

**Chapter 856:****LICENSING OF HAZARDOUS WASTE FACILITIES****TABLE OF CONTENTS**

	<u>Page</u>
1. Legal Authority .....	1
2. Preamble .....	1
3. Definitions .....	1
4. Prohibitions .....	2
5. Persons Who <del>Are Required to</del> <b>Must</b> Apply for and Obtain Licenses .....	3
6. Persons Not Required to Obtain a License .....	4
7. Advisory Rulings .....	6
8. Access to the Site .....	6
9. References to Federal Regulations .....	6
10. Application Requirements .....	7
A. General requirements .....	7
B. Information required for all applications .....	11
C. License application for landfill or surface impoundment: additional requirements .....	17
D. License application for incinerator: additional requirements .....	20
E. License application to store or treat hazardous waste in tanks: additional requirements .....	22
F. License application for waste pile: additional requirements .....	22
G. License application for land treatment: additional requirements .....	22
H. License application for storage facility using containers: additional requirements .....	23
I. License application for commercial facilities: additional requirements .....	23
J. License application for miscellaneous units: additional requirements: .....	24
K. Additional requirements for post-closure licenses: .....	24
L. <u>License application for drip pads: additional requirements</u> .....	<u>XX</u>
11. Requirements for Facilities Licensed Under the Abbreviated License Process .....	25
12. Decisions .....	37
13. License Terms and Conditions .....	39
14. Renewal of a License .....	44
15. Suspension and Revocation .....	45
16. Emergency Temporary License for Storage of Hazardous Waste by a Generator .....	45
17. Applicability of Criteria for Facility Development .....	46
18. Emergency Circumstances .....	46
19. Severability .....	47

**Chapter 856: LICENSING OF HAZARDOUS WASTE FACILITIES**

SUMMARY: This ~~rule~~ Chapter specifies the application requirements and procedures by which owners and operators may apply for a license to establish, construct, alter or operate a hazardous waste facility and the procedures by which such applications will be reviewed and acted upon by the Department and Board of Environmental Protection.

1. **Legal Authority.** This ~~Chapter~~ rule is authorized by 38 M.R.S. ~~§A, section 1301, et seq.~~ through 1319-Y, which prohibits the establishment, construction, alteration and operation of a hazardous waste facility without a license, establishes the authority of the Board of Environmental Protection (Board) ~~to issue licenses and to adopt rules for licensing, the authority for the Department of Environmental Protection (Department) and the Board to issue licenses,~~ and sets out the findings which the Department and Board must will make in order to issue a license.

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NOTE: Pursuant to 38 M.R.S. § 341-A, Sections (2) and (4), the term "Department" is defined to include the Board of Environmental Protection and the Commissioner of the Department of Environmental Protection (Commissioner). The term "Department" as used in this Chapter means either the Board or the Commissioner (or the Commissioner's designee), as applicable depending on the specific circumstances and whether the license is issued by the Board, such as full hazardous waste facility licenses, or issued by the Commissioner, such as abbreviated licenses under Section 11(A) of this Chapter.

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2. **Preamble.** It is the purpose of the Department of Environmental Protection, consistent with legislative policy, to provide necessary controls over hazardous waste facilities so as to ensure the protection of public health, safety, welfare and the environment.
3. **Definitions.** For the purpose of this ~~Chapter~~ rule, terms not defined in this section have the meaning given them under 38 M.R.S. ~~§§ 361-A and 1303-C~~. The following terms as used in this ~~Chapter~~ rule have the following meaning unless the context indicates otherwise:
- A. **By-product.** "By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form in which it is produced by the process.
  - B. **Commercial hazardous waste facility.** "Commercial hazardous waste facility" means a facility which accepts, for handling, hazardous wastes other than those generated on site by the owner of the facility. The handling of residual hazardous wastes generated on site in the process of handling hazardous wastes are included within the scope of the facility's operations. Commercial hazardous waste facility includes mobile treatment facilities.
  - C. **Elementary neutralization unit.** "Elementary neutralization unit" means a device which is used on site for neutralizing wastes that are hazardous solely because they exhibit the corrosivity characteristic defined in ~~Chapter 06-096 C.M.R. ch. 850 of the department rules or are listed in section 3(C) of 06-096 C.M.R. ch. Chapter 850, § 3(C) solely for this reason and meets the definition of tank, tank system, container, transport vehicle or vessel in 40 C.F.R. § 260.10.~~

- D. Facility property.** "Facility property" means all of the property, as defined by its legal boundaries, on which is or will be located the existing or proposed waste facility for hazardous waste for which the license is sought.
- E. Mobile treatment facility.** "Mobile treatment facility" means a facility or unit capable of being moved and operated at sites for a limited period of time. In order to qualify as a "mobile treatment facility" units located at generator sites must be operational at more than one site in a calendar year.
- F. New waste facility for hazardous waste.** "New waste facility for hazardous waste" means a facility which did not exist prior to the effective date of this ~~Chapter rule~~ or which did not handle hazardous waste prior to the effective date of this ~~Chapter rule~~.
- G. Publicly owned treatment works.** "Publicly owned treatment works" (POTW) means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a "State" or "municipality." This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.
- H. Substantial modification.** "Substantial modification" means any change in size or operation of a licensed facility which may pose a risk to health, safety, welfare or the environment which is significantly different in kind or degree from that posed by the facility without the modification, or may pose a significant risk which was not considered in the original application or is not addressed in the existing license.
- I. Thermal treatment.** "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation and microwave discharge.
- J. Transfer facility.** "Transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

#### 4. Prohibitions

- A.** No person shall establish, construct or operate a new waste facility for hazardous waste or substantially modify a licensed facility without a license issued by the ~~Board~~ Department, and no person shall alter the design, construction or operation of a licensed facility without prior ~~Department~~ Board approval.
- B.** After the date upon which an application for a license under this ~~Chapter rule~~ is due, no person shall operate a waste facility for hazardous waste for which an interim license has been issued, unless the application has been filed. The Department ~~shall~~ will give written notification to the owner or operator of an interimly licensed facility of the date upon which ~~his~~ the application is due, which date ~~shall~~ must not be earlier than sixty (60) days after the date of the notice.
- C.** No person shall:

- (1) ~~o~~Operate a licensed waste facility for hazardous waste except in accordance with its license, the terms and conditions thereof and with the requirements of law and rule;
- (2) ~~o~~Operate a waste facility for hazardous waste in any manner which could endanger public health, safety, welfare or the environment. Operating a waste facility for hazardous waste without a license as required by this Chapter constitutes a presumption of such endangerment.

~~(a) Operating a waste facility for hazardous waste without a license as required by this rule constitutes a presumption of such endangerment.~~

- D. Possession of a license as required by this ~~Chapter~~rule is not a defense to a violation of this ~~Chapter~~rule or to any other violation of law or rule.
- E. No person shall handle hazardous waste except at a waste facility for which a license for such handling has been issued by the ~~Department~~Board.
- F. No person shall operate a mobile treatment facility for more than 60 days at any one site in any 365 days without specific authorization from the ~~Department~~Board.

## 5. Persons Who ~~Must~~Shall Apply for and Obtain Licenses

- A. Any person who proposes to own or operate a waste facility for hazardous waste ~~must~~shall, prior to establishment, construction or operation of the facility, apply for and obtain a license as required by this ~~Chapter~~rule.
- B. Any person who proposes to continue to own or operate a waste facility for hazardous waste for which an interim license is in force ~~shall~~must apply for and obtain a license as required by this ~~Chapter~~rule.
- C. Any person who proposes to alter the design, construction or operation of a licensed waste facility for hazardous waste ~~shall~~must, prior to alteration of the facility, apply for and obtain approval from the ~~Department~~Board for the alteration. Approval of an alteration, if granted, will ordinarily be by amendment to the license and may be with or without conditions.
- D. Any person who proposes to undertake or institute a substantial modification to a licensed hazardous waste facility ~~shall~~must, prior to undertaking or instituting the modification, apply for and obtain a license for the modification as required by this ~~Chapter~~rule.
- E. Where the owner and the operator are not the same person, either may obtain the license but both ~~shall~~must, by signing the certification on the application form, sign and certify the application.
- F. Any person who owns or operates a facility for hazardous waste under interim or final license which closes and is subject to post-closure requirements of 06-096 C.M.R. ch. ~~Chapter~~ 854 or 06-096 C.M.R. ch. ~~Chapter~~ 855 ~~shall~~must apply for and obtain from the Board a post-closure care license prior to closure of the facility. The denial of a license for the active life of a facility or unit does not affect the requirement to obtain a post-closure license under this section. Approval of a post-closure license, if granted by the Board, may be with or without conditions. The owner or operator ~~shall~~must obtain a license or licenses during the entire post-closure care period. Owners or operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under 06-096 C.M.R. ch. ~~Chapter~~ 855 ~~shall~~must obtain a post-closure license unless they can demonstrate to the Board that the closure met the standards for closure by

removal or decontamination under 06-096 C.M.R. ch. Chapter 854. The demonstration ~~must~~ shall be made as part of an application for a post-closure license, based upon information in the application. License processing procedures ~~shall~~ govern the review and final determination regarding the demonstration. At a minimum, the post-closure license ~~must~~ shall address applicable ground water monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements of 06-096 C.M.R. ch. Chapter 854. In the case of a license application for post-closure care only, the requirements of Sections 10(A) and 10(K) of this Chapter ~~shall~~ apply.

- 6. Persons Not Required to Obtain a License.** The following persons are not required to obtain a license:
- A. Generators of hazardous waste who accumulate hazardous waste on site for 90 days or less, as provided in 06-096 C.M.R. ch. chapter 851, §section 8(B) of department rules.
  - B. Farmers who dispose of hazardous waste pesticide residues from their own use as provided in 06-096 C.M.R. ch. chapter 851, §section 4(C) and 06-096 C.M.R. ch. chapter 851, §section 10 of the department rules.
  - C. Owners or operators of totally enclosed treatment facilities as defined in 40 C.F.R. § 260.10.
  - D. Owners or operators of wastewater treatment units as defined in 40 C.F.R. § 260.10 provided all the hazardous wastes and wastewaters treated in such units are generated on-site, the owners or operators are in compliance with 40 C.F.R. § 264.17(b), and the owners and operators are in compliance and submit a certification to the Department prior to operating the wastewater treatment unit (or certify by June 30, 1995 for units operating before June 30, 1995) that they are in compliance with the following requirements:
    - (1) The wastewater treatment units and associated piping are constructed of materials compatible with the wastes managed in such units during routine and upset conditions;
    - (2) The wastewater treatment units must have a secondary containment system of sufficient capacity to contain whichever is greater; 110% of the capacity of the largest unit or 20% of the combined capacity of the wastewater treatment units, except that, secondary containment of sewer lines is not required;
    - (3) The wastewater treatment units are equipped with automatic high level alarms, and such alarms are inspected and tested at least twice per year;
    - (4) Procedures for responding to the activation of the automatic high level alarms have been established that are sufficient to prevent a release of hazardous waste to the environment and the wastewater treatment units are operated within the parameters of the facility's design;
    - (5) The wastewater treatment system is subject to a water discharge license pursuant to 38 M.R.S.A sections §§ 413 through 414(B), *Pretreatment Program*, 06-096 C.M.R. ch. 528, or 40 C.F.R. §§ 403.8 and 403.9 (pretreatment agreement) containing limits on the hazardous characteristics and any hazardous constituents for which the waste is hazardous (see Appendix VII ~~to~~ of 06-096 C.M.R. ch. chapter 850), and the license provides for testing for such characteristics and/or constituents at least annually;

- (6) Periodic inspections of wastewater treatment unit components are performed, and such inspections include the draining of tanks and trenches to ensure the integrity of the structures by inspecting for corrosion and other forms of deterioration at least every five years;
- (7) All sewer lines are inspected and/or tested for structural integrity, including corrosion, at least every five years;
- (8) Whenever the owner or operator discovers that temporary or permanent repairs to the wastewater treatment units or associated piping are necessary to maintain structural integrity, the owner or operator shall notify the Bureau of Water Quality Control and the Bureau of Remediation and Waste Management within 24 hours of the discovery, and within 72 hours of such discovery, shall submit a written plan and repair schedule for review and approval of the Department;
- (9) Repairs to equipment and structures are performed whenever necessary to maintain structural integrity prior to return to service;
- (10) Wastewater analysis and inspection records ~~must~~ shall be retained at the facility and made available to any department or municipal official for inspection; and
- (11) The certification ~~must~~ shall be submitted ~~no later than June 30, 1995~~ to the Bureau of Remediation and Waste Management, ~~Division of Oil and Hazardous Waste Facilities Regulation~~ Hazardous Waste Management Unit ~~(see at the address specified in chapter 856, sSection 10(A)(1) of this Chapter for address).~~

The certification must be made by a person authorized to sign a ~~permit~~ license application under ~~chapter 856, sSection 10(A)(3) of this Chapter~~, and such certification ~~must~~ shall read:

I certify, under penalty of law, that the requirements of ~~section 6(D) of 06-096 C.M.R.~~ ch. Chapter 856, § 6(D) have been met for all wastewater treatment units which are unlicensed under the terms of that provision. I am aware there are significant penalties for submitting false information including the possibility of fine and imprisonment.

- E.** Generators of hazardous waste who physically treat hazardous waste in compactors designed and operated to prevent releases of liquids and vapors that are always closed, except when it is necessary to add or remove waste, provided the generators do not commingle different types of hazardous waste in the compactor.

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NOTE: Generators should consult with compactor manufacturers to determine if their particular waste can be safely compacted. The requirements of 06-096 C.M.R. ch. chapter 851 and 06-096 C.M.R. ch. 852 apply to compactors and the compacted waste including the labeling, maximum accumulation time, inspection, land disposal restriction and closure provisions.

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- F.** Generators of hazardous waste who physically treat waste in tanks or containers and immediately reinsert the waste back into the manufacturing process without any other form of treatment, provided the waste is not used or reused in a manner constituting disposal or burned to recover energy or used to produce a fuel. "Physically treat" for the purposes of this section is limited to the use of pulverizers, grinders and hammers to reduce the particle size of hazardous waste such that the waste is more amenable for reuse.

- G.** Generators of laboratory hazardous waste who neutralize hazardous waste which is hazardous solely due to the characteristic of corrosivity in quantities less than 500 milliliters per treatment within their laboratory.

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NOTE: Generators need to ensure that their waste is only hazardous for corrosivity and not for other hazardous waste characteristics, such as toxicity (including metals), ignitability, or reactivity.

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- H.** Persons conducting removal or remedial action activities exempt from state licensing under section 121(e) of the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980.
- I.** The owner or operator of an elementary neutralization unit, as defined in ~~s~~Section 3, subsection B, (C) of this ~~e~~Chapter, provided:
- (1) The unit is subject to a pretreatment agreement with the operator of a publicly owned treatment works, or wastewater from the unit is discharged to a wastewater treatment system licensed under 38 M.R.S.A. §§ 413 through 414-B, 06-096 C.M.R. ch. 528, or ~~permitted under 40 C.F.R.C.F.R. §§ 403.8 and 403.9;~~
  - (2) All pipes, sewers and other unit components that may contain, convey or otherwise be in contact with corrosive hazardous waste are constructed of materials compatible with the management of corrosive waste, and the location of all such components is identified in a spill prevention control and clean-up plan submitted to the ~~e~~Commissioner as provided under 38 M.R.S.A. § 1318-C;
  - (3) Each identified unit component is inspected at a frequency specified in the spill prevention control and clean-up plan and repaired as necessary to maintain structural integrity;
  - (4) Inspection records, including the date and time of inspection, the name of the inspector and the date and nature of any significant repairs or corrective actions, are retained and made available to department officials upon request, and to municipal officials if effluent from the unit is subject to a pretreatment agreement under section 307(b) of the federal Clean Water Act; and
  - (5) The owner or operator complies with ~~40 C.F.R.C.F.R. § 265.17(b)~~, which, in general, requires that the treatment of corrosive hazardous wastes be conducted so that it does not cause violent reaction, damage the structural integrity of the unit or otherwise threaten human health and the environment.
- 7. Advisory Rulings.** All requests for advisory rulings on the applicability of hazardous waste statutes to particular situations or on other matters ~~must~~shall be based upon existing facts and not upon hypothetical situations. Such requests ~~must~~shall be made in writing and addressed to ~~Division of Oil and Hazardous Waste Facilities Regulation, Bureau of Hazardous Materials and Solid Waste Control, Department of Environmental Protection, State House Station 17~~Division of Materials Management, Bureau of Remediation and Waste Management, Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017. Issuance of advisory rulings is discretionary with the Department on a case-by-case basis.
- 8. Access to the Site.** The filing of an application for a license constitutes the granting of permission by the applicant to allow authorized representatives of the Department access to the site of the facility or

proposed facility in order to evaluate whether or not the facility will meet the standards set forth in 06-096 C.M.R. ch. Chapter 854 and this eChapter. In so far as practical, access will be during normal business hours.

- 9. 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, 1988~~ 2019, as they appeared in volume 40 of the Code of Federal Regulations (CFR 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" shall mean "The Maine Department of Regulation Environmental Protection (DEP)"; "Administrator", "Regional Administrator" and "Director" shall mean "the Maine Board of Environmental Protection, the Commissioner of the Department of Environmental Protection or its the Commissioner's designated representative, as applicable"; and the references to 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. Chapters 850, 860, the more stringent of the requirements shall apply. Other changes to regulations incorporated hereby are as expressly made in this Chapterrule.

## 10. Application Requirements

### A. General Requirements

- (1) An applicant for a license for a waste facility for hazardous waste ~~shall~~ must file an application in accordance with the requirements of this section, (except for applications submitted under Section 11 of this Chapter), including a completed license application form and all supporting materials.

"Applicant" includes a person applying for a license for a substantial modification to a licensed facility. "Application" includes an application for a substantial modification to a licensed facility. However, information filed with the Department as part of an application for an initial license for a facility may satisfy some or all of the application requirements for a license for a substantial modification to the facility, if the applicant so requests and if the Department makes the determination that the information on file provides a proper basis for review of and decision on the application for the modification.

Application forms ~~must~~ shall be obtained from and filed with:

Department of Environmental Protection  
~~Bureau of Hazardous Materials & Solid Waste Control~~  
~~Division of Oil & Hazardous Waste Facilities Regulation~~  
~~State House Station #17~~ Bureau of Remediation and Waste Management  
Division of Materials Management  
17 State House Station  
 Augusta, Maine 04333-0017

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NOTE: Applicants are encouraged to contact the ~~Division of Oil and Hazardous Waste Facilities Regulation~~ Materials Management (Telephone No. ~~207/-287-2651~~ 7688) for assistance and information prior to the filing of an application.

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- (2) An applicant who owns or operates or proposes to own or operate a waste facility for hazardous waste in which more than one type of handling is performed may file a single application for a license to include all those types of handling. The application ~~shall~~must meet all license application requirements applicable to each type of handling.
- (3) The application must be signed and certified by:
- (a) ~~a~~A principal executive officer of at least the level of a vice-president, if the applicant is a corporation;
  - (b) ~~a~~A general partner or the proprietor, as appropriate, if the applicant is a partnership or sole proprietorship; or
  - (c) ~~a~~A principal executive officer or ranking elected official, if the applicant is a municipality, state, federal, or other public agency.

Signing of the application constitutes certification thereof in accordance with the certification statement on the application form.

- (4) With ~~his~~the application, an applicant ~~shall~~must remit the appropriate application fee as established below, by certified check or money order made payable to the Maine Hazardous Waste Fund:

<u>Type of Facility</u>	<u>Fee</u>
Disposal Facility	\$10,000
Commercial Treatment Facility	\$7,000
On-Site Treatment Facility	\$4,000
Other waste facility for hazardous waste, including <del>storage facilities</del> <u>treatment facilities other than on-site and commercial treatment facilities</u>	\$2,500
<u>Treatment facility under license by rule provisions (i.e., Abbreviated Licenses in Section 11 of this Chapter), except for abbreviated licenses for treatment facilities where the hazardous waste treated is 1,000 kg or less per calendar month: under 1,000 kg/month</u>	\$75
<u>All other facilities for hazardous waste under license by rule provisions (i.e., Abbreviated Licenses in Section 11 of this Chapter) over 1,000 kg/month</u>	\$400
<u>Facility post-closure license</u>	\$2,000

A refund of fifty (50) percent of the fee ~~shall~~will be returned to an applicant who withdraws ~~his~~an application within thirty (30) calendar days of its submission.

- (5) The application fees are required for initial applications and for any applications for a substantial modification to a facility or a license. The fee is not required for renewal applications or for an application to allow a change of ownership or operator, where, in such cases, no substantial change to the facility or license is sought.

- (6) An applicant ~~shall~~<sup>must</sup> complete the application form and submit it and all supporting materials as required by rule. On the application form, the Department will specify the number of copies to be submitted.
- (7) All engineering designs, reports, plans, and other technical engineering documents must be signed and certified by a State of Maine Registered Professional Engineer.
- (8) All geological work must be signed and certified by a State of Maine Certified Geologist, except that soils work may be signed and certified by a State of Maine Certified Soils Scientist.
- (9) All survey work must be signed and certified by a State of Maine Registered Land Surveyor.
- (10) All drawings must be done on paper no smaller than 8½ x 11 inches and no larger than 30 x 40 inches in size folded to 8½ x 11 inches.
- (11) The Department will consider an application only when an applicant has demonstrated sufficient title, right, or interest in all of the property which is proposed for development or use. An applicant shall demonstrate in writing sufficient title, right, or interest, as follows:
- (a) When the applicant owns the property, a copy of the deed(s) to the property ~~must~~<sup>shall</sup> be supplied.
  - (b) When the applicant has a lease on the property, a copy of the lease ~~must~~<sup>shall</sup> be supplied. The lease ~~must~~<sup>shall</sup> be of sufficient duration, as determined by the ~~Department~~<sup>Board</sup>, to permit construction and reasonable use of the facility.
  - (c) When the applicant has an option to buy or lease the property, a copy of the option agreement ~~must~~<sup>shall</sup> be supplied. Option agreements ~~must~~<sup>shall</sup> contain terms deemed sufficient by the ~~Department~~<sup>Board</sup> to establish future title or a leasehold of sufficient duration.
  - (d) When the applicant has eminent domain power over the property, evidence ~~must~~<sup>shall</sup> be supplied as to the ability and intent to use the eminent domain power to acquire sufficient title, right, or interest as determined by the ~~Department~~<sup>Board</sup>.
- (12) Pre-application Public Meeting and Notice. An applicant shall comply with the pre-application meeting requirements of *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 C.M.R. ch. 2, §§ 2(A), 10(B)(5) and 13(A) and 40 C.F.R. § 124.31, including the following requirements:
- (a) The applicant shall hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses;
  - (b) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under Section 10(A)(12)(a) of this Chapter, and copies of any written comments or materials submitted at the meeting, to the Department as a part of the application;

(c) The applicant shall provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant shall provide to the Department documentation of the public notice. The applicant shall provide public notice of the pre-application public meeting in all of the following forms:

(i) A newspaper advertisement. The applicant shall publish a notice in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Department may instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Department determines that such publication is necessary to inform the affected public;

(ii) A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site;

(iii) A broadcast media announcement. The applicant shall broadcast a notice at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Department; and

(iv) A notice to the Department. The applicant shall send a copy of the newspaper notice to the Department and to the municipality, or if the facility is located in an unorganized territory, to the county clerk of the county of its location.

(d) The notices required under Section 10(A)(12)(c) of this Chapter must include:

(i) The date, time, and location of the meeting;

(ii) A brief description of the purpose of the meeting;

(iii) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

(iv) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

(v) The name, address, and telephone number of a contact person for the applicant.

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NOTE: Pursuant to 38 M.R.S. § 1319-R(3), all applicants for a license to construct, operate, or substantially expand a commercial hazardous waste facility shall give, at the same time, written notice to the municipal officers of the municipality in which the proposed facility will be located. In addition, the municipality through its municipal officers is granted intervenor status in any proceeding for site review of a commercial hazardous waste facility.

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(132) Within 15 working days of receipt of an application, the Commissioner of the Department ~~shall~~ will notify the applicant of the date the application was accepted by the Department as being complete for processing or return it specifying in writing the reasons for returning the application. No further processing of an application ~~shall~~ will occur until the Department determines it to be complete. The statutory time period within which the ~~Department Board~~

~~must~~ acts upon the application pursuant to 38 M.R.S.A., ~~Section § 344 shall~~ does not begin until the application is determined to be complete. If the applicant does not submit a complete application for a facility, renewal, modification, closure, post-closure or any other required application, the Department Board may deny a license for the active life of a facility or unit before receiving a complete application.

(143) In reviewing applications determined to be complete for processing, the Board or Department may require additional information from the applicant on any aspect of the facility relating to compliance with the standards of 06-096 C.M.R. ch. Chapters 854 and this Chapter 856.

(154) An applicant ~~shall~~ must give public notice of the filing of an application by:

(a) ~~f~~ Filing a copy of the application, and any changes thereto, with the clerk of the municipality in which the facility is or will be located or, if the facility is or will be located in the unorganized territory, with the county clerk of the county of its location. The application and changes must be so filed at the time each is filed with the Department except in the case of a mobile treatment facility which need not file the notice until the time of filing of ~~p~~ Phase II ~~two~~ of its application;:-

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NOTE: For a mobile treatment facility, the application consists of two phases. Phase I is an evaluation of treatment technology and conditions of operation; and Phase II is an assessment of the location(s) where the unit will be used.

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(b) ~~p~~ Publishing notice, in size and form at least equivalent to standard legal notices and containing the information specified below, in at least one newspaper of general circulation in the area in which the facility is or will be located. For the purposes of a mobile treatment facility, the circulation area ~~shall~~ means the entire State of Maine for Phase I of the application. Notice must be published once during the week in which the application is filed and once during the following week;

(c) ~~b~~ Broadcasting notice containing the information specified below over at least one radio station broadcasting in the area in which the facility is or will be located. Notice must be broadcast at least once each day of the week in which the application is filed; for the purposes of a mobile treatment facility, the circulation area ~~shall~~ means the entire State of Maine for Phase I of the application;:- and

(d) ~~g~~ Giving notice to all owners of property abutting the facility property. For mobile treatment facilities, this notice ~~must~~ shall be given at the time of the filing of Phase II of the application, as defined in 06-096 C.M.R. ch. Chapter 854, § Section 6(G).

(165) The public notice ~~must~~ shall include, but not be limited to:

(a) ~~t~~ The name, location and type (e.g., hazardous waste storage facility; hazardous waste incinerator) of the facility;

(b) ~~t~~ The name of the owner and operator of the facility and the name, address, and telephone number of a contact person for the applicant;

(c) ~~a~~ A statement that the application has been filed and the date filed;

- (d) ~~i~~Identification of the hazardous waste(s) to be handled at the facility and descriptions of the method(s) of handling;
- (e) ~~a~~A statement that public comments are invited and will be considered by the Department if filed within 45 days of the last day of the week in which the application is filed;
- (f) ~~a~~A statement that a public hearing may be requested by any person, groups of persons, or agency with respect to the application. The request for hearing ~~shall~~ must be in writing, indicate the interest of the party filing the request, the reasons why a hearing is warranted and must be filed within 45 days of the last day of the week in which the application is filed;
- (g) ~~a~~A statement that comments and hearing requests must be filed with the Department, and that more information can be obtained from the Department, and that people can write to the Department to be put on the facility mailing list, at the following Department address:
- Department of Environmental Protection  
 Bureau of ~~Hazardous Materials & Solid Waste Control~~  
~~Division of Oil & Hazardous Waste Facilities Regulation~~  
State House Station #17 Remediation and Waste Management  
Division of Materials Management  
17 State House Station  
 Augusta, Maine 04333-0017  
 Telephone No. ~~# 207/287-2651~~ (207) 287-7688; and
- (h) ~~t~~The locations at which and the times during which the application and supporting materials may be examined.
- (176) The applicant ~~shall~~ must submit to the Department evidence demonstrating that notice has been published and broadcast as required above, within 5 days of completion of publication and broadcasting. If such evidence is not received, or if notice requirements have not been complied with, processing of the application will cease and will not recommence until notice has been given as required.
- (187) For a facility at which hazardous waste will be disposed, the applicant ~~shall~~ must provide information demonstrating that the volume of waste and the risks related to its handling will have been reduced to the maximum practical extent by treatment and volume reduction prior to disposal.
- (198) The applicant ~~shall~~ must demonstrate, in ~~his~~ the application, sufficient financial capacity, including projections of utilization of the facility by hazardous waste generators, to construct, operate, and maintain all aspects of the facility in accordance with requirements of statute and rules.
- (2019) Except as provided in Section 13(A)(10) ~~below of this Chapter~~, applicants shall keep records of all data used to complete ~~license~~ permit applications and any supplemental information submitted pursuant to this Chapter for a period of at least three years from the date the application is signed.

(210) If a hearing is mandatory, the applicant shall file notice in accordance with 5 M.R.S.A. § 9051(A).

**B. Information Required for All Applications.** An applicant ~~shall~~ must include in ~~his~~ the application (except for post-closure care license applications as provided in Section 10(K) of this Chapter and except for abbreviated license applications submitted under Section 11 of this Chapter) the information required by 40 ~~CFR~~ C.F.R. §§ 270.13 and 270.14(a) and (b) ~~as revised on January 9, 1989 (54 FR 615), which are hereby adopted and incorporated by reference,~~ provided, however, except that references to other sections of 40 ~~CFR~~ C.F.R. Parts 124, 270, and 271 shall mean "this Chapter", references to 40 ~~CFR~~ C.F.R. Part 264 or sections or subparts thereof shall mean "applicable provisions of 06-096 C.M.R. ch. Chapter 854", references to 40 ~~C.F.R. Part 266 of 40 CFR~~ shall be deleted, and:

- (1) The information required by 40 ~~CFR~~ C.F.R. § 270.13(j) ~~must~~ shall be a specification of the hazardous wastes listed or designated under 06-096 C.M.R. ch. Chapter 850 to be handled at the facility, an estimate of the quantity of each waste to be handled annually and a general description of the process(es) to be used for handling each waste.
- (2) The information required by 40 ~~CFR~~ C.F.R. § 270.14(b)(1) ~~must~~ shall also include plan and profile views of all dikes, dams, berms and other similar structures, and drawings of all buildings, all tanks, stationary equipment, machinery and related structures, indicating type, number, location and capacity or size; and drawings showing landscaping and screening.;
- (3) The general inspection schedule required by 40 ~~CFR~~ C.F.R. § 270.14(b)(5) ~~must~~ shall include daily inspection of the facility during daylight hours in order to check for equipment malfunctions or deterioration, operator procedural compliance, conditions of hazardous waste containers or any other factor which if not corrected could cause or contribute to any unauthorized release, leak or discharge of hazardous waste at the facility. An inspection log must be maintained on the facility site with daily inspections and results thereof noted in the log.;
- (4) The contingency plan required by 40 ~~CFR~~ C.F.R. § 270.14(b)(7) ~~shall~~ must also include the emergency notification requirements of 40 ~~CFR~~ C.F.R. § 264.56(d)(2)(i)-(vi) and must include the requirement that emergency notification be given to the Department of Public Safety (State Police) by calling 1-800-452-4664 or 207-~~624-7076~~7000. Notification must include all of the information required by 40 C.F.R. § 264.56(d)(2)(i)-(vi) and in addition must include the following:
  - (a) A current assessment of the situation, including any potential hazards that remain and an estimated time that problems caused by the emergency situation are expected to be resolved;
  - (b) A list of other local, state and federal agencies which were notified of the emergency situation; and
  - (c) Any assistance that the facility still requires to solve problems caused by the emergency.

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NOTE: The Maine Department of Public Safety (State Police) will immediately notify the Department.

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- (5) A map, plotted on the most current 1:24,000 scale (7½ minute) United States Geological Survey (USGS) topographical quadrangle ~~must~~shall also be provided, showing the location of the facility property and of the facility itself and extending one mile beyond the property boundaries. If a 7½ minute map has not been printed by USGS, a 1:62,500 scale (15 minute) map may be used.;
- (6) A survey of the facility property boundaries ~~must~~shall also be provided.;
- (7) Copies of all state and municipal zoning restrictions applicable to the facility property and to the area within one half (½) mile of the property boundaries ~~must~~shall also be provided.;
- (8) The application shall also include a list of all other federal, state and local environmental licenses or permits required for the facility, indicating whether each has been applied for and the date of such application. If licenses have been issued, include a copy of each license. If any environmental license or permit for the facility, or issued to the owner or operator for any other facility or activity, has been either suspended, revoked, or denied identify the license or permit, give date(s) of and reason(s) for suspension or revocation or denial and indicate present status.
- (9) The application shall also include a map showing all wells, springs, ponds, streams, other bodies of surface water, and public drinking water supplies on the facility site and within one mile of the property boundaries, and any intake or discharge structures, underground injection wells, if any, and hazardous waste treatment, storage, disposal or handling structures on the property.
- (10) A plan of operation for the facility must be submitted as well which, at a minimum, provides the following information:
  - (a) The amounts of each hazardous waste, by specific type, to be received weekly.;
  - (b) A detailed narrative explaining how the facility will operate, including, but not limited to, design capacity, on site storage, if any, technological processes for each type of hazardous waste and flow diagram schematics for all parts of the facility.;
  - (c) Total capacity and life expectancy of the facility, including calculations used to derive these data.;
  - (d) Hours and days of operation at the facility and the number of conveyances delivering hazardous wastes that are expected daily and that can be accommodated daily.;
  - (e) A detailed plan for monitoring facility operation, including monitoring of the generation of hazardous waste incidental to operation of the facility and handling thereof and monitoring of the effects of the facility on air, land and water. The plan must indicate the location of any monitoring wells and other monitoring devices, specify analytical parameters, indicate what laboratory and/or analytic capability will be required, how it will be provided, and include a schedule for filing monitoring reports with the Department.;
  - (f) An evaluation of the impact of the facility on the surrounding environment, including an evaluation of the impact of a worst-case malfunction or failure. The detail required will

depend upon the type of waste facility, the nature of its location and surrounding environment.

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NOTE: A single map or plan may be used to satisfy more than one requirement of this ~~Chapter~~rule, if different elements are clearly indicated. Applicants are encouraged to include narrative descriptions of drawings and of laboratory or field tests, which explain or clarify the application.

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- (11) Evidence that the applicant has acquired liability insurance or an alternative liability assurance mechanism in an amount(s), type and form specified in 06-096 C.M.R. ch. Chapter 854. A certificate of insurance from the underwriter will suffice providing that the wording of the Hazardous Waste Facility Certificate of Liability Insurance is identical to the wording contained in ~~40 C.F.R. § 264.151(j)~~ except that subparagraph 2(b) ~~must~~shall read:

"The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer."

The certificate of insurance also ~~must~~shall contain the discovery endorsement as required by 06-096 C.M.R. ch. Chapter 854, ~~§Section 6(C)-(174)(in)~~, if applicable.

- (12) A plan for closure of the facility upon termination of its use. The plan must demonstrate that requirements for closure established by 06-096 C.M.R. ch. Chapter 854 will be met, must contain detailed estimates of costs of closure, including calculations thereof, and must include copies of assurance funding instruments as specified by 06-096 C.M.R. ch. Chapter 854.
- (13) A notice, to be filed by the Department in the Registry of Deeds for the county in which the facility is located, which states that a hazardous waste facility is located on the property, gives the name and address of the owner of the facility property and the name and address of the facility operator, specifies the hazardous wastes handled at the facility and the methods of handling and indicates that a facility closure plan is on file with the Department.
- (14) For a facility at or in which hazardous waste will remain after termination of its use, a plan for post-closure monitoring and maintenance of the facility for the ~~30-year~~30-year period subsequent to termination of its use. The plan must demonstrate that the requirements for post-closure established by 06-096 C.M.R. ch. Chapter 854 will be met, must contain detailed cost estimates, including calculations thereof, and must include assurance funding instruments as specified by 06-096 C.M.R. ch. Chapter 854.
- (15) A schedule that lists all records and reports required by the Department's rules to be kept or made for the facility, specifying:
- (a) ~~F~~For each record or report, the type and frequency of entries therein;
  - (b) ~~F~~For each record or report, the frequency of submission to the Department;
  - (c) ~~F~~For each record or report, the duration of time each is required to be retained by the facility owner or operator and where retained; and



- (d) ~~¶~~The name and position of the individual who will sign records and reports. The individual signing such records and reports ~~shall~~must either be authorized to sign the application under ~~Chapter 856, Section 10(A) of this Chapter~~ or be authorized in accordance with ~~40 C.F.R. § 270.11, which is hereby adopted and incorporated by reference.~~

If an authorization is no longer accurate because of a change of individual or position, a new authorization which satisfies the requirements of ~~40 C.F.R. § 270.11~~ must be submitted with or prior to submission of any records or reports to be signed by an authorized representative.

- (16) Ground water information requirements for hazardous waste units. The following additional information regarding protection of ground water is required from owners or operators of hazardous waste surface impoundments, piles, land treatment units, and landfills (except if the facilities are exempt from ground water monitoring requirements under 06-096 C.M.R. ch. Chapter 854), and from owners or operators of miscellaneous units where ground water monitoring of the units is deemed appropriate by the ~~Department Board~~:
- (a) A summary of the ground water monitoring data obtained during the interim status period under 06-096 C.M.R. ch. Chapter 855, where applicable;:-
- (b) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);:-
- (c) On the topographic map required in this ~~Chapter Rule~~, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined in 06-096 C.M.R. ch. Chapter 854, the proposed location of ground water monitoring wells as required under 06-096 C.M.R. ch. Chapter 854, and to the extent possible, the information required in ~~paragraph Section 10(B)(16)(b) of this section~~Chapter;:-
- (d) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:
- (i) Delineates the extent of the plume on the topographic map required in ~~40 C.F.R. § 270.14(b)(19); and~~
- (ii) Identifies the concentration of each Appendix IX of 06-096 C.M.R. ch. Chapter 854 constituent throughout the plume or identifies the maximum concentrations of each Appendix IX constituent in the plume;:-
- (e) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the general ground water monitoring requirements of 06-096 C.M.R. ch. Chapter 854;:-
- (f) If the presence of hazardous constituents has not been detected in the ground water at the time of ~~license~~permit application, the owner or operator ~~shall~~must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of 06-096 C.M.R. ch. Chapter 854. This submission must address the following items specified under 06-096 C.M.R. ch. Chapter 854:

- (i) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the ground water;
  - (ii) A proposed ground water monitoring system;
  - (iii) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and
  - (iv) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;-
- (g) If the presence of hazardous constituents has been detected in the ground water at the point of compliance at the time of ~~permit~~-license application, the owner or operator ~~shall~~must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of 06-096 C.M.R. ch. Chapter 854. The owner or operator ~~shall~~must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of 06-096 C.M.R. ch. Chapter 854 unless all hazardous constituents are present at concentrations that do not exceed the performance standards of ~~Section 8A of~~ 06-096 C.M.R. ch. Chapter 854, § 8(A). To demonstrate compliance with the compliance monitoring requirements of 06-096 C.M.R. ch. Chapter 854, the owner or operator ~~shall~~must address the following items:
- (i) A description of the wastes previously handled at the facility;
  - (ii) A characterization of the contaminated ground water, including concentrations of hazardous constituents;
  - (iii) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with 06-096 C.M.R. ch. Chapter 854;
  - (iv) Proposed concentration limits for each hazardous constituent, based on the performance standards of ~~Section 8(A)(3)(a) of~~ 06-096 C.M.R. ch. Chapter 854, § 8(A)(3)(a);
  - (v) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of 06-096 C.M.R. ch. Chapter 854; and
  - (vi) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;- and
- (h) If hazardous constituents have been measured in the ground water which exceed the performance standards of 06-096 C.M.R. ch. Chapter 854, § 8(A)(3)(a), or if ground water monitoring conducted at the time of ~~license~~permit application under 06-096 C.M.R. ch. Chapter 855 at the waste boundary indicates the presence of hazardous constituents from the facility in ground water over background concentrations, the owner or operator ~~shall~~must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of 06-096 C.M.R.

~~ch. Chapter~~ 854. To demonstrate compliance with 06-096 C.M.R. ch. Chapter 854, the owner or operator ~~shall~~must address, at a minimum, the following items:

- (i) A characterization of the contaminated ground water, including concentrations of hazardous constituents;
- (ii) The concentration for each hazardous constituent found in the ground water as set forth in the performance standards of 06-096 C.M.R. ch. Chapter 854, ~~§Section~~ 8(A)(3)(a);
- (iii) Detailed plans and an engineering report describing the corrective action to be taken; and
- (iv) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action.

- (17) Information requirements for ~~sSolid wWaste mManagement uUnits~~ (SWMUs). The following information is required for each solid waste management unit at a facility seeking a ~~license~~permit:

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NOTE: Federal law requires that SWMUs must be addressed in a license for corrective action (i.e., remediation) of any releases. RCRA § 3004 (u) requires corrective action for releases of hazardous waste or hazardous constituents from SWMUs identified in a facility license. A SWMU can be a place or unit where solid or hazardous wastes are placed at any time, or where wastes have been routinely and systematically released.

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- (a) The location of the unit on the topographic map required under this section;
- (b) Designation of type of unit;
- (c) General dimensions and structural description (supply any available drawings);
- (d) When the unit was operated;
- (e) Specification of all wastes that have been managed at the unit, to the extent available; and
- (f) All available information pertaining to any release of hazardous wastes or hazardous constituents.

—In addition, the owner/operator ~~shall~~must conduct and provide the results of sampling and analysis of ground water, land surface and subsurface strata, surface water, or air, which may include the installation of wells, where the Department or the Board ascertains it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

- (18) Such other information as may be required to demonstrate that the facility has been designed, will be established, constructed or altered and will operate to meet the standards set forth in 06-096 C.M.R. ch. Chapter 854, and to establish ~~permit~~license terms and conditions under Section 12(E) of this Chapter.

(19) Consistent with federal requirements for authorization to operate the State hazardous waste management program, the Department Board may, on its own motion or on request, modify or waive one or more of the requirements of Section 10B. Such modification or waiver must be justified on the basis that greater protection to public health, safety or welfare or the environment is required and will thereby be provided or on the basis that no less protection will thereby be provided.

(20) The Department may require an applicant to maintain an information repository in accordance with 40 C.F.R. § 124.33. In making this determination, the Department may consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Department determines, at any time after submittal of a permit application, that there is a need for a repository, then the Department may notify the facility that it must establish and maintain an information repository. The information repository must contain all documents, reports, data, and information deemed necessary by Department to fulfill the purposes for which the repository is established. The Department maintains discretion to limit this information. The Department may specify requirements for the facility to inform the public about the information repository. At a minimum, the facility must provide a written notice about the information repository to all individuals on the facility mailing list.

(21) An applicant must include in its application provisions it will implement to comply with the applicable air emission standards of 40 C.F.R. Part 264, Subparts AA, BB, and CC, including the requirements of 40 C.F.R. §§ 270.24, 270.25 and 270.27.

**C. Application for License for Landfill or Surface Impoundment: Additional Requirements.** In addition to the information required for all applications, an applicant for a license for a landfill or a surface impoundment ~~shall~~must include in ~~his~~the application:

(1) Information required for surface impoundments under 40 ~~CFRC~~C.F.R. §§ 270.17(a)-(ij) and 270.27, and information required for landfills under 40 ~~CFRC~~C.F.R. § 270.21(a)-(j) provided, however, that references to sections or subparts of 40 ~~CFRC~~C.F.R. § Part 264 shall mean "06-096 C.M.R. ch. ~~Chapter~~Chapter 854", references to sections or subparts of 40 ~~CFRC~~C.F.R. § Part 270 shall mean "this Chapter", the exemptions from liner requirements set forth in 40 ~~CFRC~~C.F.R. §§ 264.221(a) and (b), 264.301(a) and (b) do not apply, all wastes must be removed from a surface impoundment at closure unless the Department has determined that closure as a landfill, is protective of public health and the environment, and 40 ~~CFRC~~C.F.R. § 270.21(c) shall be deleted.

(2) A survey of the boundaries of the landfill(s) or surface impoundment(s);

(3) A map showing existing topographical contours of the facility property and proposed final elevations. Contours and elevations must be shown at two (2) foot intervals and at a scale of one (1) inch to one hundred (100) feet or larger scale. Elevations ~~must~~shall be based on a United States Geological Survey (USGS) benchmark and elevations above mean sea level must be used. A permanent benchmark ~~must~~shall be set on the site;

(4) A map showing present actual land uses on the facility property and within one half (½) mile from the property boundaries;

(5) Current vertical aerial photographs that provide a stereo view of the facility property as it exists at the time of the application;

- (6) An analysis of borings and test pits which evaluate subsurface conditions of the facility property. Borings must penetrate the entire thickness of unconsolidated materials and a minimum of five feet into the underlying bedrock. A minimum of one boring per acre is required. The Department may require additional borings as needed to properly evaluate subsurface conditions. Abandoned boreholes and test pits must be sealed to prevent surface water infiltration and/or the movement of ground water from one aquifer to another.
- ~~(a) Abandoned boreholes and test pits must be sealed to prevent surface water infiltration and/or the movement of ground water from one aquifer to another;~~
- (7) Piezometric measurements for all aquifers underlying the facility property. A minimum of five piezometric stations is required. A minimum of six months of monthly piezometric readings, to include the spring high ground water period, is required, unless the applicant demonstrates to the satisfaction of the Department that proper evaluation of ground water movement can be made from readings from a shorter time period, ~~and/or~~ from readings which do not re-include the spring high ground water period, ~~or both~~. The Department may require additional piezometric stations, ~~and/or~~ additional piezometric readings, ~~or both~~ as needed to properly evaluate ground water movement.;
- (8) Results of the geologic and hydrogeologic investigations required by Section 10(C)-(6) and 10(C)(7) ~~above of this Chapter~~ must be presented in the following forms:
- (a) A bedrock contour map, scale of 1 inch = 100 feet and with 5 foot contour intervals, and analysis of the nature of the bedrock and the alignment of structural elements in the bedrock;
- (b) A surficial geologic map of the same scale as the bedrock contour map, with analysis of surficial deposits and representative cross sections to show three-dimensional relationships;
- (c) A ground water contour map, two foot contour intervals;
- (d) A ground water flow net analysis of the movement of ground water into, within and from the facility property and of the direction of possible leachate flow. The analysis ~~must~~ shall consist of equipotential and flow lines in both horizontal and vertical planes; and
- (e) An analysis of the attenuative capacities of facility property soils, including cation exchange capacities, hydraulic conductivities, grain size and pH.
- (9) Water balance analyses for the facility property, using average monthly values of precipitation and evapotranspiration, during operation of the landfill or surface impoundment and after closure.
- (10) A ground water monitoring plan, which a minimum, must include:
- (a) ~~m~~ Monitor well specifications, including:
- (i) Location.;
- (ii) Depth of wells.;

- (iii) Screened intervals;
  - (iv) Type and size of casing;
  - (v) Type and size of screen; and
  - (vi) Type and grain size of packing, grouting and other sealing materials, and fluids used in drilling;
- (b) ~~p~~ Procedures and techniques of sample collection;
  - (c) ~~s~~ Sample preservation and shipment;
  - (d) ~~e~~ Chain of custody control;
  - (e) ~~a~~ Analytical procedures;
  - (f) ~~q~~ Quality control procedures;
  - (g) ~~Background concentrations chemical, physical and biological analytic data establishing background concentrations for all wells, springs and surface bodies of water within 1,000 feet of the facility property, established from chemical, physical and biological analytic data. Parameters for analysis will be specified by with consultation and approval of the Department, and Parameters will vary depending on the waste to be placed in the landfill or surface impoundment; and~~
  - (h) ~~L~~ Limits of detection of all parameters (e.g., chemical, physical and biological).
- (11) Elevations and cross sections, at the rate of one (1) cross section per 100 feet, of all fill areas, pits, ponds, lagoons, and subsurface tanks on the facility property.
- (12) An instrument which imposes a restrictive covenant on the facility property, to be executed by all the owners of the facility property and by the Commissioner of the Department. The instrument ~~must~~shall be filed and recorded by the Department in the office of the Registry of Deeds for the County in which the facility property is located. The covenant ~~must~~shall state that the property has been used as a landfill or surface impoundment for hazardous wastes and ~~must~~shall provide that neither the property owners, their agents, employees, nor the heirs, successors, lessees, or assignees of any of them shall engage in or permit on the property, without written authorization by the Commissioner of the Department, any filling, grading, digging, excavating, building, drilling, mining or other activity which might disturb the integrity of the closure of the facility or otherwise increase the possibility of harm to the public or the environment from the facility or facility property.
- (13) Information on the potential for the public to be exposed to hazardous waste or hazardous constituents through discharges related to the facility. At a minimum such information ~~must~~shall be prepared by an individual or individuals qualified to assess potential exposure and effects of such exposure and ~~must~~shall address:
- (a) Reasonably foreseeable potential releases from both normal operations and accidents at the facility, including discharges associated with transportation to and from the facility;

- (b) The potential pathways, including ground or surface water contamination, air emissions, and food chain contamination, of human exposure to hazardous wastes or constituents resulting from the discharges described under (a) above;
  - (c) The size and potential susceptibility of the community within the likely pathway of exposure, a comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants; and
  - (d) The potential magnitude and nature of the human exposure resulting from such discharges including evidence as to the risks or health effects associated with such discharges or exposure.
- (14) A statement of the minimum freeboard to be maintained at the surface impoundment(s) and the basis of the design to demonstrate compliance with 06-096 C.M.R. ch. Chapter 854.

**D. Application for License for Incinerator: Additional Requirements.** In addition to the information required for all applications, an applicant for a license for a facility which incinerates hazardous waste ~~shall~~must:

- (1) Comply with the requirements of ~~40 CFR~~40 C.F.R. §§ 270.19(b), ~~and 270.19(c), and 270.19(e)~~which are hereby adopted and incorporated by reference, except that:
  - (a) ~~The terms~~ Principal Hazardous Constituent ("PHC") shall be substituted for the terms Principal Organic Hazardous Constituent ("POHC"), ~~the terms "appropriate analytical techniques" shall mean analytical techniques approved by the Department~~, and references to the performance standards, operating requirements and monitoring requirements of ~~40 CFR~~40 C.F.R. §§ 264.343, 264.345 and 264.347 ~~respectively~~ shall mean the performance standards, operating requirements and monitoring requirements of 06-096 C.M.R. ch. Chapter 854, §§ Sections 13(B), 13(C) and 13(D), respectively;
  - (b) ~~In~~ in addition to the requirements of ~~40 CFR~~40 C.F.R. § 270.19(b) or (c), the applicant shall submit as part of ~~his~~the trial burn plan, or with the information submitted in lieu of a trial burn, an analysis of emissions, ash, scrubber effluent and other residues which identifies combustion byproducts. The initial analysis may be a scan and the applicant shall propose and justify limits of detection for each PHC. The Department may require other detection limits if necessary to adequately protect public health, safety, welfare or the environment;
  - (c) ~~The~~ The applicant shall submit as part of ~~the~~his trial burn plan, or with the information submitted in lieu of a trial burn, modeling, using models approved by the Department, to demonstrate that heavy metals emissions comply with the standard set in 06-096 C.M.R. ch. Chapter 854, § Section 13(B)(5);
  - (d) ~~References to 40 CFR~~References to 40 C.F.R. § 270.62 shall mean "subsection Section 10(D)(2)" ~~below of this Chapter~~; and
  - (e) ~~References to 40 CFR~~References to 40 C.F.R. § Part 261 shall mean "06-096 C.M.R. ch. Chapter 850".
- (2) Comply with the requirements of ~~40 CFR~~40 C.F.R. §§ 270.62 (a) through (d) ~~excluding the opening paragraph prior to section (a), as revised on January 30, 1989 (54 FR 4288)~~ and the

~~Department Board~~ will act in accordance with those requirements ~~which are hereby adopted and incorporated by reference~~, except that:

- (a) ~~¶~~The term "PHC" shall be substituted for the term "POHC" and references to the performance standards, operating requirements and monitoring requirements of 40 ~~CFR~~C.F.R. §§ 264.343, 264.345 and 264.347 respectively shall mean the performance standards, operating requirements and monitoring requirements of 06-096 C.M.R. ch. Chapter 854, §§ Sections 13(B), 13(C) and 13(D), respectively;
  - (b) ~~¶~~In addition to the requirements of 40 ~~CFR~~C.F.R. §§ 270.62 (a) through (d), the trial burn plan must include the analysis and modeling required by Section 10(D)(1)(c) and (d), and the determinations and results of the trial burn, which the applicant ~~shall~~must make and submit, ~~must~~ include quantitative analysis of emissions, ash, scrubber effluent and other residues to identify and quantify those combustion byproducts which are or contain PHCs. The limits of detection for each PHC ~~must~~shall be as approved or required by the Department;
  - (c) ~~¶~~Based on the trial burn, the ~~Department Board~~, in addition to setting operational requirements in the final license, ~~shall~~will set any monitoring and inspection requirements which ~~shall~~ apply in addition to those established by 06-096 C.M.R. ch. Chapter 854, § Section 13(D) of the Department's rules.
  - (d) ~~¶~~References to other sections of 40 ~~CFR~~C.F.R. § Part 270 shall mean "this Chapter"; and
  - (e) ~~¶~~References to 40 ~~CFR~~C.F.R. § Part 261 or subparts thereof shall mean "06-096 C.M.R. ch. Chapter 850"; and
  - (f) ~~¶~~The exemption set forth in 40 ~~CFR~~C.F.R. § 270.19(a) shall not apply.
- (3) Boilers, industrial furnaces, and other devices used to burn, incinerate, or combust hazardous wastes that do not meet the definition of "incinerator" pursuant to 40 C.F.R. §260.10 must comply with provisions applicable to incinerators referenced in this Chapter, 06-096 C.M.R. ch. 854, 06-096 C.M.R. ch. 855 or federal regulations, and references to 40 C.F.R. § 270.66 or 40 C.F.R. Part 266 shall mean 40 C.F.R. § 270.62 or 40 C.F.R. Part 264.
- (4) ~~3~~ Submit information on the potential for the public to be exposed to hazardous waste or hazardous constituents through discharges related to the facility. At a minimum such information ~~must~~shall be prepared by an individual ~~and or~~ individuals acceptable to the Department as qualified to assess potential exposure and effects of such exposure and must~~shall~~ address:
- (a) Reasonably foreseeable potential releases from both normal operations and accidents at the facility, including discharges associated with transportation to and from the facility;
  - (b) The potential pathways, including ground or surface water contamination, air emissions, and food chain contamination, of human exposure to hazardous wastes or constituents resulting from the discharges described under (a) above;
  - (c) The size and potential susceptibility of the community within the likely pathway of exposure, a comparison of expected human exposure levels to the short-term and



long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants; and

- (d) The potential magnitude and nature of the human exposure resulting from such discharges including evidence as to the risks or health effects associated with such discharges or exposure.

**E. Application for License to Store or Treat Hazardous Waste in Tanks: Additional Requirements.** In addition to the information required for all applications, the applicant for a license to store or treat hazardous waste in tanks ~~shall~~must include in ~~his~~the application the information required by 40 ~~CFR~~C.F.R. §§ 270.16(a)-(jk) and 270.27 ~~which is hereby adopted and incorporated by reference, provided, however, except that references to sections in 40 CFR~~which is hereby adopted and incorporated by reference, provided, however, except that references to sections in 40 C.F.R. § Part 264 shall mean "06-096 C.M.R. ch. Chapter 854" and 40 ~~CFR~~C.F.R. § 270.16(h) shall be deleted. An applicant for a license to treat hazardous waste in tanks must also include in ~~the~~his application:

- (1) Design standards used or to be used in design and construction of the tank(s); ~~and~~
- (2) Design specifications for tanks(s), including specification of construction materials and lining materials, including relevant characteristics such as corrosion or erosion resistance; ~~and~~
- (3) Tank dimensions, capacity and shell thickness; ~~and~~
- (4) A diagram of piping, instrumentation and process flow; ~~and~~
- (5) A description of feed systems, safety cutoff, bypass systems and pressure controls such as vents; ~~and~~
- (6) A description of procedures for handling incompatible, ignitable or reactive wastes; ~~and~~
- (7) Information on how the owner or operator intends to comply with the remaining applicable design, construction, and operating requirements of 06-096 C.M.R. ch. Chapter 854.

**F. Application for License for Waste Pile: Additional Requirements.** In addition to the information required for all applications, the applicant for a license for a facility that stores hazardous waste in a waste pile ~~shall~~must comply with the requirements of 40 ~~CFR~~C.F.R. § 270.18(a)-(i) ~~which are hereby adopted and incorporated by reference, provided, however, that the an exemption as set forth in 40 CFR~~which are hereby adopted and incorporated by reference, provided, however, that the an exemption as set forth in 40 C.F.R. §§ 264.250(c), 264.251(a) for an existing portion of a waste pile, 264.251(b), ~~and or 264.90(b)(5) shall not apply, references to other sections of 40 CFR~~and or 264.90(b)(5) shall not apply, references to other sections of 40 C.F.R. Part 264 shall mean "06-096 C.M.R. ch. Chapter 854", references to other sections of 40 ~~CFR~~C.F.R. Part 270 shall mean "this Chapter", and the treatment of hazardous waste in a waste pile is prohibited.

**G. Application for License for Land Treatment: Additional Requirements.** In addition to the information required for all applications, the applicant for a license for a facility that uses land treatment to treat or dispose of hazardous waste ~~shall~~must:

- (1) Comply with the requirements of 40 ~~CFR~~C.F.R. §§ 270.20(a)-(i) and 270.63, ~~which are hereby adopted and incorporated by reference, provided, however, that references to other sections of 40 CFR~~which are hereby adopted and incorporated by reference, provided, however, that references to other sections of 40 C.F.R. Part 270 or Part 124 shall mean "this Chapter", and references to

sections or subparts of 40 ~~CFR~~C.F.R. Part 264 shall mean "06-096 C.M.R. ch. ~~Chapter~~ 854"; and

- (2) Submit information on the potential for the public to be exposed to hazardous waste or hazardous constituents through discharges related to the facility. At a minimum such information ~~must~~shall be prepared by an individual or individuals qualified to assess potential exposure and effects of such exposure and ~~must~~shall address:
  - (a) Reasonably foreseeable potential releases from both normal operations and accidents at the facility, including discharges associated with transportation to and from the facility;
  - (b) The potential pathways, including ground or surface water contamination, air emissions, and food chain contamination, of human exposure to hazardous wastes or constituents resulting from the discharges described under (a) above;
  - (c) The size and potential susceptibility of the community within the likely pathway of exposure, a comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants; and
  - (d) The potential magnitude and nature of the human exposure resulting from such discharges including evidence as to the risks or health effects associated with such discharges or exposure.

**H. Application for License for Storage Facility Utilizing Containers: Additional Requirements.**

In addition to the information required for all applications, the applicant for a license for a facility that stores hazardous waste in containers ~~shall~~must comply with the requirements of 40 ~~CFR~~C.F.R. §§ 270.15(a)-(ed) and 270.27, ~~which are hereby adopted and incorporated by reference, provided, however, except~~ that references to sections of 40 ~~CFR~~C.F.R. Part 264 shall mean "06-096 C.M.R. ch. ~~Chapter~~ 854".

**I. Application for License for Commercial Facilities: Additional Requirements.**

In addition to the information required for all applications, the applicant for a license for a commercial facility that stores or treats hazardous waste may be required to furnish a risk assessment. The risk assessment ~~must~~shall consist of information on the potential for the public to be exposed to hazardous waste or hazardous constituents through discharges related to the facility. At a minimum such information ~~must~~shall be prepared by an individual or individuals qualified to assess potential exposure and effects of such exposure and ~~must~~shall address:

- (1) Reasonablye foreseeable potential releases from both normal operations and accidents at the facility, including discharges associated with transportation to and from the facility;
- (2) The potential pathways, of human exposure, including ground or surface water contamination, air emissions, and food chain contamination, to hazardous wastes or constituents resulting from the discharges described under (a) above;
- (3) The size and potential susceptibility of the community, within the likely pathways of exposure, a comparison of expected human exposure levels of the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants; and

- (4) The potential magnitude and nature of the human exposure resulting from such discharges, including evidence as to the risks or health effects associated with such discharges or exposure.

**J. Application for License for Miscellaneous Units: Additional Requirements.** In addition to the information required for all applications, the applicant for a license for a miscellaneous unit shall provide the following information:

- (1) A detailed description of the unit being used or proposed for use, including the following:
- (a) Physical characteristics, materials of construction, and dimensions of the unit;
  - (b) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of ~~Sections 15(A)-(C) of 06-096 C.M.R. ch.~~ Chapter 854, §§ 16(A)-(C) and 16(E); and
  - (c) For disposal units, a detailed description of the plans to comply with the post-closure requirements of ~~Section 15(D) of 06-096 C.M.R. ch.~~ Chapter 854, § 16(D).
- (2) The information required under 40 ~~CFR~~ C.F.R. § 270.23(b)-(e) ~~which are hereby adopted and incorporated by reference,~~ provided, however, that the references to 40 ~~CFR~~ C.F.R. § 264.601 shall mean "~~Sections 15(A) and (B) of 06-096 C.M.R. ch.~~ Chapter 854, §§ 16(A) and (B)".

**K. Additional Requirements for Post-Closure Care Only Licenses.** In addition to the information required for all applications required under Section 10(A) of this Chapter, the applicant for a post-closure care only license shall provide, at a minimum, the following information:

- (1) A copy of the post-closure inspection schedule required by ~~Section 6(C)(5) of 06-096 C.M.R. ch.~~ Chapter 854, § 6(C)(5) and Section 10(B)(3) of this Chapter;
- (2) Flood plain information as specified in 40 ~~CFR~~ C.F.R. § 270.14(b)(11) (iii)-(iv);
- (3) A copy of the post-closure plan as specified in Section 10(B)(14) of this Chapter and the notice required by Section 10(B)(13) of this Chapter;
- (4) The most recent post-closure cost estimate and associated financial assurances in accordance with 40 ~~CFR~~ C.F.R. § 270.14(b)(16) and ~~Section 6(C)(16) of 06-096 C.M.R. ch.~~ Chapter 854, § 6(C)(17);
- (5) Ground water information requirements in accordance with Section 10(B)(16) of this Chapter;
- (6) The information on solid waste management units specified in Section 10(B)(17) of this Chapter;
- (7) Evidence of financial assurances for corrective action, where applicable; and
- (8) In the case of landfills or surface impoundments, the exposure information required by Section 10(C)(13) of this Chapter.

The Department may require the submission of additional information on a case-by-case basis depending upon the nature of the facility, whether and to what extent hazardous waste may be handled during the post-closure care period, and other factors.

**L. Application for License for Drip Pads: Additional Requirements.** In addition to the information required for all applications, owners and operators of a “drip pad” (as defined in 40 C.F.R. § 260.10) subject to the drip pad requirements of 06-096 C.M.R. ch. 854, § 15 shall provide the information required in 40 C.F.R. § 270.26, except that references to 40 C.F.R. Part 264 or sections thereof shall mean the applicable provisions of 06-096 C.M.R. ch. 854, and references to 40 C.F.R. § 270.14(b)(13) shall mean Section 10(B) of this Chapter.

## 11. Requirements for Facilities Licensed Under the Abbreviated License Process

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NOTE: The Abbreviated License Process is a license by rule provision or shortened licensing process in which the license is approved by the Department (i.e., Commissioner or Commissioner’s designee) instead of approved by the Board, is not subject to the full application requirements pursuant to Sections 10(A)(1) and 10(B) of this Chapter, and is not subject to the full hazardous waste facility requirements pursuant to 06-096 C.M.R. ch. 854, § 6(A). The Department has developed abbreviated activity-specific applications for the Abbreviated Licenses in lieu of the full application requirements of Section 10 of this Chapter.

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- A. ~~The Board~~ Department may grant a license under the abbreviated license process to the following facilities for the specified activity if the owner or operator submits an application and meets the requirements of ~~paragraph Section 11(C) of this section~~ Chapter and, for the specified type of facility in this Section below, if all the conditions listed are met:
- (1) Elementary neutralization unit. The owner or operator of such a unit:
    - (a) ~~eComplies with 06-096 C.M.R. ch. Chapter 854, §Section 6(D) of the Department’s rules;~~
    - (b) Prevents the unknowing entry, and minimizes the possibility for the unauthorized entry, of persons or livestock into or onto the elementary neutralization unit, unless:
      - (1) Physical contact with the waste contained in the unit will not injure unknowing or unauthorized persons or livestock which may enter the unit, and
      - (2) Disturbance of the waste or equipment by the unknowing or unauthorized entry of persons or livestock into or onto the unit will not cause a violation of the requirement of this section~~;~~
    - (c) Inspects the elementary neutralization unit for malfunctions and deterioration, operator errors, and discharges which may be causing -- or may lead to -- (1) unauthorized release of hazardous waste to the environment, or (2) a threat to human health. The owner or operator ~~shall~~ must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment~~;~~
    - (d) (1) Develops and follows a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as tank walls and pumps) that are important to preventing environmental or human health hazards~~;~~

- (2) The owner/operator ~~shall~~**must** keep this schedule at the facility;:-
- (3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) which are to be looked for during the inspection (e.g., inoperative pump, leaking fitting, heavy corrosion);:-
- (4) The frequency of inspection may vary for the items on the schedule. It should be based on the rate of possible deterioration of equipment and the probability of an environmental or human health incident if any deterioration or malfunction or operator error goes undetected between inspections;:-
- (5) The owner or operator ~~shall~~**must** remedy any deterioration or malfunction of equipment or structures detected in an inspection. This must be done on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately;:- and
- (6) The owner or operator ~~shall~~**must** record inspections in an inspection log. The owner or operator ~~shall~~**must** keep these records for at least three years from the date of inspection. At the minimum, these records must include the date and time of each inspection, the name of the inspector, a recording of the observations made, and the date and nature of any repairs or other remedial actions taken as a result of inspection observations;:-
- (e) Ensures that the treatment process conducted in the unit does not:
- (1) Generate extreme heat or pressure, fire or explosion, or violent reaction;
- (2) Produce uncontrolled toxic mists, fumes, or gases in sufficient quantities to threaten human health;
- (3) Produce uncontrolled flammable fumes or gases in sufficient quantities to threaten human health;
- (4) Damage the structural integrity of the tank or equipment containing the waste; or
- (5) Through like means threaten human health or the environment;:-
- (f) ~~Shall~~**Must** not place treatment reagents in an elementary neutralization unit if they could cause the unit or any of its equipment to rupture, leak, abnormally corrode, or otherwise fail before the end of its intended life;:-
- (g) ~~Shall~~**Must** ensure the unit is constructed of sturdy, leakproof material and ~~must be~~ designed, constructed and operated so as to prevent hazardous wastes from being spilled or leaked into or on any land or water during the operating life of the unit;
- (h) Complies with the requirements of ~~Section 9 of 06-096 C.M.R. ch. Chapter 857, § 9, and Sections 6(C)(9)(a), 6(C)(11) and 6(C)(12) of 06-096 C.M.R. ch. Chapter 854, §§ 6(C)(10)(a), 6(C)(12) and 6(C)(13);~~

- (i) Removes all hazardous waste and hazardous waste residues from the unit at closure; ~~and~~
  - (j) Submits within 14 days after any spill or leakage of hazardous waste from an elementary neutralization unit, a written report to the Department which contains the following information:
    - (1) Name, address, and telephone number of the owner or operator;
    - (2) Names, address, and telephone number of the facility;
    - (3) Date, time, and nature of the incident;
    - (4) Name and quantity of material(s) involved;
    - (5) The extent of injuries, if any;
    - (6) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
    - (7) Estimated quantity and disposition of recovered material that resulted from the incident;
  - (k) Reports verbally to the Department within 24 hours of any spill or leakage of hazardous waste from an elementary neutralization unit ~~any event specified in (j) above~~; and
  - (l) Contains any spilled corrosive material from the unit, and assesses the possibility for reuse of the spilled material in the manufacturing process. If the owner or operator is unable to reuse the material in the manufacturing process, and desires to manage the spilled material in its wastewater treatment system, the owner or operator shall obtain prior permission from the Department to meter the waste to an on-site treatment plant designed to handle corrosive wastes.
- (2) Publicly owned treatment works (POTW). The owner or operator of a POTW which accepts for treatment hazardous waste by means other than a sewer line containing domestic sewage, or the generator who discharges the hazardous waste to a POTW through a sewer system containing domestic sewage if:
- (a) The POTW that accepts the hazardous waste for treatment by a means other than a sewer line containing domestic sewage has an National Pollutant Discharge Elimination System (NPDES) or Maine Pollutant Discharge Elimination System (MEPDES) permit and the waste to be treated is in fact regulated by that permit and:
    - (i) The POTW is in compliance with the conditions of that permit and its State wastewater discharge license;
    - (ii) The POTW is in compliance with ~~Section 9 of 06-096 C.M.R. ch. Chapter 857, § 9, and Sections 6(C)(9)(a), 6(C)(11), 6(C)(12), and 6(C)(18) of 06-096 C.M.R. ch. Chapter 854, §§ 6(C)(10)(a), 6(C)(12), 6(C)(13), and 6(C)(19);~~
    - (iii) The POTW is in compliance with 06-096 C.M.R. ch. Chapter 854, § Section 6D of the Department's rules and

(iv) The applicant submits the following information to the Department:

- (a) The types and quantities of hazardous waste that will be discharged;
- (b) A copy of the notification sent to the POTW owner and operator informing the POTW of the types and quantities of hazardous waste proposed by each waste generator to be managed by the POTW; and
- (c) A statement to the Department by each waste generator demonstrating it is necessary and appropriate to send the waste to the POTW due to a lack of feasible alternatives;

(b) The generator discharges to a POTW with a NPDES or MEPDES permit, the waste to be treated is in fact regulated by that permit, and the applicant (i.e., generator) submits an agreement to the Department that contains the following items:

- (i) A copy of the written notification to the POTW by the generator discharging hazardous waste into the sewer system specifying the types and quantities of hazardous waste that will be discharged and a description of the anticipated treatment with the POTW will provide the generator; and
- (ii) A statement by each waste discharger or generator to the Department demonstrating it is necessary and appropriate to discharge the waste to the POTW due to a lack of feasible alternatives.

The handling of any sludge or residue from the POTW which is hazardous ~~is~~ shall not be deemed to be licensed under this section.

(3) Transfer facility:

- (a) ~~It~~ is a transfer facility as defined in Section 3 of this Chapter~~rule~~; and
- (b) ~~The~~ transfer facility is used by a licensed transporter for the storage of manifested shipments of hazardous waste; and
- (c) ~~The~~ wastes are shipped to it and stored therein in the same containers, which containers meet the applicable requirements of 49 ~~C.F.R.~~ Parts 173, 178, and 179 and are labeled and marked in accordance with 06-096 C.M.R. ch. Chapter 851, ~~§~~Section 8; and
- (d) ~~The~~ wastes are stored for a period of ten days or less; and
- (e) ~~The~~ transfer facility is provided with adequate security to prevent tampering and release of hazardous waste to the environment; and
- (f) ~~The~~ wastes are stored on a firm working surface, such as asphalt or concrete, which is at least four inches in thickness and impervious and which must be kept entire and that is designed to resist the effects of the wastes stored there, and which is constructed with a raised berm around the entire storage facility; and

- (g) ~~¶~~The wastes are stored such that incompatible, reactive and ignitable wastes are segregated so as not to create a dangerous situation and to prevent wastes from coming into contact with one another; ~~and~~
- (h) ~~¶~~The transfer facility has adequate protection for fire; and
- (i) ~~¶~~The transfer facility has provisions for the proper maintenance of the structure including the firm working surface and any sealant.
- (4) Facility where a hazardous waste is beneficially used or reused on the site of its generation:
- (a) ~~¶~~The waste does not leave the site unless transported in accordance with the applicable provisions of 06-096 C.M.R. ch. 853 and 06-096 C.M.R. ch. 857 for hazardous waste; ~~and~~
- (b) ~~¶~~The waste in quantities of 600 kilograms or more is stored prior to beneficial use or reuse in accordance with 06-096 C.M.R. ch. Chapter 851, §§Sections 8(B)(2)-(5) and 13(B)(1), 13(C)(1), 13(C)(3), 13(C)(4) and 13(D), or is stored in quantities of less than 600 kilograms in accordance with 06-096 C.M.R. ch. Chapter 851, §§Section 8(B)(2)-(4) and 13(B)(1), 13(C)(1), 13(C)(3), 13(C)(4) and 13(D); ~~and~~
- (c) ~~¶~~The waste is beneficially used or reused on the site and if the waste is altered or treated in any manner, a detailed description of the alteration or treatment is provided to the ~~Board~~Department; ~~and~~
- (d) ~~¶~~The waste is beneficially used or reused on-site within 90 days of the date when it was generated; and
- (e) ~~¶~~The waste is not used or reused in a manner constituting disposal or incinerated, burned or otherwise thermally treated unless in accordance with Section 11(A)(6) of this Chapter, or Section 10(D) of this Chapter and 06-096 C.M.R. ch. 854, § 13.
- (5) Facility, not otherwise identified in Section 11 of this Chapter, where a hazardous waste is beneficially used or reused off the site of generation, and if recycled by being reclaimed it is recycled by the same entity (~~i.e.~~e.g., same corporation), where the terms "recycled", "reclaimed", and "used" or "reused" are as defined in ~~40 C.F.R. § 261.1(c)(4),(5) and (7)~~ if:
- (a) For waste generated and recycled within the State:
- (i) ~~¶~~The following information is submitted to the Department for its review and approval: a detailed description of the type of waste to be recycled, the alteration or treatment (if any) of the waste prior to the beneficial use or reuse, and the process by which the waste will be beneficially used or reused;
- (ii) ~~¶~~The storage of hazardous waste, if any, at the site of its generation is conducted in tanks or containers in accordance with the requirements of 06-096 C.M.R. ch. Chapter 851, and the storage of hazardous waste prior to the beneficial use or reuse by the recipient, if any, is conducted in tanks or containers in accordance with the requirements of 06-096 C.M.R. ch. Chapters 854 and 06-096 C.M.R. ch. 855;



- (iii) ~~¶~~The waste is beneficially used or reused at the receiving facility within 90 days of the date when the waste first arrived at the facility;
- (iv) ~~¶~~The waste is not incinerated, burned or otherwise thermally treated unless in accordance with Section 11(A)(6) of this Chapter, or Section 10(D) of this Chapter and 06-096 C.M.R. ch. 854, § 13;
- (v) ~~¶~~The waste is not recycled in a manner constituting disposal or accumulated speculatively as defined in ~~40 C.F.R. § 261.1(c)(8);~~
- (vi) ~~¶~~The waste is not F020, F021, F022, F023, F026, F027, and F028;
- (vii) ~~¶~~The recipient clearly marks each container with the name of the receiving facility, the date each container was received, and the ~~license permit~~ number authorizing the receipt of the waste; and the recipient maintains the generator labels on each container in a manner which is visible for inspection;
- (viii) ~~a~~All waste is transported in accordance with the applicable provisions of 06-096 C.M.R. ch. Chapter 853 and 06-096 C.M.R. ch. 857 for hazardous waste;
- (ix) ~~¶~~The generator and the recipient obtains an abbreviated license issued jointly for the activities described above; and
- (x) ~~¶~~Fees ~~must~~ shall be paid on all shipments of waste pursuant to ~~38 M.R.S. § A-Section 1319-I-(2)(B).~~

(b) For waste generated outside the State but recycled within the State:

~~¶~~The generator and the recipient ~~complies~~ comply with the provisions of Section 11(A)(5)(a)(i)-(x) of this Chapter (a) through x; except that only the recipient is required to ~~must~~ obtain an abbreviated license under this section.

(6) Incinerator or other thermal treatment unit:

- (a) ~~¶~~The unit is not a cast iron and fire-tube boiler or a boiler having a capacity level of less than 25 million Btu per hour; ~~and~~
- (b) ~~¶~~The hazardous waste being thermally treated is hazardous solely because it is ignitable and the owner or operator submits waste analyses to the Department which so demonstrate, specifying the source(s) of the waste; ~~and~~
- (c) ~~¶~~The amount of waste being thermally treated does not exceed 10% of the total feed stock burned at any one point in time and the owner or operator submits to the Department, a detailed description of the design and operation of the unit, including specification of how the 10% level is to be maintained at all times; ~~and~~
- (d) ~~¶~~The waste is used for energy recovery and the owner or operator submits information so documenting to the Department; and
- (e) ~~¶~~The Department makes an affirmative determination based upon the above information that the unit is licensed under the abbreviated license process. Thereafter, the owner or

operator shall maintain a record of all wastes thermally treated, including the waste sources, sufficient to demonstrate compliance with subparagraphs (b), (c) and (d) above and shall submit on a quarterly basis a copy of that record to the Department.

- (i) The Department may require analysis of the emissions, ash, scrubber effluent or other residues in order to determine that the unit meets the requirements of this section. These analyses may be required initially ~~and/or~~ whenever the Department determines that such information is necessary to protect public health, safety, or welfare or the environment, or both; ~~and~~
- (ii) The Department may determine that in order to protect the public health, safety, or welfare or the environment, a unit which meets the requirements of subparagraphs (a), (b), (c) and (d) above is nonetheless not deemed to be licensable under the abbreviated license process and that all applicable incinerator licensing requirements and standards of 06-096 C.M.R. ch. Chapters 854 and this Chapter~~856~~ apply.

(7) Facility where waste is reused in a wastewater treatment facility:

- (a) ~~¶~~The waste is spent pickle liquor (Hazardous Waste No. K062); and
- (b) ~~¶~~The facility holds a National Pollutant Discharge Elimination System (NPDES) or MEPDES permit and a Maine Department of Environmental Protection Wastewater Discharge license, such use does not violate any condition or term of that permit or license and the waste to be treated is in fact regulated by the permit or license; and
- (c) ~~¶~~The waste is beneficially reused within 90 days of the date when the waste first arrived at the facility and is stored prior to beneficial reuse in accordance with 06-096 C.M.R. ch. Chapter 851, §§Section 8(B)(2)-(5); and
- (d) ~~¶~~The waste is not stored in underground tanks; and
- (e) ~~¶~~The owner or operator of the facility submits to the Department a document that identifies and describes the facility process in which the waste is to be used and the location and manner of storage of the waste.

(8) Facility where polychlorinated biphenyls (PCBs) are stored:

- (a) ~~¶~~The total volume of PCBs, which are subject to these regulations (as specified in 06-096 C.M.R. ch. Chapter 850, §Section 3(C)(2)(bc)(iii)), and the storage time at the site falls within either of the following categories:
  - (i) ~~g~~Greater than 165 gallons but for ten (10) working days or less, or
  - (ii) ~~H~~Less than 165 gallons for more than 10 days;
- (b) ~~¶~~The owner or operator of the facility submits to the Department a PCB management plan for the site. The PCB management plan must~~shall~~ include, but not be limited to, preventative, spill containment and security measures to ensure that the public health and the environment will be protected during PCB handling and storage. The plan must be site specific but need not be specific to individual PCB units or equipment;

- (c) ~~¶~~The PCBs are stored in containers and tanks having identifying labels (unless stored in PCB equipment) and such containers or tanks are stored on an asphalt or concrete pad; and
- (d) ~~¶~~The Commissioner approves the PCB management plan.
- (9) Precious metal recovery unit. The owner or operator of a facility where hazardous waste is treated for the recovery of precious metals contained in the waste:
- (a) ~~s~~Shall store the waste prior to treatment for precious metal recovery in a manner that meets the requirements of 06-096 C.M.R. ch. Chapter 851, generator standards, including the requirement that the waste be treated for recovery of precious metals within 90 days of the date the waste arrived at the facility; ~~and~~
- (b) ~~s~~Shall maintain a system/test method for ensuring that any waste which is discharged to a POTW or through a NPDES or MEPDES permit is not hazardous as ~~defined-identified~~ in 06-096 C.M.R. ch. Chapter 850; ~~and~~
- (c) ~~m~~Maintains a valid license for the treatment, ~~and/or disposal, or both~~ of wastewater generated by the recovery process that includes testing at appropriate frequency for at least the characteristic(s) or hazardous constituent(s) which render the waste hazardous; ~~and~~
- (d) ~~d~~Does not incinerate, burn or otherwise thermally treat the waste except in accordance with Section 11(A)(6) of this Chapter, or Section 10(D) of this Chapter and 06-096 C.M.R. ch. 854, § 13; ~~and~~
- (e) ~~s~~Submits to the Department documents identifying the wastes being treated for precious metal recovery, describing the process by which precious metals are recovered from the waste and the system/test method for ensuring that only non-hazardous waste is discharged under their wastewater discharge license; ~~and~~
- (f) ~~e~~Complies with all applicable notification, manifest, recordkeeping and reporting requirements of 06-096 C.M.R. ch. Chapter 857; ~~and~~
- (g) ~~¶~~The activity is authorized upon receipt of a letter from the Department of the above information.
- (10) Volume reduction unit. The owner or operator of a wastewater treatment unit as defined in 40 CFR C.F.R. § 260.10 (as revised on September 2, 1988 at 53 FR 34086) that is employed to reduce waste volume where:
- (a) ~~¶~~The waste does not leave the site unless transported by a licensed hazardous waste transporter using a hazardous waste manifest in accordance with the applicable provisions of 06-096 C.M.R. ch. 853 and 06-096 C.M.R. ch. 857 for hazardous waste;
- (b) ~~a~~Any waste storage prior to treatment in the unit is conducted in compliance with Section 8B(2)-(5) of 06-096 C.M.R. ch. Chapter 851, §§ 8(B)(2)-(5);

- (c) ~~¶~~The waste is reduced in volume on the site of generation, the waste treatment is described in detail, and the unit is not otherwise subject to an abbreviated license under this Chapter;
- (d) ~~¶~~Waste reduction is performed within 90 days of waste generation;
- (e) ~~¶~~The waste is not incinerated, burned, or thermally treated except as provided in Section 11(A)(6) of this Chapter, or Section 10(D) of this Chapter and 06-096 C.M.R. ch. 854, § 13; and
- (f) ~~¶~~The waste reduction is conducted in a manner that prevents releases of hazardous waste or constituents, or treatment residuals, into the environment; and:-
- (g) The owner or operator takes the precautions to prevent reactions specified in 40 C.F.R. §§ 264.17(b)(1) - (5).
- (11) Facility, not otherwise identified in Section 11(A) of this Chapter, where a hazardous waste is treated in a tank within 90 days of initial generation:
- (a) ~~¶~~The waste is treated on the site of generation and does not leave the site unless transported in accordance with the applicable provisions of 06-096 C.M.R. ch. 853 and 06-096 C.M.R. ch. 857 for hazardous waste; and
- (b) ~~¶~~The facility complies with the provisions of Sections 11A(1)(a) through (k) of this Chapter; ~~and~~
- (c) ~~¶~~The facility complies with the tank provisions of ~~06-096 C.M.R. ch. Chapter 855, §Section 9(D) and all applicable standards for generators of hazardous waste in 06-096 C.M.R. ch. 851 and 06-096 C.M.R. ch. 852;-~~
- (d) A detailed description of the treatment method is provided to the Department; and
- (e) The waste is not incinerated, burned, or thermally treated except as provided in Section 11(A)(6) of this Chapter, or Section 10(D) of this Chapter and 06-096 C.M.R. ch. 854, § 13.
- (12) Facility that generates a hazardous waste in solid form with insufficient liquid content to be free flowing and such that it does not fail the paint filter test, Method 9095BA Revision 1 of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication SW-846) ~~Update III~~ or the liquid release test, Method 9096 of SW 846 ~~Update III~~; where such hazardous waste is beneficially used or reused off the site of generation, where the terms "used" or "reused" are as defined in 40 ~~CFR~~C.F.R. § 261.1(c)-(5) or "reclaimed" as defined in 40 ~~CFR~~C.F.R. § 261.1(c)(4) ~~and (5)~~; and which for the purposes of this section the hazardous waste does not contain any volatile components, nor does it exhibit the hazardous characteristic of reactivity, corrosivity or ignitability as defined in 06-096 C.M.R. ch. Chapter 850, if:
- (a) For waste generated and used, reused or reclaimed within the State:
- (i) The following information is submitted to the department for review and approval:

- (1) A detailed description of the type of waste to be used, reused or reclaimed; a certification that the waste is a characteristic hazardous waste sludge or a by-product exhibiting a characteristic of hazardous waste or meets the description of 40 ~~CFR~~C.F.R. § 261.2(e)(1); and a description of the process by which the waste will be beneficially used, reused or reclaimed;
  - (2) A demonstration is made to the department that a viable market exists for the waste in accordance with the requirements of 40 ~~CFR~~C.F.R. § 261.2(f). This demonstration must include documentation such as a contract that a product is produced from the waste and an analysis of any contaminants that are contained in the product as a result of using the waste; and
  - (3) A plan that demonstrates the ability and capacity of the equipment and storage areas to beneficially use, reuse or reclaim the waste within 90 days of the date when the waste first arrived at the facility;
- (ii) The storage of hazardous waste, if any, at the site of its generation is conducted in tanks or containers in accordance with the requirements of 06-096 C.M.R. ch. Chapter 851 of department rules, except that:
    - (1) Permission may be granted for storage up to an additional 90 days when the applicant demonstrates to department satisfaction that additional time is necessary to accumulate an economical amount of waste; and
    - (2) The waste must be labeled “Maine Recyclable Hazardous Material – Federally Exempt”.
  - (iii) The storage of hazardous waste prior to the beneficial use, reuse or reclamation by the recipient, if any, is conducted in tanks or containers in accordance with the requirements of 06-096 C.M.R. ch. Chapters 854 and 06-096 C.M.R. ch. 855—of department rules;
  - (iv) ~~†~~The waste is not incinerated, burned or otherwise thermally treated unless in accordance with ~~s~~Section 11(A)(6) of this ~~Chapter~~rule, or Section 10(D) of this Chapter and 06-096 C.M.R. ch. 854, § 13;
  - (v) ~~†~~The waste is not used, reused or reclaimed in a manner constituting disposal or accumulated speculatively as defined in 40 ~~CFR~~C.F.R. § 261.1(c)(8);
  - (vi) ~~†~~The waste is not identified as F020, F021, F022, F023, F026, F027 or F028 under 06-096 C.M.R. ch. Chapter 850, Appendix VII,—of department rules;
  - (vii) The recipient clearly marks each container with the name and address of the receiving facility, the date each container was received, and the number of the uniform bill of lading (UBOL) for recyclable hazardous materials or the manifest document number; and the recipient maintains the generator labels on each container in a manner which is visible for inspection;
  - (viii) All waste is transported in accordance with U.S. Department of Transportation (DOT) regulations by a carrier and the department receives copies of the UBOL or manifest,

including a description of the waste within seven days of when the waste is accepted by the carrier and within seven days after the shipment is accepted at the facility;

- (ix) The waste is designated as "Maine Recyclable Hazardous Material / Federally Exempt." The prefix MR must be added before the four-digit state code for all shipments. The material may be shipped via common carrier if the shipment is accompanied by a UBOL supplied by the department and the generator, shipper and recycling facility comply with the instructions for the UBOL. The material may be shipped via licensed hazardous waste transporter if the shipment is accompanied by a manifest and the generator, transporter and recycling facility comply with the instructions for the manifest;
  - (x) The generator and the recipient obtains an abbreviated license issued jointly for the activities described above; and
  - (xi) The generator pays the waste shipment fees due under 38 M.R.S.A., ~~§section~~ 1319-I(2)(B)- or arranges for payment of the fee by a third party such as the carrier or recycling facility.
- (b) For waste generated outside the State but used or reused within the State, the recipient complies with the provisions of Section 11(A)(12)(a)(i) through (xi) of this Chapter; except that just the recipient is required to~~must~~ obtain an abbreviated license under this sSection.
- (c) For waste generated in the State but which is used, reused or reclaimed outside of the State:
- (i) ~~¶~~The generator submits the information contained in Section 11(A)(12)(a)(i)(1) and (2) of this Chapter to the Department for review and approval~~above~~, except no prior approval by the ~~d~~Department is required for any treatment of the waste that occurs outside of the state;
  - (ii) ~~a~~All waste is transported in accordance with DOT regulations by a carrier and the department receives copies of the UBOL or manifest including a description of the waste within seven days of when the waste is accepted by the carrier and within seven days after the shipment is accepted at by the recipient;
  - (iii) ~~¶~~The waste is designated as Maine Recyclable Hazardous Material/Federally Exempt. The prefix MR must be added before the four-digit state code for all shipments. The material may be shipped via common carrier if the shipment is accompanied by a UBOL supplied by the department and the generator, shipper and recipient comply with the instructions for the UBOL. The material may be shipped via licensed hazardous waste transporter if the shipment is accompanied by a manifest and the generator, transporter and recipient comply with the instructions for the manifest;
  - (iv) ~~¶~~The generator complies with Section 11(A)(12)(a)(ii) of this Chapter~~above~~; and
  - (v) ~~¶~~The generator complies with Section 11(A)(12)(a)(xi) of this Chapter~~above~~.
- (d) For the purposes of this subsection, "carrier" means both a common carrier and a licensed hazardous waste transporter.

- (13) Electronics Demanufacturing Facility. A facility where universal waste is prepared for recycling by demanufacturing electronic units, including but not limited to computers, televisions, video display terminals, into the various sub components. The owner or operator of an electronic demanufacturing facility shall comply with the following requirements:
- (a) Submit to the Department for its review and approval a detailed description of the type of waste to be recycled, the processing method for the alteration or dismantling of the waste, and the process by which the waste will be beneficially used or reused;
  - (b) Ensure that no crushing or other treatment of the universal waste or hazardous sub components other than dismantling occurs. The baling of steel, plastic, aluminum and electrical cables is acceptable provided no hazardous substances are released in the process;
  - (c) Ensure that the storage of any universal waste and dismantled electronics is conducted at the site in accordance with the requirements of 06-096 C.M.R. ch. Chapter 850, §§Section 3(A)(13) and 3(A)(14) or in accordance with a plan submitted and approved under this abbreviated process;
  - (d) Ensure that the demanufacturing facility clearly marks each container or electronic unit with the name or identification number of the generator, the date each container or electronic unit was received, and the date the first item or sub component is placed in the dismantled sub component containers;
  - (e) Ensure that the waste is dismantled at the demanufacturing facility within 180 days of the date when the waste first arrived at the facility;
  - (f) Ensure that the dismantled sub components are shipped from the demanufacturing facility within 180 days of the date the waste is dismantled;
  - (g) Ensure that the waste and sub components are not recycled in a manner constituting disposal, unless the waste components are determined to not contain hazardous constituents or no feasible recycling option is available in which case the waste components may be sent for disposal;
  - (h) Transport all waste in accordance with the applicable provisions of 06-096 C.M.R. ch. Chapter 853 and 06-096 C.M.R. ch. 857 for hazardous waste or universal waste, or for waste components with no hazardous constituents in accordance with a plan submitted and approved under this abbreviated process; and
  - (i) Submit an annual report to the Department that documents the quantity of waste incoming to the facility, and the quantity of universal waste and sub component material outgoing from the facility on forms specified by the Department.
- B.** Operation of a facility under an abbreviated license process constitutes the granting of permission by the owner or operator to allow authorized representatives of the Department to conduct periodic inspections of the facility and sampling of the waste(s) to determine compliance with the provisions and intent of this section.
- C.** The owner or operator of ~~such~~ a facility under an abbreviated license process shall:

- (1) Pay the annual fee as required by 38 M.R.S.A., ~~Section §~~ 1319-H(2) and Section 13(C) of this ~~Chapter~~rule except that transfer facilities as described in ~~sub~~Section 11(A)(3) of this ~~section~~Chapter are not required to pay the fee.;
- (2) Submit, with the annual fee, a statement, signed and dated, that:
  - (a) ~~i~~Identifies the owner and operator by name(s), address(es), and telephone number(s);
  - (b) ~~i~~Identifies the facility by name, location, address, and telephone number;
  - (c) ~~i~~Identifies the type of facility by type of facility and process as enumerated in defined by paragraph Section 11(A) of this ~~section~~Chapter; and
  - (d) ~~i~~Identifies the type and quantity of the hazardous waste(s) handled at the facility under the abbreviated license granted by the Department.
- (3) Upon closure of the facility or cessation of use of the unit, remove all hazardous waste and hazardous waste residues to a facility licensed to handle the waste. Remaining containers, tanks, liners, bases, equipment, structures, and soil containing or contaminated with hazardous waste residues ~~must~~shall be decontaminated or disposed of at a facility licensed to handle the waste. The owner or operator of the facility shall provide 45 days written notice to the Department prior to closure or cessation of use and shall submit to the Department within 10 days of completion of closure, certification that closure was completed in accordance with the provisions of this ~~Chapter~~rule. The certification ~~must~~shall be made by the owner or operator and by an independent State of Maine ~~registered~~licensed professional engineer; and ~~must~~shall be submitted within 90 days from the date of facility closure or cessation of use of the unit.

**D.** A facility is licensed under the abbreviated process only so long as the requirements of this section are met.

**E.** Eligibility for an abbreviated license may be terminated by the ~~Board~~Department if any of the requirements of ~~this s~~Section 11 of this Chapter are violated, ~~or if any of the requirements of 06-096 C.M.R. ch. 854 or this Chapter are violated, if the owner or operator is conducting other activities for which he must obtain a license under Chapter 854 and Chapter 856, or if the Board~~Department determines that the requirements for an abbreviated license are not sufficient to protect human health, safety or welfare or the environment. Any handling activity which is subject to full licensing requirements under federal law shall not be eligible for an abbreviated license.~~A facility subject to full licensing requirements under federal law shall not be eligible for an abbreviated license.~~

**F.** An owner or operator that notifies the Department of activity covered under :

~~(1)~~ Sections 11(A)(1) of this Chapter is considered to be licensed under the Abbreviated License Process for that activity provided the owner or operator notified the Department using the registration form supplied by the Department by March 31, 1994, or prior to the activity if after March 31, 1994, and complies with all applicable rules. To retain the license, the owner or operator is required to register with the Department annually, in January of each year, pay the appropriate annual fee per 38 M.R.S. ~~§~~A 1319-H, and maintain compliance with all applicable rules.



~~(2) Sections 11(A)(10) and (11) is considered to be interimly licensed under the Abbreviated License Process for that activity provided the owner or operator notifies the Department using the form supplied by the Department by March 31, 1994 and complies with all applicable rules. To retain the interim license, the owner or operator shall submit a final application under this Section within 90 days of the Department's request for such application, and maintain compliance with all applicable rules.~~

G. An owner or operator of a precious metal recovery unit that receives a letter of receipt from the Department for an Abbreviated License Application under Section 11(A)-(9) of this Chapter is authorized to continue operating such an activity until the Department requests a modification. The modification may include requesting a change in operation or the cessation of the activity.

## 12. Decisions

A. In accordance with the statutory requirements of 38 M.R.S. §§ 345-A and 1319-R, the ~~Board~~ Department shall ~~will~~ within a reasonable period of time after receipt of the application order a public hearing on the application or propose to:

- (1) Approve the application with standard conditions only and set forth, in writing, its findings that the applicable statutory criteria are met with a sufficient explanation to make interested persons aware of the basis for the approval;
- (2) Approve the application, subject to standard and special conditions and set forth, in writing, its findings that the applicable statutory criteria are met with a sufficient explanation to make interested persons aware of the basis for the approval; or
- (3) Deny the application in its entirety or deny only the portion pertaining to the active life of a facility or unit and set forth, in writing, its findings with a sufficient explanation to make interested persons aware of the basis for disapproval.

If a public hearing on the application is held, the ~~Board~~ Department shall ~~will~~ propose a decision under Sections 12(A)(1), 12(A)(2) or 12(A)(3) of this Chapter ~~above~~ within a reasonable time after the conclusion of the hearing.

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NOTE: Hearings on applications are generally discretionary pursuant to 38 M.R.S. § 345-A and 06-096 C.M.R. ch. 2, § 7; however, 38 M.R.S.A., ~~Section~~ § 1319-R requires that a public hearing be held for any application for a license to construct, newly operate, or substantially expand a commercial hazardous waste facility. In this instance, "substantially expand" means "the expansion of an existing licensed hazardous waste facility by more than 25%, as measured by volume of waste or affected land area, from the date of its initial licensed operation." } A decision made by the ~~Department~~ Board under Sections 12(A)(1), 12(A)(2), or 12(A)(3) above of this Chapter is a proposed decision until the ~~Department~~ Board acts under subsection C of this section.

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B. Immediately following a decision by the Board under Section 12(A)(1), 12(A)(2), or 12(A)(3) of this Chapter (for licenses other than abbreviated licenses issued under Section 11 of this Chapter) ~~above~~, the Department shall ~~will~~ give or cause to be given public notice, including notice to the applicant, of the proposed decision, invite written comments on its appropriateness and offer the opportunity to request a public hearing concerning the decision, stating that comments and hearing requests must be received within 45 days of the date of the notice. Such a notice

~~will~~ shall include the Department contact person and the locations and times that the decision may be examined.

- C. At its next regularly scheduled meeting following the 45 day comment period referenced in Section 12(B) of this Chapter, the Board ~~shall~~ will, having considered and responding to any comments or requests:
- (1) Affirm the proposed decision as final without modification;
  - (2) Modify the proposed decision at its discretion and issue as final or if the Board determines that the modification represents a significant change in construction, operation or alteration of the facility or in terms or conditions of the proposed decision, it ~~shall~~ will issue the modified decision as a new proposed decision, subject to the requirements of Sections 12(A) and 12(B) above of this Chapter and this subsection; ~~or~~
  - (3) Reverse the proposed decision, issuing the reversal as a new proposed decision, subject to the requirements of Sections 12(A) and 12(B) of this Chapter ~~above~~ and this subsection; or
  - (4) Order a public hearing on the proposed decision upon request or at the discretion of the Board and, following the hearing, act under Sections 12(A)(1), 12(A)(2), or 12(A)(3) of this subsection ~~Chapter~~.
- D. Appeals by an aggrieved party may be made in accordance with 38 M.R.S. §§ 341-D(4) and 346; the Maine Administrative Procedure Act, 5 M.R.S. § 11001; and the Rules Concerning the Processing of Applications and Other Administrative Matters, 06-096 C.M.R. ch. 2. ~~The statutory time period within which any aggrieved party may petition the Board for reconsideration as specified in 38 M.R.S.A., Section § 344(5), shall not begin until a final decision under Section 12C(1) or (2) has been made by the Board.~~
- E. If the application is complete, if the required findings can be made, if the applicant has not misrepresented any facts in its application, and if issuance of a license will not cause or contribute to a violation of law or rule, the license ~~shall~~ will be issued, for a term specified by the ~~Board~~ Department, not to exceed 5 years. Each license issued under this Chapter ~~shall~~ will contain terms and conditions as the ~~Board~~ Department deems necessary to comply with applicable statutory law, the regulations adopted thereunder, and to protect human health and the environment.
- F. In determining whether issuance of the license will cause or contribute to a violation of law or rule, the ~~Board~~ Department may consider any prior violation, suspension or revocation of any license issued to the owner, operator or facility pursuant to this ~~Chapter~~ rule or of any other environmental license, permit, certification or other approval issued to the owner, operator or facility by this State or any political subdivision thereof or by any other State or Federal agency. The ~~Department~~ Board may require the applicant to present evidence of changed conditions or circumstances sufficient, in the ~~Department's~~ Board's judgment, to warrant issuance of the license notwithstanding any prior violation, suspension or revocation.
- G. An application for a license for more than one type of handling may be granted in whole or in part and the license may be issued as a single license for all types of handling or as separate licenses for each type of handling, as the ~~Department~~ Board determines to be appropriate. The ~~Department~~ Board may deny the ~~license~~ permit application either in its entirety or in part, or only the portion pertaining to the active life of a facility or unit.

- H. A license for a substantial modification may be granted as an amendment to the existing license or as a new license, as the ~~Department Board~~ determines to be appropriate.
- I. The municipality in which a facility is located, for which a license has been applied for, or if the facility is located in an unorganized territory, the county clerk of the county of its location, shall be notified of any proposed or final decision regarding an application.
- J. In the case of a mobile treatment facility, the ~~Department Board~~ may prohibit the operation of such a facility through denying phase 2 approval if the ~~Department Board~~ determines that such operation at that site poses a threat to public health or the environment.

### 13. License Terms and Conditions

- A. The following standard conditions will apply to all licenses issued under this ~~Chapter~~ rule:
  - (1) Relation of license to application. The plans, specifications, descriptions and other documentation submitted by the licensee in support of ~~the~~his application and approved by the ~~Board-Department~~ in issuing the license constitute terms of the license which must be complied with by the licensee. Any variation or change in the plans, specifications, descriptions or other documentation must be approved by the ~~Board-Department~~ prior to implementation. Upon completion of any construction or alteration approved by the Department, the licensee ~~shall~~must submit to the Department a written certification by a registered professional engineer that the facility has been constructed or altered in accordance with the terms of the license.

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NOTE: Variations or changes in the plans, specifications, descriptions or other documentation which alter, modify or substantially expand a facility must be approved by the Department prior to implementation, and are usually approved through a license modification or license amendment in accordance with 06-096 C.M.R. Ch. 2.

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- (2) Duty to comply. The licensee ~~shall~~must comply with all conditions of ~~the~~is license. Any noncompliance constitutes a violation of law and is grounds for enforcement action, for license suspension or revocation or for denial of a renewal application.
- (3) Duty to reapply. If the licensee wishes to continue an activity regulated by this license after the expiration date of this license, the licensee ~~shall~~must apply for and obtain a new license.
- (4) Duty to halt or reduce activity. It shall not be a defense for a licensee in an enforcement action that it would have been necessary to halt or reduce the licensed activity in order to maintain compliance with the conditions of this license.
- (5) Duty to mitigate. The licensee shall take all reasonable steps to minimize or correct any adverse impact on human health or the environment resulting from noncompliance with this license.
- (6) Proper operation and maintenance. The licensee shall at all times properly operate and maintain all facilities and systems which are installed or used by the licensee to achieve compliance with the conditions of this license. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and

adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the license.

- (7) ~~License~~~~Permit~~ actions. This license may be modified, suspended or revoked by the ~~Department~~~~Board~~ for cause, including but not limited to where the standards or regulations on which the ~~license~~~~permit~~ was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the ~~license~~~~permit~~ was issued. The filing of a request by the licensee for a license modification does not stay any license condition.
- (8) Property rights. This license does not convey any property rights of any sort, or any exclusive privilege.
- (9) Duty to provide information. The licensee shall furnish to the Commissioner, within a reasonable time, any information which the Commissioner may request to determine whether cause exists for modifying, suspending or revoking this license or to determine compliance with this license. The licensee shall also furnish to the Commissioner, upon request, copies of records required to be ~~D~~kept by the licensee and not otherwise required to be filed with the Department.
- (10) Monitoring and records
- (a) Samples and measurements taken for the purpose of monitoring ~~must~~~~shall~~ be representative of the monitored activity.
- (b) The licensee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this license, the certification required by ~~Section 6(C)(9)(b) of 06-096 C.M.R. ch. Chapter 854, § 6(C)(10)(b),~~ and records of all data used to complete the application for this ~~license~~~~permit~~, for a period of at least 10 years from the date of the sample, measurement, report or application unless otherwise specified in this ~~Chapter~~~~rule~~ or 06-096 C.M.R. ch. Chapter 854. This period may be extended by request of the Commissioner at any time and is automatically extended for the period of any enforcement action. The licensee shall maintain records from all ground water monitoring wells and associated ground water surface elevations, for the life of the facility, and, for disposal facilities, for the post-closure care period as well.
- (c) Records of monitoring information ~~must~~~~shall~~ include:
- (i) ~~¶~~The date, exact place, and time of sampling or measurements;
  - (ii) ~~¶~~The individual(s) who performed the sampling or measurements;
  - (iii) ~~¶~~The date(s) analyses were performed;
  - (iv) ~~¶~~The individual(s) who performed the analyses;
  - (v) ~~¶~~The analytical techniques or methods used; and
  - (vi) ~~¶~~The results of such analyses.

- (11) Transfers. This license is not transferable to any person except with the prior approval of the ~~Department Board~~, upon demonstration that the transferee is able to comply with the license. The ~~Department Board~~ will require amendment of the license to change the name of the licensee and to incorporate such other requirements as may be necessary.
- (12) Monitoring reports. All ~~licenses~~ ~~permits~~ ~~must~~ ~~shall~~ include the requirements specified in 40 ~~CFR C.F.R. § 270.31, which are hereby adopted and incorporated by reference~~, provided that references to 40 ~~CFR C.F.R. Parts 264, 266, or 267~~ shall mean "06-096 C.M.R. ch. Chapter 854". Monitoring results ~~must~~ ~~shall~~ be reported to the Department at the intervals specified elsewhere in this license.
- (13) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this license ~~must~~ ~~shall~~ be submitted no later than 14 days following each schedule date.
- (14) Noncompliance and occurrence reporting. The licensee shall report any noncompliance, any release or discharge of hazardous waste and any fire or explosion at a facility. Information ~~must~~ ~~shall~~ be provided orally within 24 hours from the time the licensee becomes aware of the circumstances. A written submission ~~must~~ ~~shall~~ also be provided within 5 days, or with permission of the Commissioner within 15 days, of the time the licensee becomes aware of the circumstances. For noncompliance, the written submission ~~must~~ ~~shall~~ contain a description of the noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. For a release or discharge, fire or explosion the written submission ~~must~~ ~~shall~~ include:
- (a) Name, address, and telephone number of the owner or operator;
  - (b) Name, address, and telephone number of the facility;
  - (c) Date, time, and type of incident;
  - (d) Name and quantity of waste(s) involved;
  - (e) The extent of injuries, if any;
  - (f) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and
  - (g) Estimated quantity and disposition of hazardous waste released or discharged.
- (15) Other information. Where the licensee becomes aware that it failed to submit any relevant facts in a license application, or submitted incorrect information in a license application or in any report to the Commissioner, it shall promptly submit such facts or information.
- (16) Signatory requirement. All applications, reports, or information submitted to the Commissioner ~~must~~ ~~shall~~ be signed by an authorized signatory. Any person signing such documents shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the 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."

- (17) Commencement of Operation. For a new facility, the licensee may not commence handling of hazardous waste; and for a facility being altered or substantially modified the licensee may not handle hazardous waste in the altered or modified portion of the facility until:
- (a) The licensee has submitted to the Commissioner by certified mail or hand delivery a letter signed by the licensee and a registered professional engineer stating that the facility has been constructed, altered or modified in compliance with the license; and
  - (b)(i) The Commissioner has inspected the new, altered or modified facility and finds it is in compliance with the conditions of the license; or
  - (ii) If within 15 days of the date of submission of the letter required by (a) above, the licensee has not received notice from the Commissioner of ~~the~~his intent to inspect, ~~prior then the inspection referenced in subparagraph (b)(i) above is waived and the licensee may commence handling of hazardous waste.~~
- (18) Other Permits and Licenses. The licensee shall secure and comply with all applicable Federal, State and local licenses, permits, authorizations, conditions, agreements, and orders, prior to or during construction, alteration, modification and operation as appropriate.
- (19) Bid Specification. A copy of this license must be included in or attached to all contract bid specifications for the facility.
- (20) Contractor Copy. The licensee shall not direct or permit any work within the scope of this license to be done by a contractor until the licensee has given the contractor a copy of this license.
- (21) Construction/Operation Within Two Years. If the construction or operation of the facility ~~is~~has not begun within two years, this license ~~shall~~expires and the licensee shall reapply to the ~~Board~~Department for a license. No construction or operation of the facility may be undertaken until a new license is granted. The new application ~~must~~shall state the reasons why construction or operation was not begun within two years from the granting of the initial license and the reasons why construction or operation will ~~be able to~~begin within two years from the granting of a new license. The new application may incorporate, by reference, information submitted in the initial application, but must include all information required by law or rule at the time the new application is submitted.
- (22) Annual Fee. The licensee ~~shall~~must pay the annual fee as required by 38 M.R.S.A., ~~§Section~~ 1319-H(2) and ~~S~~subsection C, below. This license is not effective until and unless the annual fee has been paid.
- (23) Annual Report. The licensee ~~shall~~must prepare and submit an annual report in accordance with ~~Section 6(C)(11) of 06-096 C.M.R. ch.~~Chapter 854, ~~§ 6(C)(12).~~

- (24) ~~06-096 C.M.R. ch. Chapter 857, Manifest Requirements and Manifest Discrepancies.~~ The licensee shall comply with all manifest requirements. If a discrepancy in a manifest is discovered, the licensee ~~shall~~ must attempt to reconcile the discrepancy. If not resolved within fifteen days, the licensee ~~shall~~ must immediately submit a letter report, including a copy of the manifest, to the Department.
- (25) Inspection and entry. The licensee shall allow the ~~Board~~ Department, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:
- (i) Enter at reasonable times upon the licensee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this license;
  - (ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this license;
  - (iii) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this license; and
  - (iv) Sample or monitor at reasonable times, for the purposes of assuring license compliance or as otherwise authorized by law or rule, any substance or parameters at any location.

**B. Special Conditions.** The Department may place special terms and conditions, including compliance schedules, ~~on as part of any license issued under this Chapter rule.~~ However, terms and conditions ~~must~~ shall ~~address themselves~~ be addressed toward specifying particular means of satisfying minor or easily corrected problems, or both, relating to compliance with the hazardous waste statutes and ~~may~~ shall not substitute for or reduce the burden of proof of the applicant to affirmatively demonstrate to the Department that each of the applicable standards has been met. A compliance schedule ~~must~~ shall require compliance as soon as possible but ~~must~~ shall not be for a period of time longer than the term of the license. A schedule that exceeds 1 year from date of issuance ~~must~~ shall set forth interim requirements and the dates for their achievement.

**C. Annual Fee.** A licensee shall pay an annual fee according to the schedule below. The fee ~~must~~ shall be payable on the date on which the Department makes a final decision under Section 12(C)(1) or (2) of this ~~Chapter rule~~ or, in the case of a facility abbreviated license, 15 days after the effective date of the license, and ~~must~~ shall be paid thereafter on each anniversary of that date for the term of the license. A license, including an abbreviated license, ~~is~~ shall not be effective until and unless the annual fee has been paid. The fee ~~must~~ shall be paid by certified check or money order made payable to the Maine Hazardous Waste Fund.

<u>Type of Facility</u>	<u>Annual Fee</u>
Disposal facility	\$1,500
Commercial and on-site treatment facility	\$1,000
Other waste facility for hazardous waste, including <del>treatment facilities other than on-site and commercial treatment</del> <u>storage</u> facilities	\$500

~~Abbreviated License:~~ Treatment facility under license by rule provisions (i.e., Abbreviated Licenses in Section 11 of this Chapter) where the hazardous waste treated is:

<del>under 1,000 kg/month or less</del>	\$100
over 1,000 kg/month	\$200
<u>Facility Post Closure License</u>	<u>\$500</u>

**D. Insurance and Closure and Post-Closure Funding Assurance.** A license ~~shall~~will not be in effective until and unless:

- (1) ~~a~~All required insurance coverage is in force and effect; ~~and~~
- (2) ~~a~~All assurance of closure funding, and/or post-closure funding, or both is made as required; ~~and~~
- (3) ~~a~~All financial tests are met as required; and
- (4) ~~a~~All deposits or payments into trusts are made as required.

**E. Standard Condition of Approval for Mobile Treatment Facilities.** The licensee of a mobile treatment facility which holds a valid hazardous waste treatment license for a specific site, who wishes to return to that site shall give fifteen (15) working days written advance notice to the Department and to the local ~~town~~municipal officials.

#### 14. Renewal of a License

- A. An application for renewal of a license ~~must~~shall be filed with the Department no earlier than two hundred and ten (210) and no later than one hundred and eighty (180) days prior to expiration of the existing license, unless a different time is established in the license.
- B. An application for renewal of a license must include such updated, supplemental or new information as may then be required to enable the ~~Department~~Board to act upon the renewal application.
- C. An operator of a mobile treatment facility may apply to the ~~Department~~Board for one extension of its license for a specific site.

#### 15. Suspension and Revocation

- A. The ~~Board~~Department may seek suspension or revocation of a license for any violation of applicable law, of rule, of the license or any term or condition thereof, or upon or in conjunction with the suspension or revocation of any other license, permit, certification or approval for the handling of hazardous waste issued to the owner, operator or facility by this State or political subdivision thereof or by any other State or Federal agency.
- B. The ~~Board~~Department ~~shall~~will seek revocation of a license which is again suspended within 18 months of its prior suspension or revocation.



- C. A licensee whose license has been revoked may not reapply for a license within one calendar year from the effective date of the revocation.

**16. Emergency Temporary ~~License~~ Permission for Storage of Hazardous Waste for more than 90 Calendar Days by a Generator**

- A. When a generator of hazardous waste, who ordinarily stores hazardous waste ~~which he generates on the site where it is of generation~~ generated for less than ninety (90) calendar days pursuant to 06-096 C.M.R. ch. 851, ~~must because of an emergency condition, needs to temporarily store that waste on that site for more than ninety (90) calendar days because of an emergency condition,~~ he the generator shall must, as soon as possible ~~he becomes aware that he must so store that waste,~~ orally advise the Department and within 48 hours apply in writing to the Commissioner for ~~an~~ emergency temporary permission for an extension of the 90-day generator storage limit to allow the storage of hazardous waste for more than ninety (90) calendar days license.
- B. The oral advice and written application must give the generator's name and location, describe the operation of the generating facility, identify the type and amount of hazardous waste generated therein and type and amount of those hazardous wastes which must be so stored and specify the method and conditions of storage, including its expected duration. The applicant ~~shall~~ must also describe the usual method or system of handling the hazardous wastes which are proposed to be so stored, state the emergency condition which prevents the use of that method or system and state what, if any, alternatives to storage exist, whether they have been explored and why they cannot be utilized.
- C. If the oral advice and/or written application demonstrates, in the judgment of the Commissioner, that an emergency exists which poses an imminent and substantial endangerment to human health or the environment and which requires that the generator temporarily store ~~his the~~ wastes as specified and that such temporary storage will not itself create or threaten imminent and substantial endangerment to human health or the environment, ~~he the~~ Commissioner may issue ~~an~~ provide emergency temporary permission for an extension to allow such storage license. The ~~license~~ extension:
- (1) ~~may~~ Must be oral; if so, it ~~must~~ shall be followed within 5 days by a written emergency permit extension;
  - (2) ~~Must~~ shall not exceed 30 days in duration. The Commissioner may grant a maximum of two (2) extensions, in 30-day increments, such that the maximum period of the emergency license extension does not exceed 90 days;
  - (3) ~~Must~~ shall specify the wastes to be stored and the location and manner of storage;
  - (4) ~~may~~ Must be terminated by the Commissioner at any time, ~~before or after the Board acts under paragraph D below,~~ without process, if ~~he the~~ Commissioner determines that termination is appropriate to protect human health or the environment; and
  - (5) ~~Must~~ shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this Chapter rule and of 06-096 C.M.R. ch. Chapter 854.
- ~~D. The requirement of Chapter 1, Section 8E of the Department's rules shall apply to licenses issued under this section and in addition, if the Board, acting in accordance with Chapter 1, Section 8E~~

~~ratifies the emergency license (with or without changes thereto), it shall publish or cause to be published public notice in the area affected by the license which notice shall be sufficient to fully advise the public of the nature, terms and duration of the license and of the reasons for its issuance.~~

~~DE.~~ If a generator applies more than one time for an extension license under this section, the ~~Board Commissioner~~ may, whether or not it issues the ~~license extension~~, require ~~him~~ the generator to apply for a hazardous waste storage facility license under the regular licensing provisions of this ~~Chapter~~rule and 06-096 C.M.R. ch. Chapter 854.

**17. Applicability of Criteria for Facility Development.** The findings and conclusions required by 38 M.R.S.A. § 1319-R ~~must~~shall be made for issuance of a non-abbreviated license under this ~~Chapter~~rule.

### 18. Emergency Circumstances

A. A person engaged in treatment (other than thermal treatment or land treatment) or containment activities during immediate response to any of the following situations is not required to obtain a license to do so:

- (1) A discharge of a hazardous waste;
- (2) An imminent and substantial threat of a discharge of a hazardous waste;
- (3) A discharge of a material which, when discharged, becomes a hazardous waste; or
- (4) An emergency response: (a) to an immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of "military munitions"; (b) to an "explosives or munitions emergency"; or (c) as part of an "explosives or munitions emergency response"; as those terms (noted in quotations) are defined in 40 C.F.R. § 260.10. In addition to any other reporting requirements, including those of 38 M.R.S. § 1318-B and 06-096 C.M.R. ch. 801, the responsible parties involved shall retain records for three years identifying the dates of the response, the responsible parties responding, the type and description of materials addressed, and its disposition.

Under emergency circumstances, the Commissioner may give permission to a generator or transporter to transport hazardous waste without a license pursuant to 06-096 C.M.R. ch. 853, § 10(C) or without a hazardous waste manifest pursuant to 06-096 C.M.R. ch. 857, §10.

B. Any person who is covered by ~~paragraph~~ Section 18(A) of this Chapter ~~above~~ shall~~must~~ in addition to all other applicable reporting requirements, including those of 38 M.R.S. § 1318-B and 06-096 C.M.R. ch. 801, immediately notify the Department, upon undertaking treatment, identifying the type and quantity of the waste involved, the nature of the treatment and the circumstances warranting such treatment. Any person who is covered by Section 18(A) of this Chapter shall comply with applicable requirements of 06-096 C.M.R. chs. 850 through 858 after the immediate response.

C. The Department ~~shall have~~has the authority and responsibility to direct that part of the response to a discharge which involves treatment or removal and may require modification or cessation of any treatment activity at any time.

D. An owner or operator of a facility otherwise regulated by 06-096 C.M.R. ch. Chapter 854 where a discharge or threat of discharge requiring immediate response occurs, ~~shall~~must comply with all applicable requirements of 06-096 C.M.R. ch. Chapter 854, ~~§§Section 6(C)(5) and 6(C)(6)~~.

E. Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is subject to all applicable requirements of 06-096 C.M.R. ch. Chapters 854, 06-096 C.M.R. ch. 855 and 06-096 C.M.R. ch. 856.

**19. Severability.** Should any provision of this Chapterrule be declared invalid or ineffective by court decision, the decision ~~shall~~does not invalidate any other provision of this Chapterrule.

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AUTHORITY: 38 M.R.S. ~~§§A, section~~ 1301, ~~et seq.~~ through 1319-Y

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