65(b).
- (2) An owner/operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks or containers solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and:
- (a) Each container is clearly marked to identify its contents and the date each period of accumulation begins: and
- (b) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received, and the date each period of accumulation begins, or such information for each tank is recorded and maintained in the operating record at that facility. Regardless of whether the tank itself is marked, an owner/operator ~~shall~~must comply with the operating record requirements specified in 06-096 C.M.R. ch. 854, §Section 6(C)(109) of Chapter 854 or 06-096 C.M.R. ch. 855, §Section 9(A)(109) of Chapter 855 (whichever is applicable).
- (c) Each container or tank is managed in accordance with the applicable provisions of 06-096 C.M.R. ch. 854 or 855~~Chapters 854 and 856~~ and if the waste contains PCBs at concentrations greater than or equal to 50 ppm, the waste must be also stored in compliance with 40 C.F.R. § 761.65(b).
- (3) A transporter stores manifested shipments of such wastes for 10 days or less in accordance with a license issued under 06-096 C.M.R. ch. 856, §Chapter 856 (11)(A)(3).
- B.** An owner/operator of a treatment, storage, or disposal facility may store such wastes for up to 180 days unless the Department can demonstrate that such storage was not solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.
- C.** An owner/operator of a treatment, storage, or disposal facility may store such wastes beyond 180 days up to 360 days provided the owner/operator complies with 06-096 C.M.R. ch. 854, §Chapter 854, Section 12(Ce)(11); however, in an action to enforce the requirements of this Chapter the owner/operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.
- D.** The prohibition in paragraph A of this section does not apply to:
- (1) Wastes which are the subject of an approved petition under Section 9 of this Chapter;

- (2) Wastes for which the effective date of a prohibition has not been reached or for which a case-by-case extension of the effective date under Section 8 of this Chapter has been approved; and;
- (3) Wastes that meet the applicable treatment standards specified in this Chapter, meet the treatment standards in an approved variance under Section 14 of this Chapter, or where treatment standards have not been specified, are in compliance with the applicable prohibition levels specified in this Chapter or Section 3004 of RCRA, 42 U.S.C. § 6924.

13. Prohibitions on Land Disposal

Generators, owners or operators of treatment facilities, and owners or operators of land disposal facilities shall comply with ~~t~~The prohibitions and effective dates of 40 C.F.R. §§ 268.20; and 268.3031 and 268.32; 268.34; and 268.37 through 268.39, ~~are hereby adopted and incorporated by reference,~~ provided however, that references to:

- 40 C.F.R. § 261.31 shall mean "06-096 C.M.R. ch. 850, §Section 3(C)(2) of Chapter 850", references to
- 40 C.F.R. § 261.32 shall mean "06-096 C.M.R. ch. 850, §Section 3(C)(3) of Chapter 850", references to
- 40 C.F.R. § 261.33 shall mean "06-096 C.M.R. ch. 850, §Section 3(C)(4) of Chapter 850", references to
- 40 C.F.R. 268 or Part 268 or sections thereof shall mean "this Chapter", references to
- sections or subparts of 40 C.F.R. Part 264 shall mean "applicable provisions of Chapter 854", references to
- sections or subparts of 40 C.F.R. Part 265 shall mean "applicable provisions of Chapter 855", references to
- 40 C.F.R. § 268.5(h)(2) shall mean "Section 8(B)(2) of this Chapter",

and the prohibitions in 06-096 C.M.R. ch. 854, §Section 5(E) of Chapter 854 and 06-096 C.M.R. ch. 855, §Section 5(B)(7) of Chapter 855 shall continue to apply. Refer to 40 C.F.R. Part 268 Appendix VII for tables of effective dates organized by waste code.

14. Treatment Standards

A. General. Generators, owners or operators of treatment facilities, and owners or operators of land disposal facilities shall comply with the treatment standards of 40 C.F.R. §§ 268.40 - 268.43 and 40 C.F.R. § 268.48 are hereby adopted and incorporated by reference, provided however, that references to:

- “this part” or subparts thereof shall mean “this Chapter”, references to
- 40 C.F.R. Part 264 or subparts thereof shall mean “06-096 C.M.R. ch. Chapter 854”, references to
- 40 C.F.R. Part 265 or subparts thereof shall mean “06-096 C.M.R. ch. Chapter 855”, references to
- 40 C.F.R. Part 266 shall mean “06-096 C.M.R. ch. Chapter 856, references to 40 C.F.R. 268.32 or portions thereof shall mean “Section 13 of this Chapter”,
and petitions for variances from treatment standards expressed as specified technologies in accordance with 40 C.F.R. § 268.42(b) shall must be submitted to the EPA Administrator and subsequently to the Department for review (utilizing rulemaking procedures) and approval. Underground injection is prohibited pursuant to Section 06-096 C.M.R. ch. 854, § 5(E) of Chapter 854 and Section 06-096 C.M.R. ch. 855, § 5(B)(7) of Chapter 855, and the dilution prohibition of Section 6 of this Chapter applies.

B. Variance

- (1) The generator or treatment facility owner or operator may petition EPA and the Department for a variance from the treatment standard in accordance with 40 C.F.R. § 268.44. The Department shall will utilize rulemaking procedures in reviewing such a petition, and pending approval of the petition by EPA and subsequently by the Department, the applicant is required to comply with all restrictions on land disposal under this Chapter once the effective date for the waste has been reached.
- (2) A generator, treatment facility owner or operator, or disposal facility owner or operator that is managing a waste covered by a variance from the treatment standards shall must comply with Section 10 of this Chapter.

C. Hazardous Debris. Hazardous debris shall must be treated in accordance with 40 C.F.R. § 268.45, which is hereby adopted and incorporated by reference, provided that reference to 40 C.F.R. Part 261 or sections thereof shall mean “Chapter 850”, references to 40 C.F.R. Part 268 or sections thereof may mean “this Chapter”, “Administrator” shall mean “Commissioner”, and immobilization technologies must achieve substantial reductions in leachability over the long-term.

D. Contaminated Soil. Soil exhibiting a hazardous waste characteristic or which contains a listed waste, and that meets the applicability standards in 40 C.F.R. § 268.49(a), shall must be treated in accordance with 40 C.F.R. § 268.49, which is hereby adopted and incorporated by reference. Additionally, immobilization technologies must achieve substantial reductions in leachability over the long-term, including, but not limited to, a demonstration of stability through Test Method 1320: Multiple Extraction Procedure in

EPA Publication SW-846 “Test Methods for Evaluating Solid Waste: Physical/Chemical Methods”. The results of Test Method 1320 must demonstrate reductions in leachability below the TCLP threshold throughout the procedure for the hazardous waste constituent(s) of concern. Test Method 1320 may also be required to demonstrate the stability of reductions of contaminant levels by 90% in comparison to contaminant levels in the soils prior to application of an immobilization technology.

Appendix I: Toxicity Characteristic Leaching Procedure (TCLP)

The TCLP is included in SW-846 as Method 1311, as published on July 1, 2005. See Appendix II of Chapter 850.

Appendix II: {Reserved}

Appendix III: List of Halogenated Organic Compounds Regulated Under Section 13C of this Chapter

In determining the concentration of HOCs in a hazardous waste for purposes of the land disposal prohibition of Section 13C of this Chapter ~~and disposal prohibition~~, the ~~Board~~ Department has defined the HOCs (see Section 3(B) of this Chapter) that must be included in the calculation as any compounds having a carbon-halogen bond which are listed in this Appendix ~~(see Section 3A)~~. Appendix III to Chapter 852 consists of the following compounds:

Volatiles	Semivolatiles
Bromodichloromethane	Bis(2-chloroethoxy)ethane
Bromomethane	Bis(2-chloroethyl)ether
Carbon Tetrachloride	Bis(2-chloroisopropyl)ether
Chlorobenzene	p-Chloroaniline
2-Chloro-1,3-butadiene	Chlorobenzilate
Chlorodibromomethane	p-Chloro-m-cresol
Chloroethane	2-Chloronaphthalene
2-Chloroethyl vinyl ether	2-Chlorophenol
Chloroform	3-Chloropropionitrile
Chloromethane	m-Dichlorobenzene
3-Chloropropene	o-Dichlorobenzene
1,2-Dibromo-3-chloropropane	p-Dichlorobenzene
1,2-Dibromomethane	3,3'-Dichlorobenzidine
Dibromomethane	2,4-Dichlorophenol
Trans-1,4-Dichloro-2-butene	2,6-Dichlorophenol
Dichlorodifluoromethane	Hexachlorobenzene
1,1-Dichloroethane	Hexachlorobutadiene
1,2-Dichloroethane	Hexachlorocyclopentadiene
1,1-Dichloroethylene	Hexachloroethane
Trans-1,2-Dichloroethene	Hexachloroprophene
1,2-Dichloropropane	Hexachloropropene
Trans-1,3-Dichloropropene	4,4'-Methylenebis(2-chloroaniline)
cis-1,3-Dichloropropene	Pentachlorobenzene
Iodomethane	Pentachloroethane
Methylene chloride	Pentachloronitrobenzene
1,1,1,2-Tetrachloroethane	Pentachlorophenol
1,1,2,2-Tetrachloroethane	Pronamide
Tetrachloroethene	1,2,4,5-Tetrachlorobenzene
Tribromomethane	2,3,4,6-Tetrachlorophenol
1,1,1-Trichloroethane	1,2,4-Trichlorobenzene
1,1,2-Trichloroethane	2,4,5-Trichlorophenol
Trichloroethene	2,4,6-Trichlorophenol
Trichloromonofluoromethane	Tris(2,3-dibromopropyl)phosphate
1,2,3-Trichloropropane	
Vinyl chloride	

Organochlorine Pesticides

Aldrin
alpha-BHC
beta-BHC
delta-BHC
gamma-BHC
Chlordane
DDD
DDE
DDT
Dieldrin
Endosulfan I
Endosulfan II
Endrin
Endrin aldehyde
Heptachlor
Heptachlor epoxide
Isodrin
Kepone
Methoxychlor
Toxaphene

Phenoxyacetic Acid Herbicides

2,4-Dichlorophenoxyacetic acid
Silvex
2,4,5-T

PCBs

Aroclor 1016
Aroclor 1221
Aroclor 1232
Aroclor 1242
Aroclor 1248
Aroclor 1254
Aroclor 1260
PCBs not otherwise specified

Dioxins and Furans

Hexachlorodibenzo-p-dioxins
Hexachlorodibenzofuran
Pentachlorodibenzo-p-dioxins
Pentachlorodibenzofuran
Tetrachlorodibenzo-p-dioxins
Tetrachlorodibenzofuran
2,3,7,8-Tetrachlorodibenzo-p-dioxin

Appendix IV – Waste Excluded from Lab Packs Under the Alternative Treatment Standards of 40 C.F.R. § 268.42(c) (Incorporated by Reference in Section 14A of this Chapter)

Hazardous waste with the following waste codes ~~shall~~must not be placed in lab packs under the alternative lab pack treatment standards of Section 14A of this Chapter: D009, F019, K003, K004, K005, K006, K062, K071, K100, K106, P010, P011, P012, P076, P078, U134, U151.

Appendix V – {Reserved}

Appendix VI – Recommended Technologies to Achieve Deactivation of Characteristics in 40 C.F.R. § 268.42 (Incorporated by Reference in Section 14A of this Chapter).

Appendix VI to 40 C.F.R. Part 268 is hereby ~~adopted and~~ incorporated by reference, provided that references to 40 C.F.R. Part 268 or sections thereof shall mean “this Chapter” and references to 40 C.F.R. Part 261 shall mean “Chapter 850”.

Appendix VII – LDR Effective Dates of Surface Disposal Prohibited Hazardous Wastes

Appendix VII to 40 C.F.R. Part 268 is hereby ~~adopted and~~ incorporated by reference.

Appendix VIII – {Reserved}

Appendix IX – Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test (Method 1310B)

Appendix X – {Reserved}

Appendix XI – Metal Bearing Wastes Prohibited from Dilution in a Combustion Unit According to 40 C.F.R. § 268.3(c).

Appendix XI to 40 C.F.R. Part 268 is hereby ~~adopted and~~ incorporated by reference.

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