



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
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**MASSACHUSETTS  
HAZARDOUS WASTE REGULATIONS**

**PUBLIC HEARING DRAFT**

**Revisions to 310 CMR 30.000**

**May 2009**

**Prepared by:** **The Commonwealth of Massachusetts  
Executive Office of Energy and Environmental Affairs  
Department of Environmental Protection  
Bureau of Waste Prevention  
Business Compliance Division**

This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057. TDD# 1-866-539-7622 or 1-617-574-6868.

MassDEP on the World Wide Web: <http://www.mass.gov/dep>

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Dear Citizen:

I am pleased to send you this copy of the public hearing draft covering proposed regulations that would revise existing hazardous waste requirements.

The Department is interested in receiving your comments and suggestions on how it can most effectively implement these new regulations. I hope that you will review this proposal and submit comments. We are holding six public hearings during the week of June 8, 2009. Written comments may be submitted to the Department until June 22, 2009.

Please contact James Paterson at (617) 556-1096 if you have any questions. We hope you can attend and look forward to receiving your input.

Very truly yours,

James C. Colman  
Assistant Commissioner  
Bureau of Waste Prevention

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## Department of Environmental Protection Program Notice

Notice is hereby given that the Department of Environmental Protection, acting in accordance with the provisions of M.G.L. c. 21C §§ 4 and 6 (the Hazardous Waste Management Act) will hold six public hearings at the times and places set forth below. These proposed regulations would revise existing hazardous waste regulations at 310 CMR 30.000. Public hearings will be conducted under the provisions of M.G.L. Chapter 30A on:

Tuesday June 9, 2009 - Boston - 2:00 p.m.  
Department of Environmental Protection  
One Winter Street, 8th Floor

Wednesday, June 10, 2009 - Lakeville - 10:00 a.m.  
Department of Environmental Protection, Southeast Regional Office  
20 Riverside Dr., 1st Floor Conference Room

Wednesday, June 10, 2009 - Wilmington - 4:00 p.m.  
Department of Environmental Protection, Northeast Regional Office  
205B Lowell St., Conference Room A-1007

Thursday, June 11, 2009 - Boston - 9:30 a.m.  
Department of Environmental Protection  
One Winter Street, 8th Floor

Thursday June 11, 2009 - Worcester - 10:00 am  
Department of Environmental Protection, Central Regional Office  
627 Main St., Concord Room

Thursday, June 11, 2009 - Springfield - 10:00 a.m.  
Department of Environmental Protection, Western Regional Office  
436 Dwight St., Room 517

Testimony may be presented orally and/or in writing at the public hearings. The period for accepting written comments will remain open until 5 p.m. on June 22, 2009. Submit to: MassDEP, Business Compliance Division, c/o James Paterson, One Winter St., 7th Floor, Boston, MA 02108 or electronically to [James.Paterson@state.ma.us](mailto:James.Paterson@state.ma.us). Copies of the proposed regulations can be obtained at one of the Service Centers at each of Department's four regional offices; by contacting James Paterson at (617) 556-1096; or by accessing MassDEP's web site at [www.state.ma.us/DEP](http://www.state.ma.us/DEP) under "Public Hearings."

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## Introduction

This regulatory package is part of the Massachusetts Department of Environmental Protection's (MassDEP's) ongoing hazardous waste regulation authorization process. RCRA, the Resource Conservation and Recovery Act, provides for authorization of state hazardous waste programs by the U.S. Environmental Protection Agency (EPA) under Subtitle C. Since the federal hazardous waste program has gone through numerous changes during the last several years, MassDEP is now revising its program and applying for authorization of these revisions.

The rules in this regulatory package mirror analogous federal RCRA requirements and have been drafted to meet the applicable EPA authorization requirements, particularly with respect to equivalency. Once promulgated by MassDEP and formally approved by EPA, these rules will expand MassDEP's authority to implement the federal RCRA program in Massachusetts.

## Authorization

Adopting these proposed regulations is one step in MassDEP's effort to receive authorization from EPA for 68 federal hazardous waste rules, which are listed below in two groups.

The first group of rules, shown with the corresponding EPA-assigned "checklist" numbers, have already been adopted by MassDEP and can be found in 310 CMR 30.000. Minor revisions for many of these rules are being proposed to ensure consistency with the federal program.

**3** Interim Status Standards; Applicability  
**10** Interim Status Standards; Applicability  
**15** Interim Status Standards for Treatment, Storage, and Disposal Facilities  
**16** Paint Filter Test  
**17A** HSWA Codification Rule; SQGs  
**17B (17B.1)** HSWA Codification Rule; Delisting (Correction)  
**17E** HSWA Codification Rule; Location Standards for Salt Domes, Salt Beds, Underground Mines, Caves  
**17F** HSWA Codification Rule; Liquids in Landfills I  
**17G** HSWA Codification Rule; Dust Suppression  
**17M** HSWA Codification Rule; Pre-Construction Ban  
**17N** HSWA Codification Rule; Permit Life  
**17S** HSWA Codification Rule; Exposure Info.  
**25** Codification Rule; Technical Correction (Paint Filter Test)  
**40** List (Phase I) of Hazardous Constituents for Ground-Water Monitoring  
**45** Hazardous Waste Miscellaneous Units  
**52H** HW Management System; Standards for HW Storage and Treatment Tank Systems (Revision to Checklist 28)  
**59** Hazardous Waste Miscellaneous Units; Standards Applicable to Owners and Operators (Clarification of and Correction to Checklist 45)  
**CL 206** Non-wastewaters from Dyes & Pigments (K181 wastes)

This second group of rules has not yet been adopted by MassDEP and is being proposed as a set of amendments to 310 CMR 30.000:

**34 (34.1)** Land Disposal Restrictions, Solvents and Dioxins (Correction 1 Included on Checklist 34)  
**39 (39.1)** California List Waste Land Disposal Restrictions (Correction 1 on Checklist 39)  
**44E** HSWA Codification Rule 2; Permit as a Shield Provision  
**44F** HSWA Codification Rule 2; Permit Conditions to Protect Human Health and the Environment  
**50 (50.1)** Land Disposal Restrictions for First Third Scheduled Wastes (Correction on Checklist 50)

**62** Land Disposal Restriction Amendments to First Third Scheduled Wastes (Technical Correction to CL 50)  
**63** Land Disposal Restrictions for Second Third Scheduled Wastes  
**66 (66.1)** Land Disposal Restrictions; Correction to the First Third Scheduled Wastes (Correction on CL 66)  
**78H** Land Disposal Restrictions for Third Third Scheduled Wastes (HSWA Provisions)  
**78N** Land Disposal Restrictions for Third Third Scheduled Wastes (Non-HSWA Provisions)  
**83** Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendment (HSWA)  
**86** Technical Amendment regarding Removal of Strontium Sulfide  
**95** Land Disposal Restrictions for Electric Arc Furnace Dust (K061) (HSWA)  
**102** Second Correction to the Third Third LDR  
**103** Hazardous Debris Case-by-Case Capacity Variance  
**106** Lead-Bearing Hazardous Materials Case-by-Case Capacity Variance  
**109** Land Disposal Restrictions for Newly Listed Wastes and Hazardous Debris  
**116** Hazardous Soil Case-By-Case Capacity Variance  
**123** Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-by-Case Capacity Variance  
**124** Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated  
**132** Correction to Identification and Listing regarding Wastes from Wood Surface Protection  
**136** Standards for the Management of Specific Hazardous Wastes; Amendment to Subpart C--Recyclable Materials Used in a Manner Constituting Disposal; Final Rule  
**137** Land Disposal Restrictions Phase II--Universal Treatment Standards, and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Waste  
**137.1** Land Disposal Restrictions Phase II--Universal Treatment Standards, and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Waste (Technical Amendment)  
**151** Land Disposal Restrictions Phase III--Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners  
**151.1** Land Disposal Restrictions Phase III--Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners  
**151.2** Land Disposal Restrictions Phase III--Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners  
**151.3** Land Disposal Restrictions Phase III--Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners Technical Correction  
**151.4** Land Disposal Restrictions Phase III--Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners  
**151.5** Emergency Revision of the Land Disposal Restrictions (LDR) Phase III Treatment Standards for Listed Hazardous Wastes From Carbamate Production  
**151.6** Land Disposal Restrictions: Correction of Tables; Treatment Standards for Hazardous Wastes and Universal Treatment Standards  
**155** Land Disposal Restrictions Phase III - Emergency Extension of the K088 Capacity Variance  
**157** Land Disposal Restrictions - Phase IV: Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions From RCRA for Certain Processed Materials; and Miscellaneous HW Provisions  
**160** Land Disposal Restrictions Phase III -- Emergency Extension of the K088 National Capacity Variance  
**161** Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes From Carbamate Production  
**162** Clarification of Standards for Hazardous Waste LDR Treatment Variances  
**167A** Land Disposal Restrictions Phase IV - Treatment Standards for Metal Wastes and Mineral Processing Wastes  
**167B** Land Disposal Restrictions Phase IV - Hazardous Soils Treatment Standards and Exclusions  
**167C** LDRs Phase IV  
**167C.1** LDRs Phase IV – (Corrections)  
**167D** Exclusion regarding Mineral Processing Wastes  
**170** Land Disposal Restrictions - Phase IV  
**171** Emergency Revisions of LDR Treatment Standards  
**172** Emergency Revisions of LDR Treatment Standards  
**173** Land Disposal Restrictions Treatment Standards (Spent Potliners)  
**189** Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities;  
**190** Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil  
**192A** Revision to Mixture and Derived-From Rule regarding Medicinal Nitroglycerin Dosages  
**192B** Land Disposal Restrictions Correction

193 Revisions to EPA Mailing Address

201 Land Disposal Restrictions: National Treatment Variance To Designate New Treatment Subcategories for Radioactively Contaminated Cadmium-, Mercury-, and Silver- Containing Batteries

Background information on each of these rules can be found at

[http://www.epa.gov/epaoswer/hazwaste/state/revision/rc\\_s\\_frn.htm](http://www.epa.gov/epaoswer/hazwaste/state/revision/rc_s_frn.htm) .

### Land Disposal Restrictions

The key component of this regulatory proposal is the federal Land Disposal Restriction (LDR) program found at 40 CFR Part 268. This program requires waste handlers to treat hazardous waste or meet specified levels for hazardous constituents before disposing of the waste on the land. While there are no active hazardous waste landfills in Massachusetts, MassDEP is adopting the LDR program so that its hazardous waste program is more in line with federal hazardous waste requirements under RCRA. For hazardous waste handlers in Massachusetts, the main impact of MassDEP adopting this program is that the LDR notification and recordkeeping requirements, already enforced by EPA, will also be enforceable by MassDEP once these regulations become final.

To ensure proper treatment, the LDR program establishes a treatment standard for each type of hazardous waste in 40 CFR Part 268, Subpart D. The LDR program expresses treatment standards either as required treatment technologies that must be applied to the waste, or contaminant concentration levels that must be met. EPA bases treatment standards on the performance of the best-demonstrated available technology (BDAT) that is able to substantially diminish the toxicity of a waste or to reduce the mobility of the hazardous constituents in a hazardous waste. In addition to the disposal prohibition, there are prohibitions and limits in the LDR program regarding the dilution and storage of wastes. The program also requires tracking and recordkeeping to ensure proper management and safe land disposal of hazardous wastes.

MassDEP is proposing to incorporate most of the federal LDR program (40 CFR Part 268) by reference at 310 CMR 30.750. However, in several instances MassDEP is proposing LDR language that differs from 40 CFR Part 268. Such deviations from the federal regulations have been kept to a minimum, but do have the effect of making MassDEP's version of the LDR program different and/or more stringent in certain areas.

310 CMR 30.750(1)(c) lists several non-delegable federal LDR provisions that are not incorporated by reference in 310 CMR 30.000 but will continue to be administered and enforced by EPA. At 310 CMR 30.750(2), MassDEP is proposing several more stringent provisions that it feels are necessary to provide an appropriate level of environmental protection. Specifically, MassDEP is proposing to be more stringent by prohibiting the use of underground injection as a means of hazardous waste land disposal, and the placement of any lab packs containing hazardous waste, or ignitable or reactive hazardous wastes, in any land disposal unit in Massachusetts. MassDEP is also proposing at 310 CMR 30.750(2) to not adopt the federal waiver and variance provisions for surface impoundments and variances from treatment standards that are allowed under RCRA.

For more information on the LDR Program MassDEP is proposing to adopt, go to

<http://www.epa.gov/epaoswer/hotline/training/ldr05.pdf> .

## Effective Dates

310 CMR 30.011 is being revised so that any reference to Title 40 of the Code of Federal Regulations (40 CFR - EPA regulations) refers to those regulations in effect on July 1, 2008 unless otherwise specified. The same section is also being revised so that any reference to Title 49 of the Code of Federal Regulations (49 CFR - DOT regulations) refers to those regulations in effect on October 1, 2007, unless otherwise specified.

## New Waste Codes

MassDEP is proposing to add the following wastes codes from 40 CFR Part 261 to 310 CMR 30.131, 30.132 and 30.136, respectively:

At 310 CMR 30.131:

- F037 Petroleum refinery primary oil/water/solids separation sludge.
- F038 Petroleum refinery secondary (emulsified) oil/water/solids separation sludge.

At 310 CMR 30.132:

- K149 Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes...
- K150 Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha- (or methyl-) chlorinated toluenes...
- K151 Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha- (or methyl-) chlorinated toluenes,...
- K181 Nonwastewaters from the production of dyes and/or pigments (including nonwastewaters commingled at the point of generation with nonwastewaters from other processes) that, at the point of generation, contain mass loadings of any of the constituents identified in ...

And at 310 CMR 30.136:

- |      |         |                          |
|------|---------|--------------------------|
| P204 | 57-47-6 | Physostigmine            |
| P188 | 57-64-7 | Physostigmine salicylate |

## Proposed Revisions

- 30.003(7) is amended as follows:

(7) No provision of 310 CMR 30.000 shall be construed to relieve any person of the necessity of complying with all other applicable federal, state or local laws (e.g., the more stringent requirements and effective dates established pursuant to the federal Hazardous and Solid [Waste Amendments](#).)

- 30.004 is amended as follows:

### 30.004: Effective Date

Each provision in 310 CMR 30.000 and each subsequent revision shall be effective and have the force of law upon publication of the provision or revision in the Massachusetts Register. Every other state title shall be effective and have the force of law in accordance with the provisions of each. If a state title fails to state a date from when it is to be effective, it shall become effective upon publication in the *Massachusetts Register*.

- 30.010 is hereby amended by adding a definition for “containment building”, “debris”, “drip pad”, and “hazardous debris”, and modifying the definitions of “land disposal”, and “miscellaneous unit” to address such units as well as corrective action management units (CAMUs) as follows:

Containment building means a hazardous waste management unit that is eligible for interim status and used to store or treat hazardous waste in compliance with the provisions of 310 CMR 30.099(6)(q).

Debris means solid material exceeding a 60 mm particle size that is intended for disposal and that is: A manufactured object; or plant or animal matter; or natural geologic material. However, the following materials are not debris: any material for which a specific treatment standard is provided in Subpart D, Part 268 as incorporated by reference at 310 CMR 30.750(1), namely lead acid batteries, cadmium batteries, and radioactive lead solids; process residuals such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; and intact containers of hazardous waste that are not ruptured and that retain at least 75% of their original volume. A mixture of debris that has not been treated to the standards provided by 40 CFR Part 268.45, and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection.

Drip pad means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants, and which is eligible for interim status and managed in compliance with the provisions of 310 CMR 30.099(6)(n).

Hazardous debris means debris that contains one or more wastes listed in 310 CMR 30.130 through 30.136, or that exhibits any of the characteristics of hazardous waste identified in 310 CMR 30.120 through 30.125.

Land disposal means placement in or on the land and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault, or bunker intended for disposal purposes.

Miscellaneous Unit means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not one of the following: a container, tank, surface impoundment, waste pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, or an interim status containment building managed in compliance with 310 CMR 30.099, corrective action management unit, or unit excluded from licensing requirements pursuant to 310 CMR 30.801, or a research facility.

- 30.011 is hereby modified to update the effective date of the provisions of 40 CFR as well as 49 CFR referenced within 310 CMR 30.000 as follows:

30.011: References to Code of Federal Regulations

(1) References to federal regulations within 310 CMR 30.000 shall refer to those regulations in effect as follows

(a) Any reference to Title 40 of the Code of Federal Regulations (40 CFR) refers to those regulations in effect on July 1, 2008, unless otherwise specified.

(b) Any reference to Title 49 of the Code of Federal Regulations (49 CFR) refers to those regulations in effect on October 1, 2007, unless otherwise specified.

- 30.012(1)(k) is hereby amended to address more current procedures and shall read as follows:

(k) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 [Third Edition (November, 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998) and IIIB (November 2004)]. The Third Edition of SW-846 and associated updates are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; or for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. For identification of the appropriate version of applicable methods, see 40 CFR 260.11(3), (3)(i) through (xxvii), inclusive, which is hereby incorporated by reference.

- 310 CMR 30.099(3) is amended to delete any reference to an earlier date thus referencing the federal rules in effect as of July 1, 2008 based upon 30.011, regarding the content of Part A interim status facility applications:

(3) Content of a Part A Application. 40 CFR 270.13 is hereby incorporated by reference subject to the following additions, modifications, and exceptions:

\* \* \*

- 310 CMR 30.099(4)(b) is amended to reference the requirements of 40 CFR Part 265 as well as other operational requirements contained within 30.099 as follows:

(b) During interim status, owners or operators shall comply with the interim status standards at 310 CMR 30.099, including the standards of 40 CFR part 265, as adopted and amended at 310 CMR 30.099(6).

- 310 CMR 30.099(5)(b)6. is amended to include a reference to containment buildings and to the state code citation for the land disposal restrictions as follows:

6. Changes to treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed by 310 CMR 30.750 or RCRA § 3004, provided that such changes are made solely for the purpose of complying with 310 CMR 30.750 or RCRA § 3004.

- 30.099(6)(a) is amended to read as follows:

(6) Until a final license decision takes effect pursuant to 310 CMR 30.838, an interim status facility shall at all times comply with each of the following:

- (a) 310 CMR 30.502 through 30.579 subject to the following modifications:

1. In lieu of the specific licensed facility documentation requirements of 310 CMR 30.513(2)(a)5., the owner or operator of an interim status facility shall comply with the applicable Waste Analysis Plan requirements established pursuant to 310 CMR 30.099(6)(f) through (p) and 310 CMR 30.750.
2. In lieu of 310 CMR 30.542(2)(g), the following information shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility, or for at least three years after the information is recorded in the operating record of the facility, whichever period is longer: Records and results of waste analysis, waste determinations, and trial tests performed as specified in 310 CMR 30.099(6)(f) through (p), and 310 CMR 30.750.

- Modify 30.099(6)(b) to delete any reference to an earlier date thus referencing the federal rules in effect as of July 1, 2008 based upon 30.011, as follows:

(b) 40 CFR Part 265 Subpart G [Closure and Post-closure]  
subject to the following provisions:

\* \* \*

- 30.099(6)(g) is revised to delete any reference to an earlier date thus referencing the federal program in effect as of July 1, 2008 based upon 30.011, to read as follows:

(g) 40 CFR Part 265, Subpart K (Surface Impoundments), provided that the owner or operator shall remove all hazardous waste from each impoundment in compliance with 40 CFR § 265.228 unless the Department, in writing, directs otherwise;

- 30.099(6)(h) is revised to reference the federal program as in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

(h) 40 CFR Part 265, Subpart L (Waste Piles);

- 30.099(6)(i) is revised to delete any reference to an earlier date thus referencing the federal rules in effect as of July 1, 2008 based upon 30.011, and to read as follows:

(i) 40 CFR Part 265, Subpart M (Land Treatment);

- 30.099(6)(j) is revised to delete any reference to an earlier date thus referencing the federal rules in effect as of July 1, 2008 based upon 30.011, and to require compliance with 310 CMR 30.629 and 30.630 and shall read as follows:

(j) 40 CFR Part 265, Subpart N (Landfills); however, in lieu of compliance with 40 CFR 265.120, as well as 40 CFR 265.312 through 265.316, an owner/operator shall comply with 310 CMR 30.596(2) and (3) as well as 310 CMR 30.628 through 30.632;

- 30.099(6)(k) is revised to reference the federal program in effect as of July 1, 2008 based upon 30.011, and to read as follows:

(k) 40 CFR Part 265, Subpart O (Incinerators);

- 30.099(6)(l) is revised to delete any reference to an earlier date thus referencing the federal program in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

(l) 40 CFR Part 265, Subpart P (Thermal Treatment) ;

- 30.099(6)(m) is revised to delete any reference to an earlier date thus referencing the federal program in effect as of July 1, 2008 based upon 30.011, and to read as follows:

(m) 40 CFR Part 265, Subpart Q (Chemical, Physical and Biological Treatment) ;

- 30.099(6)(o) is revised to delete any reference to an earlier date thus referencing the federal program in effect as of July 1, 2008 based upon 30.011, and to read as follows:

(o) 40 CFR Part 265, Subpart AA (Air Emission Standards for Process Vents) ;

- 30.099(6)(p) is revised to delete any reference to an earlier date thus referencing the federal program in effect as of July 1, 2008 based upon 30.011, and to read as follows:

(p) 40 CFR Part 265, Subpart BB (Air Emission Standards for Equipment Leaks); ,

- 30.099(6)(q) is revised to delete any reference to an earlier date thus referencing the federal program in effect as of July 1, 2008 based upon 30.011, and to read as follows:

(q) 40 CFR Part 265, Subpart DD (Containment Buildings) ;

- Three new provisions are hereby added to 30.099(6) to require interim status facilities to comply with standards for corrective action management units, temporary units, staging piles; land disposal restrictions, and interim status air emission standards for tanks, surface impoundments and containers, as follows:

(s) 310 CMR 30.602(12) [Corrective Action Management Units], 30.602(13) [Temporary Units] and 30.602(14) [Staging Piles]; and

(t) 310 CMR 30.750 [Land Disposal Restrictions]; and

(u) 40 CFR Part 265, Subpart CC [Air Emission Standards for Tanks, Surface Impoundments, and Containers].

- 30.099(7) is revised to delete any reference to an earlier date thus referencing the federal program in effect as of July 1, 2008 based upon 30.011, and to read as follows:

(7) A facility having interim status pursuant to RCRA at which there is stored waste oil (MA01) generated at that facility shall be considered by the Department to have interim status for such storage of waste oil, and the owner or operator shall at all times comply with 310 CMR 30.510 through 310 CMR 30.579 and 310 CMR 30.900 and all applicable requirements set forth in 40 CFR Part 265 as adopted and amended at 310 CMR 30.099.

- 30.099(13)(d) is revised to delete any reference to an earlier date thus referencing the federal program in effect as of July 1, 2008 based upon the adoption by reference at 30.602 and upon 30.011, and to read as follows:

(d) The response actions required under 310 CMR 30.099(13) shall, at a minimum, be equivalent to that specified for corrective action in 40 CFR 264.101 as adopted and amended at 310 CMR 30.602. Utilizing the oversight and public participation procedures specified below, the Department will ensure that any such response actions:

\* \* \*

- 310 CMR 30.102(2)(c)2.b.(iv) is modified to correct a typographical error as follows:

(iv) 40 CFR 261.3(a)(2)(iv)(D) is hereby modified to exclude the following phrase: “and rinsate from empty containers or from containers that are rendered empty by that rinsing;” and to insert an “and” before “discharges from safety showers...”.

- 310 CMR 30.103 is modified to reflect the exception to the need to use multiple waste codes as follows:

(1) A hazardous waste which is identified by one or more characteristics in 310 CMR 30.120 through 30.125 is assigned every EPA Hazardous Waste Number that is applicable as established pursuant to 310 CMR 30.120 through 30.125. Except as indicated in 310 CMR 30.103(3), each applicable Hazardous Waste Number shall be used in complying with the notification requirements of 310 CMR 30.060 through 30.064 and all applicable recordkeeping and reporting requirements prescribed in 310 CMR 30.300 through 30.900.

\* \* \*

(3) As specified in 40 CFR 268.9(b) and as incorporated by reference at 310 CMR 30.750, for a waste subject to 310 CMR 30.750 that is both listed under 310 CMR 30.130 through 30.136 and exhibits a characteristic under 310 CMR 30.120, the treatment standard for the waste code listed under 310 CMR 30.130 through 30.136 will operate in lieu of the standard for the waste code under 310 CMR 30.120, provided that the treatment standard for the listed waste includes a treatment standard for the constituent that causes the waste to exhibit the characteristic. Otherwise, the waste must meet the treatment standards for all applicable listed and characteristic waste codes.

- 30.104(2)(e) is modified to expand upon the exceptions to the “derived from” rule to address specific HTMR (residues derived from high temperature metals recovery) wastes as follows:

(e) The following wastes are not hazardous even though they are generated from the treatment, storage, or disposal of a hazardous waste, provided they do not exhibit any of the characteristics described pursuant to 310 CMR 30.120 through 30.125:

1. Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332);

2. Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062 or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in paragraphs (f) and (g) of the definition

for “industrial furnace” in 310 CMR 30.010), that have been approved for disposal as special wastes pursuant to M.G.L. c. 111, s. 150A at waste disposal facilities, provided that:

- a. these residues meet the generic exclusion levels identified in the tables of 40 CFR 261.3(c)(2)(ii)(C), as incorporated by reference, for all constituents, and exhibit no characteristics of hazardous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements including the notification and certification requirements of 310 CMR 30.104(2)(e)2.b.
- b. A one-time notification and certification shall be provided to the solid waste facility and sent to the Department. The notification and certification must also be retained by the generator and treatment facility and must be updated if the process or operation generating the waste changes and/or if the solid waste facility receiving the waste changes. However, the generator or treatment facility need only notify the Department on an annual basis if such changes occur. Such notification and certification shall be submitted to the Department no later than December 31. The contents of the notification and certification shall comply with 40 CFR 261.3(c)(2)(ii)(C)(2), as incorporated by reference.

3. Residue resulting from the treatment of hazardous debris, as defined in 40 CFR 268.2 and incorporated by reference at 310 CMR 30.750(1), provided such treatment was conducted by means of the required extraction or destruction technologies specified in Table 1 of 40 CFR 268.45 also as incorporated by reference at 310 CMR 30.750(1). Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

- 30.104(2)(m) is revised to delete any reference to an earlier date thus referencing the federal program in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

(m) Waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock and overburden from the mining of uranium ore). For purposes of 310 CMR 30.104(2)(m), beneficiation of ores and minerals is restricted to the activities enumerated by 40 CFR 261.4(b)(7)(i) and waste from the processing of ores and minerals includes only those wastes specifically identified in 40 CFR 261.4(b)(7)(ii)(A) through (T), and incorporated by reference herein.

- 30.104(2)(w) is hereby added to reference the federal exclusion for debris under the Land Disposal Restrictions Program at 40 CFR Part 261.3(f)(1), as in effect on July 1, 2008 based upon 310 CMR 30.011, and to read as follows:

(w) Hazardous debris, as defined in 310 CMR 30.010, that has been treated using one of the required extraction or destruction technologies specified in 310 CMR 30.750 (See Table 1 of 40 CFR 268.45). Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

- 30.104(3)(g) is revised to reference to the federal program in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

(g) Low-level mixed waste and the transportation and disposal of Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM) that contain hazardous waste managed in compliance with 40 CFR Part 266, Subpart N, hereby incorporated by reference, subject to the following exceptions, additions and modifications:

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\*

- 30.112(1)(b) and (c) are revised to reference to the federal program in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

(b) It satisfies the criteria of 40 CFR 261.11(a)(2) (criteria used to designate Acutely Hazardous Waste), which are hereby incorporated by reference; or

(c) It satisfies the criteria of 40 CFR 261.11(a)(3) (criteria used to designate Toxic Waste), which are hereby incorporated by reference subject to the following additions, modifications and exceptions:

\* \* \*

- 30.122(1) is revised to eliminate references to 49 CFR 173 and redefines “ignitable compressed gas” and “oxidizer” as follows:

(1) A waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

\* \* \*

(c) It is an ignitable compressed gas as defined in 40 CFR 261.21(a)(3), as incorporated by reference, and as determined by the test methods described in that regulation or equivalent methods.

(d) It is an oxidizer, as defined in 40 CFR 261.21(a)(4), and as incorporated by reference, and as determined by the test methods described in that regulation.

- 310 CMR 30.131 is hereby amended by inserting immediately after the F028 waste code, the following:

F037 Petroleum refinery primary oil/water/solids separation sludge. Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in: oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in 40 CFR 261.31(b)(2) (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units), and K051 wastes are not included in this listing. This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under 40 CFR 261.4(a)(12)(i), if those materials are to be disposed of. (T)

F038 Petroleum refinery secondary (emulsified) oil/water/solids separation sludge. Any sludge and/or float generated from the physical and/or chemical separation of oil/water/solids in process wastewaters and oily cooling wastewaters from petroleum

refineries. Such wastes include, but are not limited to, all sludges and floats generated in: induced air flotation (IAF) units, tanks and impoundments, and all sludges generated in dissolved air flotation (DAF) units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges and floats generated in aggressive biological treatment units as defined in 40 CFR 261.31(b)(2), (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and F037, K048, and K051 wastes are not included in this listing. (T)

- 30.132: Hazardous Waste from Specific Sources is hereby amended by inserting immediately after “K087 Decanter tank tar sludge from coking operations” the following three waste codes and descriptions:

K149 Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (This waste does not include still bottoms from the distillation of benzyl chloride.) (T)

K150 Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (T)

K151 Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (T)

\* \* \*

K181 Nonwastewaters from the production of dyes and/or pigments (including nonwastewaters commingled at the point of generation with nonwastewaters from other processes) that, at the point of generation, contain mass loadings of any of the constituents identified in paragraph (c) of this section that are equal to or greater than the corresponding paragraph (c) levels, as determined on a calendar year basis. These wastes will not be hazardous if the nonwastewaters are: (i) disposed in a Subtitle D landfill unit subject to the design criteria in 40 CFR 258.40, (ii) disposed in a Subtitle C landfill unit subject to either 40 CFR 264.301 or 40 CFR 265.301, (iii) disposed in other Subtitle D landfill units that meet the design criteria in 40 CFR 258.40, 40 CFR 264.301, or 40 CFR 265.301, or (iv) treated in a combustion unit that is permitted under Subtitle C, or an onsite combustion unit that is permitted under the Clean Air Act. For the purposes of this listing, dyes and/or pigments production is defined in paragraph (b)(1) of this section. Paragraph (d) of this section describes the process for demonstrating that a facility's nonwastewaters are not K181. This listing does not apply to wastes that are otherwise identified as hazardous under 40 CFR 261.21 through 261.24 and 261.31 through 261.33 at the point of generation. Also, the listing does not apply to wastes generated before any annual mass loading limit is met. (T)

- 310 CMR 30.136 is hereby amended by inserting immediately after the P071 waste code, the following:

P204	57-47-6	Physostigmine
P188	57-64-7	Physostigmine salicylate

- 310 CMR 30.141(1) is hereby revised as follows:

(1) In the case of any waste or mixture which is regulated solely by virtue of the characteristics in 310 CMR 30.120 through 30.125, it no longer exhibits any of said characteristics. However, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of 310 CMR 30.750, even if they no longer exhibit a characteristic at the point of land disposal.

- 30.142(1) is modified to update the federal reference after “40 CFR §§ 260.20(b) through (e) and 260.22,” as follows:

(1) Any person seeking to exclude a waste, which is designated by an EPA Hazardous Waste Number at a particular generating facility from the lists in 310 CMR 30.131 through 30.136 may petition the EPA Administrator for a regulatory amendment. To be successful, the petitioner shall comply with 40 CFR §§ 260.20(b) through (e) and 260.22, which are hereby incorporated by reference, with respect to delisting petitions only, with the following additions, modifications and exceptions: ...

- 30.151 is revised to reference to the federal program in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

The methods and equipment used for sampling waste materials will vary with the form and consistency of the waste materials to be sampled. For sampling waste with properties similar to the indicated material, the Department will consider samples collected using the sampling protocols listed in Appendix I of 40 CFR Part 261, which is hereby incorporated by reference, or equivalent methods to be representative of the waste.

- 30.152(1)(a) is modified to include the citation to the incorporation of Test Methods for Evaluating Solid Waste (SW-846) as follows:

(a) A Pinsky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80, and/or "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", as incorporated by reference at 310 CMR 30.012;

- 30.153 is revised to reference Methods 9040C and 1110A as follows:

30.153: Test for Corrosivity of Waste

(1) pH shall be determined by a pH meter using either method 9040C in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods”, EPA Publication SW–846, as incorporated by reference at 310 CMR 30.012, or by an equivalent method.

(2) The rate of corrosion of steel shall be determined by Method 1110A in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA Publication SW–846, as incorporated by reference at 310 CMR 30.012 or by an equivalent method.

- 30.156 is hereby amended to replace the reference to Test Method “9095” with “9095B” regarding testing to determine the presence of liquid in waste.

To determine the presence or absence of free liquids in waste, the following procedure shall be used: Paint Filter Liquid Test, Method 9095B, as specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods." EPA Publication SW-846, as incorporated by reference at 310 CMR 30.012.

- 310 CMR 30.160 is hereby amended by inserting immediately after “Phthalic anhydride 1,3-Isobenzofurandione 85-44-9 U190”, the following:

Physostigmine	57-47-6	P204
Physostigmine salicylate	57-64-7	P188

- 30.161 is modified to reference the federal program as in effect on July 1, 2008, based upon 310 CMR 30.011, and to read as follows:

Appendix IX of 40 CFR Part 264 is hereby incorporated by reference.

- 30.212(2) is modified to update the reference to the federal program as in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

(2) Industrial ethyl alcohol that is reused or reclaimed; however, persons initiating a shipment for reclamation in a foreign country, and any intermediary arranging for such a shipment shall also comply with the requirements of 40 CFR 261.6(a)(3)(i)(A) and transporters transporting such a shipment for export shall comply with 40 CFR 261.6(a)(3)(i)(B), and which are incorporated by reference with the following additions, modifications and exceptions:

\* \* \*

- 30.231(6) is hereby modified to more accurately reference the land disposal restrictions and to clarify that MassDEP has not adopted the Zinc Fertilizer Rule (67 FR 48393 – 48415 July 24, 2002), which allows the practice of making zinc fertilizer products from recycled hazardous secondary materials. Because MassDEP has not adopted and is not proposing to adopt this exemption, the Zinc Fertilizer Rule does not apply in Massachusetts. The previously adopted provisions at 310 CMR 30.231(6) relating to zinc fertilizer are also being eliminated, as they relate to federal provisions that have been superseded.

(6) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to the land disposal restrictions of 310 CMR 30.750 (see 40 CFR 268.7(b)(6)) if the regulated recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products:

- (a) meet the applicable treatment standards in subpart D of 40 CFR 268, as incorporated by reference at 310 CMR 30.750, or meet the requirements of 40 CFR § 268.32, as incorporated by reference at 310 CMR 30.750, or RCRA section 3004(d) where no treatment standards have been established for the constituents that they contain.

- 310 CMR 30.274(6)(e) is hereby amended to delete an obsolete reference to 310 CMR 30.412(1):

(e) comply with the requirements set forth in 310 CMR 30.404 through 30.406, 30.408 through 30.409, 30.413, and 30.415, and

- 30.302(3) is hereby revised as follows.

(3) For purposes of compliance with the land disposal restrictions set forth in 310 CMR 30.750 or if the waste is not listed as a hazardous waste in 310 CMR 30.130 through 30.136, determine whether the waste is hazardous waste pursuant to 310 CMR 30.120 through 30.125 by doing either of the following:

\* \* \*

- 30.302 is further revised by adding the following new sections:

(4) Except as provided by 310 CMR 30.302(5), if a generator determines that a waste exhibits one or more characteristics, that generator shall further determine whether there are any underlying hazardous constituents of the waste that are specified in 40 CFR 268.48, Table UTS, as incorporated by reference at 310 CMR 30.750.

(5) A generator need not determine the underlying hazardous constituents of a waste if:

- (a) the waste is hazardous solely because it is a D001 nonwastewater; and
- (b) it is treated by CMBST, RORGS, OR POLYM (See 40 CFR 268.42 Table 1, as incorporated by reference at 310 CMR 30.750(1)).

- 30.305(5) is hereby revised to update the reference to the federal program as in effect on July 1, 2008 based upon 310 CMR 30.011 as follows.

(5) Generators of hazardous wastes which contain PCBs in concentrations equal to or greater than 50 parts per million shall send such wastes only to facilities which meet all the requirements in 310 CMR 30.501(3)(a), (b) and (c), or shall, with the approval of the Department, otherwise cause such hazardous wastes to be managed in compliance with the provisions of 40 CFR Part 761 and 310 CMR 30.750.

- 30.316 is modified to update the reference to the federal program as in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

A registrant may not print, or have printed, the manifest for use or distribution unless it has received approval from the EPA Director of the Office of Solid Waste to do so pursuant to 40 CFR 262.21, which is hereby incorporated by reference.

- 30.317 is modified to update the reference to the federal program as in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

A generator who initiates a shipment of hazardous waste must certify to one of the waste minimization certification requirements at 40 CFR 262.27, which are hereby incorporated by reference.

- 30.340(2) is hereby revised to address land disposal restrictions to read as follows:

(2) A Large Quantity Generator shall comply with the requirements set forth or referred to 310 CMR 30.340 through 30.343, and with all other applicable requirements of 310 CMR 30.000 including the land disposal restrictions set forth in 310 CMR 30.750.

- 30.351(10)(h) is hereby revised to address land disposal restrictions as follows:

(10) A Small Quantity Generator shall comply with the following:

\* \* \*

(h) 310 CMR 30.001 through 30.100, 310 CMR 30.605, and the land disposal restrictions set forth in 310 CMR 30.750.

- 30.353(6)(c) is hereby revised to address land disposal restrictions as follows:

(6) A Very Small Quantity Generator shall comply with the following:

\* \* \*

(c) 310 CMR 30.302 - Determine whether the waste is hazardous. However, a Very Small Quantity Generator need not comply with the land disposal restrictions set forth in 310 CMR 30.750, including the use of multiple waste codes and the determination of underlying hazardous constituents. (See 310 CMR 30.302 and 310 CMR 30.103.)

- 30.361(1) and (2) are modified to reference federal program provisions as in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

(a) Comply with the requirements of 40 CFR 262, Subpart E, which are hereby incorporated by reference subject to the following additions, modifications and exceptions: All references to federal hazardous waste regulations are replaced with the corresponding state code analog as shown in Table 30.361: ...

(2) When importing hazardous waste from a foreign country into Massachusetts, the generator shall comply with the federally enforceable import requirements of 40 CFR 262, Subpart F, which are hereby incorporated by reference subject to the following additions, modifications and exceptions:

\* \* \*

- 30.405(8) is modified to reference federal program provisions as in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

(d) In the case of exports other than those subject to subpart H of 40 CFR part 262, a transporter shall not accept such waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed by the generator as provided in this section, the transporter shall also be provided with an EPA Acknowledgment of Consent which, except for shipments by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of subpart H of 40 CFR part 262, a transporter shall not accept hazardous waste without a tracking document that includes all information required by 40 CFR 262.84.

- 30.405(9) is modified to clarify that transporters of wastes being reclaimed pursuant to a reclamation contract must retain records for a period of at least three years and to read as follows:

(9) Transporters who own and operate their own vehicles to transport waste to their own recycling facility and deliver the recycled material back to the generator who generated it shall

use the manifest described in 310 CMR 30.312 and shall comply with the requirements of 310 CMR 30.314,30.405(1) through (4) , and 30.406(1).

- 30.410(1) is modified to correct the spelling of endorsement as follows:

(1) All hazardous waste transporters licensed by the Department shall carry liability insurance for sudden and accidental occurrences, exclusive of legal defense costs, for claims arising out of bodily injury and property damage from the hazardous waste transport operations of the transporter in the minimum amount of one million dollars per incident, provided, however, the Department may require a greater amount if it deems it necessary to protect public health, safety, or welfare or the environment, or to ensure compliance with M.G.L. c. 21C, or 310 CMR 30.000. Such insurance policy shall carry an approved DOT endorsement (Form MCS 90-DOT) covering liability for accidents, including environmental restoration, bodily injury, and property damage, as those terms are defined in said endorsement, or shall carry a comparable endorsement approved by the Department.

- This proposed revision to 310 CMR 30.411(4) would allow liability under a bond (for a licensed hazardous waste transporter) to be terminated by a surety or bank by giving a 90 day written notice. The existing requirement is for a 30 day notice. MassDEP believes that 30 days does not provide enough time for MassDEP to draw on the instrument, if necessary, or for the license applicant to put into place new financial assurance. This proposed revision is consistent with the requirement at 310 CMR 30.411(7)(1)(b) for banks to give 90 days prior written notice to the Department of its intent to terminate the letter of credit.

(4) Liability under the bond may be terminated by a surety or bank by giving 90 days written notice thereof, by registered or certified mail, to the Department and to the licensee. One year and 90 days from the date of receipt of the notice by both the Department and the licensee, as shown by the later return receipt, the surety or bank shall be discharged from all liability occurring after the expiration of 90 days from the date of receipt of the notice by both the Department and the licensee, as shown by the later return receipt, except that liability shall automatically be extended while administrative and judicial proceedings are pending involving or alleging a violation of M.G.L. c. 21C, 310 CMR 30.000, the terms and conditions of the license, or a Department order to the licensee. After the surety or bank gives such notice, and before the surety or bank's discharge from liability takes effect, or within another period set by order of the Department, the licensee shall provide evidence of replacement bond coverage; otherwise, the licensee shall be deemed to be without bond coverage in violation of 310 CMR 30.411.

\* \* \*

- 30.413(2)(b)-(c) is hereby amended to revise the references to the federal transportation requirements as follows:

\* \* \*

(b) Report in writing, as required by 49 CFR 171.15, to the National Response Center (800-424-8802 or 202-426-2675); and

(c) Give notice, if required by 49 CFR 171.16, to the Information Systems Manager, PHH-63, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Washington, D.C. 20590-0001. This report may alternatively be submitted electronically to the Information

Systems Manager, DHM-63, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20590-0001 at <http://hazmat.dot.gov>.

- 30.415(2)(b) is revised for clarification to read:

(b) The Department and those required by 310 CMR 30.413(2).

- 30.415(2)(c)3. is revised for clarification to read:

3. The Emergency Response contact person(s) required by 49 CFR 172.604.

- 30.415(4)(a) is revised to correct spelling of mobile as follows:

(a) an effective means of communication (e.g. two-way radio or mobile or cellular telephone).

- 30.501(1)(b) is revised to correct the outdated reference to 310 CMR 30.340(2) and to read as follows:

(b) All facilities which are described in 310 CMR 30.341(8);

- 30.501(2)(a) and (d) are hereby revised to correct an outdated reference and a spelling error to read as follows:

(2) The requirements of 310 CMR 30.500 do not apply to:

(a) The accumulation of hazardous waste by a generator at the site of generation for less than 90 days, provided that the requirements of 310 CMR 30.340 through 30.343 are met.

\* \* \*

(d) Municipal or industrial waste water treatment facilities permitted pursuant to M.G.L. c. 21, § 43, as defined in 310 CMR 30.010. Hazardous waste activities at such facilities are regulated pursuant to 314 CMR 8.00.

- 30.513(1)(a) is hereby revised to reflect the Department's adoption of the land disposal restrictions rule as follows:

(1) Waste Analysis Requirements.

(a) An owner or operator shall, before treating, storing, using, or disposing of any hazardous waste, obtain a detailed chemical and physical analysis of a representative sample of the waste. At a minimum this analysis shall contain all the information which needs to be known to treat, store, use, or dispose of the waste in compliance with the requirements of 310 CMR 30.500, 310 CMR 30.750, and with the conditions of the facility's license in effect at that time pursuant to 310 CMR 30.800.

- 30.513(1)(b) is hereby revised to read as follows:

(b) Provided the facility complies with the minimum frequencies specified within its Waste Analysis Plan for testing its waste, contaminated soils, treatment residues, and extracts from treatment residues as established pursuant to 310 CMR 30.513(2), the analysis may include data developed by the

generator pursuant to 310 CMR 30.302 and existing published or documented data on the hazardous waste or on hazardous wastes generated from processes similar to those which generate that waste.

- 30.513(2)(a)5. is hereby amended to include additional references and shall read as follows:

5. Where applicable, the methods which shall be used to meet the additional waste analysis requirements for specific waste management methods as specified in 310 CMR 30.560, 30.629, 30.750, and 310 CMR 7.08(4).

- Revise 30.513(2)(a)6. as follows:

6. Where applicable, the following procedures and schedules for sampling surface impoundments that are exempted from land disposal restrictions pursuant to 310 CMR 30.750:

- a. the sampling of impoundment contents; and
- b. the analysis of test data; and
- c. the annual removal of residues which are not delisted pursuant to 310 CMR 30.142 or which exhibit a characteristic of a hazardous waste, and either do not meet the applicable treatment standard(s) of 40 CFR Part 268 Subpart D as incorporated by reference at 310 CMR 30.750 with modifications, or, if there are no applicable treatment standards, are otherwise prohibited from land disposal.

- 310 CMR 30.515(2)(c) is hereby revised to address air emission requirements for interim status facilities within the scope of inspections and to base the scope and frequency of inspections upon the standards for landfills and land treatment facilities that may become subject to licensing as follows:

(c) The frequency of inspection may vary for the items on the schedule. However, the frequency of inspection shall be based on the rate of possible deterioration of the equipment and the probability of a threat to public health, safety, or welfare or to the environment if the deterioration, malfunction, operator error, or discharge goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, shall be inspected daily when in use. At a minimum, inspections for interim status facilities shall be in compliance with the requirements set forth or referred to in 310 CMR 7.08(4), and 310 CMR 30.099(6)(e)-(k) and 310 CMR 30.099(n)-(o) as applicable. Inspections for facilities subject to 310 CMR 30.800 shall, at a minimum, be in compliance with 310 CMR 7.08(4), 30.606(3), 30.614, 30.624, 30.644, 30.655, 30.686, 30.692(5) and 30.696.

- Revise 30.524(6)(c)1. to correct spelling as follows:

1. Immediately notify appropriate officials as identified in the facility contingency plan if the emergency coordinator's assessment indicates that evacuation of local areas may be advisable. The coordinator shall be available to help appropriate officials decide whether local areas should be evacuated; and

- 310 CMR 30.541 is hereby modified (30.545 no longer exists) as follows:

310 CMR 30.540 through 30.544 apply to facilities which treat, store, use or dispose of hazardous waste at the site of generation of that waste and to facilities which receive for treatment, storage, use or disposal hazardous wastes from off-site sources.

- 310 CMR 30.542(2) is hereby revised as follows:

(2) The following information shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility, or for at least three years after the information is recorded in the operating record of the facility, whichever period is longer:

\* \* \*

(c) Records and results of waste analyses required by 310 CMR 7.08(4), 30.513, 30.560 or 30.629, and 40 CFR 268.4(a) and 268.7 as incorporated by reference at 310 CMR 30.750 with modifications.

\* \* \*

(g) Records, results of inspections, and monitoring, testing, or analytical data required for interim status facilities by 310 CMR 30.099(6)(f) through (j) and, for facilities subject to 310 CMR 30.800, by 310 CMR 30.606(3), 30.610, 30.620, 30.640, 30.650, 30.680, 30.690, and 30.750, as well as by the conditions of the facility's license in effect at that time.

(h) A certification by the owner or operator no less often than once every 12 months that the facility has a program in place to reduce the volume and toxicity of hazardous waste that it generates to the degree determined by the owner or operator to be economically practicable; and the proposed method of treatment, storage or disposal is that practicable method currently available to the owner or operator which minimizes the present and future threat to public health, safety and welfare, and the environment.

(i) Records of the quantities and date of placement for each shipment of hazardous waste placed in land disposal units pursuant to:

1. an extension of the effective date of any land disposal restriction granted by EPA pursuant to 40 CFR 268.5; or

2. the approval of a petition granted by EPA pursuant to 40 CFR 268.6; and

3. the applicable notice and certification required by a generator pursuant to 40 CFR 268.7(a) as incorporated by reference at 310 CMR 30.750 with modifications.

(j) For a facility that treats hazardous waste generated off the site of the facility, a copy of each notice, certification and demonstration, if applicable, required of the generator or owner or operator pursuant to 40 CFR 268.7(a) as incorporated by reference at 310 CMR 30.750 with modifications.

(k) For a facility that treats hazardous waste generated only at the site of the facility, the information, except the manifest number, contained in the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator pursuant to 40 CFR 268.7 as incorporated by reference at 310 CMR 30.750 with modifications.

(l) For a land disposal facility that disposes of hazardous waste generated off the site of the facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or

the owner or operator of a treatment facility pursuant to 40 CFR 268.7 as incorporated by reference at 310 CMR 30.750 with modifications.

(m) For a land disposal facility that disposes of hazardous waste generated only at the site of the facility, the information, except for the manifest number, contained in the notice, and the certification and demonstration, if applicable, required of the generator or owner or operator of the treatment facility pursuant to 40 CFR 268.7 as incorporated by reference at 310 CMR 30.750 with modifications.

(n) For a facility that stores hazardous waste generated off the site of the facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator pursuant to 40 CFR 268.7 as incorporated by reference at 310 CMR 30.750 with modifications.

(o) For a facility that stores hazardous waste generated only at the site of the facility, the information, except the manifest number, contained in the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator pursuant to 40 CFR 268.7 as incorporated by reference at 310 CMR 30.750 with modifications.

- 310 CMR 30.582 is amended to reference closure requirements that pertain to specific types of facilities as follows:

30.582: Closure Performance Standard

The owner or operator shall close the facility in a manner that minimizes the need for further maintenance and complies with the closure requirements established within 310 CMR 30.600 that are specific to the type of facility being closed. Post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or hazardous waste decomposition products to the ground water, surface water, soil, or the atmosphere shall be eliminated or minimized to the extent necessary to assure compliance with the previous sentence and to prevent any threat to public health, safety, or welfare, or the environment.

- 30.592(1) is modified to include a reference to the standards applicable to miscellaneous units as follows:

(1) Post-closure care for each hazardous waste management unit subject to the requirements of 310 CMR 30.590 shall begin after completion of closure of the unit, shall continue for 30 years after that date, and shall consist of at least the following:

(a) Monitoring and reporting in accordance with the requirements set forth in 310 CMR 30.606 through 30.675; and

(b) Maintenance and monitoring of waste containment systems in accordance with the requirements set forth in 310 CMR 30.606 through 30.675.

- 310 CMR 30.593(1) is hereby amended to address ‘miscellaneous units’ and correct clerical errors as follows:

(1) The owner or operator of a hazardous waste management unit or facility subject to the requirements of 310 CMR 30.590 shall have a written post-closure plan that complies with the

requirements in 310 CMR 30.590. The owner or operator of a facility at which there is a surface impoundment described in 310 CMR 30.617(5) or a waste pile described in 310 CMR 30.649(3) from which the owner or operator intends to remove all hazardous waste at closure shall have a contingent post-closure plan that complies with the requirements of 310 CMR 30.590 and, as applicable, in 310 CMR 30.617(5), and 30.649(3). Owners or operators of surface impoundments or waste piles not otherwise required to have contingent post-closure plans shall submit a post-closure plan to the Department within 90 days after the owner or operator or the Department determines that the surface impoundment or waste pile shall be closed as a landfill. Each post-closure plan shall identify the activities that shall, and each contingent post-closure plan shall identify the activities that might, be carried on after closure and the frequency of these activities, and shall include at least:

- (a) A description of the planned monitoring activities and frequencies at which they will be performed to comply with the requirements set forth in 310 CMR 30.606 through 30.675, and
- (b) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:
  - 1. The integrity of the cap and final cover or other containment systems in accordance with the requirements set forth in 310 CMR 30.606 through 30.659; and
  - 2. The function of the monitoring equipment in accordance with the requirements set forth in 310 CMR 30.606 through 30.675; and
- (c) The name, address, and telephone number of the person or office to contact about the hazardous waste management unit or facility during the post-closure care period. This individual or office shall keep at all times during the post-closure period an updated copy of the approved post-closure plan.

- 30.601(1)(b) is revised to correct the outdated reference to 310 CMR 30.340(2) and to read as follows:

(b) All facilities which are described in 310 CMR 30.341(8)

- 30.601(2)(a) is revised to correct the outdated reference to 310 CMR 30.340 and to read as follows:

(a) The accumulation of hazardous waste by a generator at the site of generation for less than 90 days, provided that the requirements of 310 CMR 30.340 through 30.343 are met;

- 30.602(9), (10)(c)3., (12) and (13) are modified to reference federal program provisions as in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

(9) For all facility owners and operators who are required to seek a new permit/license or a renewal permit/license (including a post-closure permit/license) for the treatment, storage, or disposal of hazardous waste pursuant to 310 CMR 30.099 or 40 CFR 270.1(c), the corrective action provisions of 40 CFR 264.101 are hereby incorporated by reference, and will be applied at the time of permit/license issuance, subject to the following additions, modifications, and exceptions:

\* \* \*

(10)...(c)...3. Indicate the basis for the Department's tentative determination and that the Department will accept public comments on the tentative determination for at least 30 days from the date of publication. Notice of the Department's final determination shall be provided to the owner or operator of the facility and to all persons who commented on the Department's tentative determination. The Department may combine the public comment periods regarding issuance of an order and remedy selection, if the Department has tentatively selected a remedy at the time when it is proposing to issue an order. The

Department may modify the public comment procedures set forth above to the extent provided by 40 CFR 265.121(b)(2) and (3), as incorporated by reference.

(12) The Corrective Action Management Unit (CAMU) provisions of 40 CFR Part 264, Subpart S, § 264.552, which are hereby incorporated by reference.

(13) Temporary Unit (TU) provisions of 40 CFR Part 264, Subpart S, § 264.553, which are hereby incorporated by reference.

- 310 CMR 30.602(16) is hereby added:

(16) An owner or operator of a hazardous waste management facility shall comply with the applicable land disposal restrictions of 310 CMR 30.750.

- 310 CMR 30.603(1)(a) is revised to correct a clerical error and to read as follows:

(a) The addition of an absorbent (e.g., sawdust) in which a chemical reaction does not occur; and

- 310 CMR 30.605(1)(a) and (c) are hereby revised as follows:

30.605: Special Requirements for Wastewater Treatment Units

(1) Applicability.

(a) The requirements of 310 CMR 30.605, shall apply, and the other requirements of 310 CMR 30.500 through 30.900 shall not apply, to the following wastewater treatment units, as that term is defined in 310 CMR 30.010, provided that such units meet all of the requirements set forth in 310 CMR 30.605:

1. wastewater treatment units for the treatment of hazardous waste at the site of generation of the waste; and
2. wastewater treatment units for the accumulation or storage, at the site of generation, of wastewater treatment sludge which is hazardous waste, prior to reintroduction of such sludge back into the wastewater treatment process.

(b) The requirements of 310 CMR 30.605, shall not apply to a wastewater treatment unit which treats hazardous waste by a treatment process, method, or technique which is an integral part of the manufacturing process, as that term is defined in 310 CMR 30.010.

(c) The requirements of 310 CMR 30.500 through 30.900 shall not apply to a wastewater treatment unit, as that term is defined in 310 CMR 30.010, which is permitted pursuant to 314 CMR 3.00. Hazardous waste activities at such wastewater treatment units are regulated pursuant to 314 CMR 8.05.

- 310 CMR 30.606(2) is hereby revised as follows to require that relevant provisions established for other types of facilities within 30.500 through 30.900 shall be included in any license issued for a miscellaneous unit:

(2) Environmental Performance Standards. A miscellaneous unit shall be located, designed, constructed, operated, maintained, and closed in a manner that shall ensure protection of public health, safety and welfare and the environment. Licenses for miscellaneous units shall contain such terms and provisions as appropriate to comply with applicable provisions of 310 CMR 30.500 through 30.900 as well as to protect public health, safety and welfare and the environment, including, but not limited to, design and operating requirements, detection and monitoring

requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Protection of public health, safety and welfare and the environment shall include but is not limited to:

\* \* \*

- 310 CMR 30.606(2)(a) and (b) are hereby revised as follows:

(a) Prevention of any releases that may have adverse effects on public health, safety, welfare, or the environment due to migration of waste constituents in the ground water or subsurface environment, considering:...

\* \* \*

(b) Prevention of any releases that may have adverse effects on public health, safety and welfare, or the environment due to migration of waste constituents in surface water, or in or on any water or land described in 310 CMR 10.02(1), or on the soil surface, considering

- 30.606(2)(c)2. and 5. are revised to correct typographical errors as follows:

2. The effectiveness and reliability of systems and structures to reduce or prevent emissions of hazardous constituents to the air;

\* \* \*

5. The existing quality of the air, including other sources of contamination and their cumulative impact on the air;

- 30.606(3) is revised to delete the reference to 30.545 (Monthly Reports) and address corrective action standards for miscellaneous units as follows:

(3) Monitoring, analysis, inspection, response, reporting and corrective action. The owner or operator of each miscellaneous unit shall comply with the requirements of 310 CMR 30.515: *General Inspection*, 30.524(3): *Testing and Maintenance of Equipment*, 30.534: *Unmanifested Waste Report*, 30.544: *Biennial Report*, , 30.602(9): *Corrective Action*, and 30.606(2): *Environmental Performance Standards*, and all additional requirements as specified in the license.

- 310 CMR 30.613(4) is revised to read as follows:

(4) In a license issued pursuant to 310 CMR 30.800, the Department may waive all or part of the design or operating practices specified in 310 CMR 30.612(1) and (3) for a surface impoundment containing hazardous waste which only exhibits the characteristic of corrosivity if the owner or operator demonstrates to the Department that such design and operating practices will:

(a) prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as the liners and leachate collection and removal system specified in 310 CMR 30.612 and allow detection of leaks of hazardous constituents through the top liner at least as effectively.

In determining whether to waive any or all of the design or operating practices of 310 CMR 30.612(1) and (3), the Department shall consider the factors listed in 310 CMR 30.613(3) as well as the following factors:

1. The rate at which corrosive waste is neutralized in the impoundment;
2. The potential for waste in the impoundment to leach hazardous constituents which may be present in the soil; and
3. The presence of material other than hazardous waste in the impoundment (*e.g.*, flyash) which may contain hazardous constituents capable of migrating from the impoundment as a result of the introduction of corrosive hazardous waste into the impoundment. Nothing in 310 CMR 30.613(4) shall relieve the owner or operator of an unlined impoundment from the responsibility of obtaining a groundwater discharge permit pursuant to 314 CMR 5.00.

- 310 CMR 30.616(1) is hereby amended as follows:

(1) Ignitable or reactive waste shall not be placed in a surface impoundment unless the waste and impoundment satisfy all applicable requirements of 310 CMR 30.750 and:

- (a) The waste is treated before or immediately after placement in the impoundment so that:
  1. The resulting material is no longer ignitable or reactive hazardous waste pursuant to 310 CMR 30.122 or 30.124; and
  2. 310 CMR 30.560(3) is complied with; or
- (b) The surface impoundment is used solely for emergencies.

- 310 CMR 30.629 is hereby amended to read as follows:

- (1) Non-containerized liquid waste or waste containing free liquids, in each case as determined in accordance with 310 CMR 30.156, shall not be placed in a landfill whether or not sorbents have been added.
- (2) A container holding liquid waste or waste containing free liquids, in each case as determined in accordance with 310 CMR 30.156, shall not be placed in a landfill whether or not sorbents have been added.

- 310 CMR 30.630(5) is hereby revised to read as follows:

(5) Landfill disposal of small containers of hazardous waste in overpacked drums (*e.g.*, lab packs) is prohibited.

- 310 CMR 30.641(1)(b) is hereby amended to correct a clerical error:

(b) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained and operated to collect and remove leachate from the pile. The leachate depth over the liner shall not exceed 30 cm (one foot) at any point. If the collected leachate is hazardous waste pursuant to 310 CMR 30.100, it shall be managed as hazardous waste in compliance with 310 CMR 30.000. If the collected leachate is discharged to surface water or groundwater, it is subject to regulation pursuant to M.G.L. c. 21, § 43. The leachate collection and removal system shall be:

\* \* \*

- 310 CMR 30.646(1) is hereby amended as follows:

(1) Ignitable or reactive hazardous waste shall not be placed in a waste pile unless the waste and the waste pile satisfy all applicable requirements of 310 CMR 30.750 and the waste is treated before or immediately after placement in the pile so that:

- (a) The resulting material is no longer ignitable or reactive hazardous waste pursuant to 310 CMR 30.122 and 30.124; and
- (b) 310 CMR 30.560(3) is complied with.

- 310 CMR 30.654(6) is hereby amended to correct a clerical error and to read as follows:

(6) The owner or operator shall design, construct, operate and maintain a run-off management system to collect and control at least the water volume resulting from a 24 hour, 100-year storm. If the collected run-off is hazardous waste pursuant to 310 CMR 30.100, it shall be managed as hazardous waste in compliance with 310 CMR 30.000. If the collected run-off is discharged to surface water or groundwater, it is subject to regulation pursuant to M.G.L. c. 21 § 43.

- 310 CMR 30.657(1) is hereby amended to read as follows:

(1) The owner or operator shall not apply ignitable or reactive waste to the treatment zone unless the waste and the treatment zone meet all applicable requirements of 310 CMR 30.750 and the waste is immediately incorporated into the soil so that:

- (a) The resulting material is no longer ignitable or reactive hazardous waste pursuant to 310 CMR 30.122 or 30.124; and
- (b) 310 CMR 30.560(3) is complied with.

- 310 CMR 30.664(7)(b) is hereby amended to correct a clerical error and to read as follows:

(b) Immediately sample the ground water in all monitoring wells and determine whether constituents in 310 CMR 30.161 are present, and if so, in what concentration.

- 310 CMR 30.691(1) and (2) are hereby amended to address “tank systems” rather than “tanks” and to include a reference for the incorporation of SW-846 within the state code.

#### 30.691: Applicability

310 CMR 30.691 through 30.699, cited collectively as 310 CMR 30.690, prescribe requirements which apply to owners and operators of facilities that use tanks to treat or store hazardous waste, except:

- (1) Tank systems that are used to store or treat hazardous waste which contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in 310 CMR 30.694. To demonstrate the absence or presence of free liquids in the stored/treated waste, EPA method 9095 B (Paint Filter Liquids Test) as specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*. EPA Publication SW-846, as incorporated by reference at 310 CMR 30.012, shall be used.
- (2) Tank systems, including sumps, that serve as part of a secondary containment system to collect or contain releases of hazardous waste are exempted from the requirements of 310

CMR 30.694. Owners and operators of facilities that use tanks to treat or store hazardous waste shall be in compliance with all applicable requirements of 527 CMR 9.00.

- 310 CMR 30.694(4)(a)2 is hereby amended to correct a clerical error as follows:

2. Designed to prevent deterioration of the primary tank interior and of the external surface of the outer shell; and

- 310 CMR 30.694(6)(c) is hereby revised as follows:

(6) Ancillary equipment shall be provided with secondary containment (*e.g.*, trench, jacketing, double-walled piping) that meets the requirements of 310 CMR 30.694(2) and (3) except for any of the following that are visually inspected for leaks on a daily basis:

\* \* \*

(c) Sealless or magnetic coupling pumps and sealless valves; and  
(d)....

- 310 CMR 30.700 (intro) is hereby revised by relocating provisions relating to the applicability of location standards and to clarify the applicability of the land disposal restrictions to read as follows:

#### 30.700: FACILITY LOCATION STANDARDS

310 CMR 30.701 through 30.799, cited collectively as 310 CMR 30.700, set standards for the location of facilities subject to 310 CMR 30.800: *Licensing Requirements and Procedures*, and establish restrictions for generators, transporters, universal waste handlers, and facilities (whether licensed or operating pursuant to interim status) relating to the land disposal of specified hazardous wastes.

- 310 CMR 30.701 (intro) is hereby revised by relocating and expanding provisions related to the applicability of location standards and to add a reference to miscellaneous units to read as follows:

#### 30.701: Land Subject to Flooding

310 CMR 30.701 applies to all inland and coastal land subject to flooding. The provisions that apply vary with the category of hazardous waste management unit and when the unit came into existence. 310 CMR 30.701(6) (for new or expanding units) and 30.701(7) (for existing units) apply to landfills, land treatment units, surface impoundments, waste piles and miscellaneous units. 310 CMR 30.701(1) through 30.701(5) apply to all other treatment or storage units.

- 310 CMR 30.701(6) is hereby amended to add a reference to address new or expanded miscellaneous units to read as follows:

(6) No active portion of a landfill, land treatment unit, surface impoundment, waste pile or miscellaneous unit shall be constructed or expanded into or within the boundary of land subject to flooding from the statistical 500-year frequency storm. This boundary shall be determined as set forth in 310 CMR 30.701(1)(a) and (b).

- 310 CMR 30.701(7) is hereby revised by adding a reference to address new or expanded miscellaneous units; to delete the reference to 30.010 (as has been done elsewhere in 310 CMR 30.000); to specify that the additional requirement regarding corrosivity applies only to surface impoundments, and to consider the impact of all hazardous characteristics and not just pH, to consider the impact to sediments and soils, and to read as follows:

(7) The owner or operator of each existing landfill, land treatment unit, surface impoundment, waste pile, disposal facility, or miscellaneous unit which is located within the boundary of land subject to flooding from the statistical 100-year frequency storm shall floodproof the active portion of the facility so that washout will not occur in the event of such a storm, unless the owner operator persuades the Department that:

(a) taking into consideration the volume and physical and chemical properties of the waste in the facility and the impact of the concentrations of hazardous constituents on the current and potential uses of, and water quality standards established for, the affected surface waters and groundwater, as well as the impact on the sediments of affected surface waters or the soils of the 100- year floodplain that could result from washout, there will be no adverse effect on public health and the environment if washout of hazardous waste occurs; and (b) for surface impoundments, the waste contained in a surface impoundment is hazardous only because it is corrosive pursuant to 310 CMR 30.123(1).

- 310 CMR 30.703 is hereby amended by revising the figure heading as follows

“FIGURE 30.703: PROTECTION OF EXISTING AND POTENTIAL PUBLIC UNDERGROUND DRINKING WATER SOURCES FROM LANDFILLS AND LAND TREATMENT FACILITIES”

- 310 CMR 30.750 is hereby inserted as a new section as follows:

#### 310 CMR 30.750: Land Disposal Restrictions

- (1) 310 CMR 30.750 identifies those wastes which shall not be land disposed and describes the limited circumstances under which an otherwise prohibited waste may continue to be land disposed.
  - (a) The requirements for hazardous wastes that are prohibited or restricted from land disposal are contained in the following provisions which are hereby incorporated by reference: 40 CFR §268.1 to 268.4, inclusive; 268.7, 268.9(b), (c) and (d), inclusive; 268.14, 268.20, 268.30 to 268.50 (except for §268.42(b) and §268.44(a) through (g)), inclusive; and Appendices III, IV, VI, and XI, subject to the exceptions, modifications and additions set forth in 310 CMR 30.750(2) and 30.750(3).
  - (b) The requirements regarding the use of hazardous waste numbers for hazardous wastes that are prohibited or restricted from land disposal are contained in 310 CMR 30.103 and 30.302 rather than incorporating by reference 40 CFR 268.9(a).
  - (c) The following requirements are not incorporated by reference but instead will continue to be administered and enforced by EPA:
    1. 40 CFR 268.5, 268.6, 268.42(b) and 268.44(a) through (g);
    2. “effective dates” referenced within 40 CFR 268.20 through 268.50 to the extent that they are earlier than the effective dates of these state regulations under 310 CMR 30.004; and
    3. Appendices VII and VIII.
- (2) Notwithstanding any of the incorporated provisions of 40 CFR 268 to the contrary, the following provisions of the federal land disposal restrictions shall not be incorporated into 310 CMR 30.000 and shall not have effect within the Commonwealth of Massachusetts:
  - (a) In 40 CFR 268.1(c)(3), 268.2 (definition of land disposal), 268.7(a)(7), 268.37(a), 268.37(b), 268.38(a), 268.38(b), 268.39(b), 268.40(e), fn. 9 of the Treatment Standards Table, and any other

applicable provisions - any phrase implicitly or explicitly allowing the use of underground injection within the Commonwealth of Massachusetts as an allowable means of hazardous waste disposal is precluded from having effect within the Commonwealth of Massachusetts. The use of underground injection as a means of land disposal within the Commonwealth of Massachusetts is prohibited.

- (b) 40 CFR 268.1(e)(2) - Hazardous waste pesticides discarded by farmers, even when managed in compliance with 40 CFR 262.70, remain subject to the provisions of 310 CMR 30.000 including 30.750.
- (c) 40 CFR 268.2(b), (c), (e), (g) & (h) – The definitions of “Debris”, “Hazardous constituent or constituents”, “Hazardous debris”, “Land disposal”, “Polychlorinated biphenyls or PCBs” at 310 CMR 30.010 shall apply in lieu of the federal definitions.
- (d) In 40 CFR 268.7(a)(9), 268.42(c), Appendix IV, and any other applicable provisions - any phrase implicitly or explicitly allowing the land disposal of lab packs, or ignitable or reactive hazardous wastes, within the Commonwealth of Massachusetts shall not have effect within the Commonwealth of Massachusetts. The placement of any lab packs containing hazardous waste, or ignitable or reactive hazardous wastes, in any land disposal unit within the Commonwealth of Massachusetts are both prohibited.
- (e) 40 CFR 268.2(k) – The definition of “Soil” at 310 CMR 40.0006 is incorporated by reference and shall apply in lieu of the federal definition.
- (f) 40 CFR 268.4(a)(3)(ii) and (iii), inclusive - The waiver and variance provisions for surface impoundments, are inapplicable within the Commonwealth of Massachusetts.
- (g) 40 CFR 268.44(h) through (o) - No variance from treatment standards shall be granted by the Department.
- (h) In 40 CFR 268.7(a)(5), 268.50(a)(1), and any other applicable provisions - any phrase implicitly or explicitly allowing generators to conduct treatment other than that which is allowed pursuant to 310 CMR 30.300 and any phrase explicitly or implicitly allowing generators or licensed facilities to accumulate, store or treat hazardous waste in containment buildings shall not have effect within the Commonwealth of Massachusetts.

(3) References to federal provisions within the incorporated provisions of 40 CFR 268 are adopted subject to the following supplementations or substitutions of state terms for the federal program references cited therein:

- (a) Statutory references within the incorporated provisions of 40 CFR Part 268 are supplemented in accordance with 310 CMR 30.750, Table 1:

30.750, Table 1.

Federal Reference:	Corresponding Reference included at 30.750:
Resource Conservation and Recovery Act (RCRA), “Subtitle C” or particular sections within RCRA	M.G.L. c. 21C and implementing regulations; provided however, authority to act relative to RCRA Section 3004(h) remains with EPA
federal permit issued pursuant to §402 (NPDES) or §307 (pretreatment) of the Clean Water Act (CWA)	permit issued pursuant to comparable state statutory provisions such as M.G.L. c. 21 and implementing regulations
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) or particular sections within CERCLA	M.G.L. c. 21E and implementing regulations or the comparable state provisions within M.G.L. c. 21E and implementing regulations
Clean Air Act (CAA) or particular sections within the CAA	M.G.L. c. 111, §142A through §142M and implementing regulations or the comparable state provisions within M.G.L. c. 111, §142A through §142O and implementing regulations

“Subtitle D facility” or “RCRA Subtitle D facility”	facility permitted pursuant to comparable state statutory provisions such as M.G.L. c. 111, §150A (Solid Waste Management Act) and implementing regulations
Clean Water Act (CWA) or particular sections within the CWA	M.G.L. c. 21 and implementing regulations or the comparable state provisions within M.G.L. c. 21 and implementing regulations

(b) Unless otherwise specified in 30.750, Table 3, state regulatory references are substituted for the federal regulatory references within the incorporated provisions of 40 CFR Part 268 in accordance with 310 CMR 30.750, Table 2:

30.750, Table 2.

Federal Reference to provisions within 40 CFR:	Corresponding Reference within 310 CMR to be referenced within 30.750:
260.10	30.010
260.11/SW-846 incorporation at 260.11	30.012(1)
Part 261	30.100
Subpart C of Part 261...	30.120 – 30.125
Subpart D of Part 261...	30.130 – 30.136
261.21	30.122
261.22	30.123
261.23	30.124
261.24	30.125
261.31	30.131
261.32	30.132
261.33	30.133 (for U wastes)/30.136 (for P wastes)
262.11	30.302
262.34	30.300
264.13/265.13	30.513
Subpart F of Part 264/Subpart F of Part 265	30.660
Subpart O of Part 264	7.00
Subpart H of Part 266	30.240
266.20(b)	30.231(6)
264.554	30.602(14)
debris excluded from the definition of hazardous waste under §261.3(f) of this chapter	debris exempt from 310 CMR 30.000 pursuant to 310 CMR 30.104(2)(w)

(c) The following specific state regulatory references are substituted for the federal regulatory references within the incorporated provisions of 40 CFR Part 268 in accordance with 310 CMR 30.750, Table 3:

30.750, Table 3.

40 CFR 268 provision affected	Internal Reference within incorporated provision	Corresponding Reference to 310 CMR 30.000
268.31(c)	“parts 264 and 265 of this chapter”	30.610 and 30.620

268.42, Table 1	40 CFR 260.10 (1), (6), (7), (11) & (12)	30.010, Industrial Furnace (a), (f), (g) and (k)
268.50(a)(1)	“parts 264 and 265 of this chapter”	30.500 through 30.707 and 30.900
268.50(a)(2)(ii)	264.73 or 265.73	30.542
268.4(a)(2)(ii)	260.22	30.142
268.4(a)(3)	264.221(c) or 265.221(a)	30.612 or 30.099(6)(g) referencing 265.221(a), respectively
268.7(a)(1)	268.9	30.103 and 30.750(1) referencing 268.9(b)
40 CFR 268.7(d)(2)	“§261.3(f)(1)	30.104(2)(w)

(d) Additional modifications to the incorporated provisions of 40 CFR 268 are as follows:

1. 268.1(b) is modified to read as follows: Except as specifically provided otherwise in this part, 310 CMR 30.100, or 310 CMR 30.353, the requirements of this part apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities.
2. At 268.1(e)(1), replace “small quantity generators of less than 100 kilograms of non-acute hazardous waste or less than one kilogram of acute hazardous waste per month, as defined in §261.5 of this chapter” with “Very Small Quantity Generators managing waste in compliance with 310 CMR 30.353”.
3. 268.1(f) is modified to read as follows: Universal waste handlers and universal waste transporters managing universal waste in compliance with 310 CMR 30.1000 are exempt from 40 CFR 268.7 and 268.50.
4. 268.2 is modified by adding that “Administrator”, “Regional Administrator”, “EPA Regional Administrator”, “EPA Regional Administrator (or his designee) or State authorized to implement part 268 requirements” shall mean “Department” except in regards to the federally enforceable provisions referenced at 310 CMR 30.750(1)(c).
5. 268.3 is modified by adding the following: Any deliberate mixing of one or more prohibited hazardous wastes with debris that changes its treatment classification from waste to hazardous debris or debris is prohibited.
6. 268.4(a)(3) is modified to read as follows: Except as provided in 310 CMR 30.613(4), a surface impoundment shall meet the design requirements set forth in 310 CMR 30.612, regardless of whether or not the unit is new, expanded, or a replacement. The impoundment shall be in compliance with all applicable ground water monitoring requirements set forth in 310 CMR 30.660.
7. 268.7(a)(1) is modified by replacing “RCRA-permitted hazardous waste treatment facility” with “a treatment facility licensed pursuant to 310 CMR 30.800”.
8. 268.7(a)(7) is modified to read as follows: If a generator determines that he is managing a prohibited waste that is exempted from regulation under 310 CMR 30.000 subsequent to the point of generation (including deactivated characteristic hazardous wastes managed in wastewater treatment systems subject to the Clean Water Act (CWA) as specified at 310 CMR 30.104(1)(b) or that are CWA-equivalent), the generator must place a one-time notice describing such generation, subsequent exclusion from hazardous waste regulation, and the disposition of the waste, in the generator’s on-site files.
9. 268.7(a)(8), last sentence is revised to read as follows: The requirements of this paragraph apply to wastes even when the hazardous characteristic is removed prior to disposal or when the waste is exempted from regulation subsequent to the point of generation.

10. 268.7(a)(10) is modified by replacing “small quantity generators with tolling agreements pursuant to 40 CFR 262.20(e)” with “small quantity generators that reclaim waste pursuant to a contractual agreement in compliance with 310 CMR 30.314”.
11. In 40 CFR 268.7(e)(2) is modified to read as follows: Maintain that information in the generator’s and/or the facility’s files and other records for a minimum of three years.
12. At 40 CFR 268.33(d)(1) and footnote 12 to 268.40, Table, “Subtitle C monofill” is hereby replaced with “hazardous waste landfill”.
13. At 268.33(d)(2), footnote 12 to 268.40, Treatment Standard Table, at 268.45(c), and at 268.49(e)(2)(A), “Subtitle C” or “RCRA Subtitle C” is replaced with “hazardous waste”.
14. At 40 CFR 268.40, in note regarding Lead Acid Batteries Subcategory (see D008), note is modified by replacing “EPA regulations (see 40 CFR 266.80)” with “hazardous waste regulations (See 310 CMR 30.280).”
15. At 268.50(a)(3), “transfer facility for 10 days or less” is replaced with “transfer- related area in compliance with 310 CMR 30.408”.

- 30.801(11) is modified to reference federal program provisions as in effect on July 1, 2008 based upon 310 CMR 30.011 and to read as follows:

(11) The exemptions from the requirement to obtain a license provided in this 310 CMR 30.801(11), 310 CMR 40.0031(3) and 310 CMR 40.0041(4) shall apply, subject to the following provisions. In the event of any inconsistency between 310 CMR 30.801(11) and 310 CMR 40.0031(3) or 40.0041(4), the provisions of 310 CMR 30.801(11) shall govern.

(a) No license shall be required for any emergency action initiated or ordered by the Department or by a court of competent jurisdiction and conducted by the Department or a contractor authorized by the Department to secure a site where hazardous waste has been deposited or abandoned. Emergency action shall mean the actions specified in 40 CFR 270.1(c)(3)(i).

- 310 CMR 30.804(5) is hereby amended to address ‘hazardous debris’ and ‘hazardous waste’ as follows:

(5) A description of physical and chemical analyses which the applicant intends to use in treating, storing, using, or disposing of hazardous waste and hazardous debris in compliance with 310 CMR 30.600.

- 310 CMR 30.804(19)(g) is hereby amended by inserting immediately before “30.630” a reference to “30.629” as follows:

(g) If containers of hazardous waste are to be landfilled, a description of how 310 CMR 30.629 and 30.630 shall be complied with; .....

\* \* \*

- 30.804(23) is modified to reference federal program provisions as already incorporated by reference within the interim status facility standards and to read as follows:

(a) A summary of the groundwater monitoring data obtained during the interim-status period pursuant to 40 CFR 265.90 through 265.94, as incorporated by reference with modifications at 310 CMR 30.099(6), where applicable.

- Proposed revisions to 310 CMR 30.823 clarify that a licensed hazardous waste transporter shall not contract with any subcontractor to perform activities authorized by its hazardous waste transporter license. The deleted text is a carry-over from requirements that were eliminated years ago for different hazardous waste transporter permit categories. The Department consolidated these categories to one category entitled "Transportation of All Categories of Hazardous Waste." When these categories existed, licensed hazardous waste transporters could use subcontractors, in compliance with the conditions at 310 CMR 30.823, to conduct category-specific activities that they were not authorized for. Since these categories no longer exist, the conditions are being deleted. This proposed change does not preclude a licensed hazardous waste transporter from subcontracting with a subcontractor to perform activities that are unrelated to a hazardous waste transporter license.

30.823: Additional Conditions of Transport Licenses

The following additional conditions apply to all transport licenses:

(1) The transporter shall not contract with any subcontractor to perform any of the activities authorized by its transport license.

- 310 CMR 30.852 (Table) is hereby amended to address license modifications relating to the land disposal restrictions rule and land disposal facilities as follows:

B. General Facility Standards

1. Changes to waste sampling or analysis methods:

- a. To conform with Department guidance or regulations..... 1
- b. To incorporate changes associated with F039 (multisource leachate) sampling or analysis methods..... 1
- c. To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes ..... 1
- d. Other changes..... 2

\* \* \*

H. Land Disposal Facilities

1. The classification of modifications for surface impoundments, enclosed waste piles, landfills and unenclosed waste piles, and land treatment facilities at 40 CFR 270.42, Appendix I, Sections H through K, exclusive of notes, is hereby incorporated by reference.....3

- 310 CMR 30.864(3)(c)1.b as well as 30.864(3)(c)2.c. and 30.864(3)(c)2.d. are hereby amended to clarify the location within the state code where the Bases for Listings appear and reads as follows:

b. where the as received waste is a listed hazardous waste, pursuant to 310 CMR 30.130, the processed waste does not contain any of the constituents, listed in Appendix VII, 40 CFR Part 261 as incorporated by reference at 310 CMR 30.162, which caused the as received waste to be listed in 310 CMR 30.130 as a hazardous waste, and does not exhibit any of the characteristics identified and defined in 310 CMR 30.120 through 30.125.

\* \* \*

c. Does not contain any of the constituents listed in Appendix VII, 40 CFR Part 261, as incorporated by reference at 310 CMR 30.162, which caused the as received waste to be listed in 310 CMR 30.130 as a hazardous waste; or

d. Contains constituents listed in Appendix VII, 40 CFR Part 261, as incorporated by reference at 310 CMR 30.162, which caused the as received waste to be listed in 310 CMR 30.130, and the licensee demonstrates to the Department, and obtains prior approval, that the presence of these constituents does not pose a threat to the public health, safety, and welfare, and the environment.

- 310 CMR 30.901(1)(b) is hereby amended by eliminating outdated references and by addressing miscellaneous units that must demonstrate secondary containment as follows:

(b) The requirements of 310 CMR 30.908(2) apply only to owners or operators of miscellaneous units, hazardous waste landfills, surface impoundments, hazardous waste incinerators, land treatment facilities, waste piles, underground tanks, and above-ground tanks for which secondary containment has not been demonstrated. A waiver from 310 CMR 30.908(2) may be granted, at the discretion of the Department, for miscellaneous units at which there has been no disposal of hazardous waste and underground storage tanks that may be visually inspected.

- 310 CMR 30.905(2) is amended to change the time frame for submitting updated financial plans as follows:

Within 60 days prior to each anniversary of the date on which the first post-closure cost estimate was prepared, the owner or operator shall prepare and submit to the Department an adjustment for inflation of the post-closure cost estimate. The adjustment shall.....

\* \* \*