

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL-4655-1]

Hazardous Waste Management System: Land Disposal Restrictions; Renewal of the Hazardous Debris Case-By-Case Capacity Variance and Renewal of Variance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 8, 1992, EPA granted a one-year case-by-case capacity variance of the Land Disposal Restrictions (LDR) to persons managing certain hazardous debris (see 57 FR 20766, May 15, 1992). In that document, EPA indicated that persons desiring a subsequent renewal of the variance—that is, past May 8, 1993—would need to submit an individual application. EPA has received almost 200 applications to date. Confirmed by a capacity analysis conducted by EPA, the large number of applications indicates that a lack of treatment capacity for hazardous debris continues to exist.

Therefore under 40 CFR 268.5, EPA is hereby renewing the extension of the case-by-case capacity variance to May 8, 1994, for all persons managing certain hazardous debris in lieu of responding to the individual applications. (Elsewhere this document explains more fully which hazardous debris is covered by the extension.) No further individual applications will be required from persons granted the extension by this action. However, information provided to EPA indicates that some capacity may exist, at least for some forms of debris. Therefore, EPA is requiring that generators submit a report demonstrating a good-faith effort to locate treatment capacity to qualify for the extension.

EPA wishes to make clear that no further variance or extension of the LDR effective date for hazardous debris can be given after May 8, 1994. By statute, EPA may extend the LDR effective date for a waste for a total of four years, two years by national capacity variance and up to two years for a case-by-case variance. With this renewal, the four years of statutory variance time for hazardous debris will end on May 8, 1994, and therefore no further extensions can be granted.

EFFECTIVE DATE: This rule and the extension become effective on May 8, 1993.

ADDRESSES: The official record for this notice is identified as Docket Number F-93-DCVN-FFFFF, and is located in the EPA RCRA Docket, room 2427, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays. The public must make an appointment to review docket materials by calling (202) 260-9327. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost \$0.20 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at (800) 424-9346 toll-free or (703) 412-9810 locally. For information on specific aspects of this notice, contact Nicholas R. Vizzone, Analysis and Land Disposal Restrictions Section, Capacity Programs Branch (OS-321W), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (703) 308-8477.

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

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

PART 268-LAND DISPOSAL RESTRICTIONS

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

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

2. In § 268.35 paragraph (e) is revised to read as follows:

§ 268.35 Waste specific prohibitions-Third Third wastes.

* * * * *

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

(1) Effective May 8, 1994, debris that is contaminated with wastes listed in 40 CFR 268.12, and debris that is contaminated with any characteristic waste for which treatment standards are established in subpart D of this part, are prohibited from land disposal.

(2) Effective May 8, 1994, mixed radioactive hazardous debris that is contaminated with wastes listed in 40 CFR 268.12 and mixed radioactive hazardous debris that is contaminated with any characteristic waste for which treatment standards are established in subpart D of this part, are prohibited from land disposal.

(3) Paragraphs (e) (1) and (2) of this section shall not apply where the generator has failed to make a good-faith effort to locate treatment capacity suitable for its waste, has not utilized such capacity as it has found to be available, or has failed to file a report as required by 40 CFR 268.5(g) by August 12, 1993 or within 90 days after the hazardous waste is generated (whichever is later) describing the generator's efforts to locate treatment capacity. Where paragraphs (e) (1) and (2) of this section do not apply, all wastes described in these paragraphs are prohibited from land disposal effective May 8, 1993.

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

(5) When used in paragraphs (e) (1) and (2) of this section, debris is defined as follows:

(i) Debris as defined in 40 CFR 268.2(g); or

(ii) Nonfriable inorganic solids that are incapable of passing through a 9.5 mm standard sieve that require cutting, or crushing and grinding in mechanical sizing equipment prior to stabilization, limited to the following inorganic or metal materials:

(A) Metal slags (either dross or scoria).

(B) Glassified slag.

(C) Glass.

(D) Concrete (excluding cementitious or pozzolanic stabilized hazardous wastes).

(E) Masonry and refractory bricks.

(F) Metal cans, containers, drums, or tanks.

(G) Metal nuts, bolts, pipes, pumps, valves, appliances, or industrial equipment.

(H) Scrap metal as defined in 40 CFR 261.1(c)(6).

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