

40 CFR Part 268

[FRL-4524-5]

Hazardous Waste Management System: Land Disposal Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Approval of Interim Final Hazardous Soil Case-By-Case Capacity Variance.

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**SUMMARY:** In the final rule establishing land disposal restrictions (LDR) for Third Third hazardous wastes, EPA granted a national capacity variance for those hazardous soils whose best demonstrated available technology (BDAT) was incineration, retorting, or vitrification, as well as for soils contaminated with radioactive mixed waste, due to a lack of treatment capacity. Approximately 73 percent of the wastes restricted from land disposal by the Third Third rule received the national capacity variance when they were contained in soils. The national capacity variance expired on May 8, 1992.

While the variance was in effect, EPA received information from generators of hazardous soils and trade associations indicating that there would not be sufficient treatment capacity for hazardous soils when the variance expired on May 8, 1992. In response to this information, EPA gathered data to determine whether treatment capacity is available for hazardous soils to which the national capacity variance applied, and, if not, to determine the reasons that it is not available. Information obtained from various companies and trade associations indicated that a shortage of treatment capacity for hazardous soils continues to exist, for reasons beyond their control.

Under 40 CFR 268.5, EPA is approving an interim final case-by-case extension of the LDR effective date, to May 8, 1993, applicable to all persons handling Third Third hazardous soils whose BDAT is either incineration, retorting, or vitrification, or handling Third Third soils contaminated with radioactive mixed waste. No further applications will be required at this time from persons granted the extension by this action. However, EPA is requiring such persons to do certain recordkeeping, and to meet certain other requirements to qualify for the extension.

**DATES:** This action becomes effective on October 13, 1992 and expires on May 8, 1993. Comments on this action must be submitted on or before November 19, 1992.

**ADDRESSES:** Any person wishing to comment on this interim final variance must send an original and two copies of their comments to the EPA RCRA Docket (OS-305), room 2427, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Place the docket

number F-92-CD2P-FFFFF on all copies of the comments. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays. The public must make an appointment to review docket materials by calling (202) 260-9327. The public may copy a maximum of 100 pages from any document in the docket at no cost. Additional copies cost \$0.20 per page.

**FOR FURTHER INFORMATION CONTACT:** For general information contact the RCRA Hotline at (800) 424-9346 toll-free or (703) 920-9810 locally. For information on specific aspects of this notice, contact Nicholas R. Vizzone, Analysis and Land Disposal Restrictions Section, Capacity Programs Branch (OS-321W), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, (703) 308-8477.

>>>> Preamble has not been included in this file. <<<<

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

#### PART 268-LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. In § 268.35 paragraphs (c), (d) and (e) are revised to read as follows:

§ 268.35 Waste specific prohibitions-Third Third wastes.

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(c) Effective May 8, 1992, the following waste specified in 40 CFR 261.31 as EPA Hazardous Waste Numbers F039 (nonwastewaters); the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste Number K031 (nonwastewaters); K084 (nonwastewaters); K101 (nonwastewaters); K102 (nonwastewaters); K106 (nonwastewaters); the wastes specified in 40 CFR 261.33(e) as EPA Hazardous Waste Numbers P010 (nonwastewaters); P011 (nonwastewaters); P012 (nonwastewaters); P036 (nonwastewaters); P038 (nonwastewaters); P065 (nonwastewaters); P087; and P092 (nonwastewaters); the wastes specified in 40 CFR 261.33(f) as EPA Hazardous Waste Numbers U136 (nonwastewaters); and U151 (nonwastewaters); the following wastes identified as hazardous based on a characteristic alone: D004 (nonwastewaters); and D009 (nonwastewaters); and RCRA hazardous wastes that contain naturally occurring radioactive materials are prohibited from land disposal.

(d) Effective May 8, 1992, hazardous wastes listed in 40 CFR 268.10, 268.11 and 268.12 that are mixed radioactive/hazardous wastes are prohibited from land disposal, except as provided in paragraph (e) of this section.

(e) Subject to applicable prohibitions in §§ 268.30, 268.31, and 268.32, contaminated soil and debris are prohibited from land disposal as follows:

(1) Effective May 8, 1993, debris that is contaminated with wastes listed in 40 CFR 268.10, 268.11, and 268.12 (including such wastes that are mixed radioactive hazardous wastes), and debris that is contaminated with any characteristic waste for which treatment standards are established in subpart D of this part (including such wastes that are mixed radioactive hazardous wastes), are prohibited from land disposal.

(2) Effective May 8, 1993, hazardous soil having treatment standards in subpart D of this part based on incineration, mercury retorting or vitrification, and soils contaminated with hazardous wastes listed in 40 CFR 268.10, 268.11 and 268.12 that are mixed radioactive hazardous wastes, are prohibited from land disposal.

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