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EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
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MEPA

IAN A. BOWLES  
Secretary

LAURIE BURT  
Commissioner

April 27, 2009

General Counsel, MEPA Office  
Executive Office of Energy and Environmental Affairs  
100 Cambridge St, Suite 900  
Boston, Massachusetts 02114

Dear Counsel:

Pursuant to the Memorandum of Understanding dated July 10, 1990, this letter is to notify you of MassDEP's intent to adopt new hazardous waste regulations.

The public comment period is scheduled to begin with the publication of MassDEP's formal notice in four Massachusetts newspapers on May 15, 2009. A brief summary of the proposed amendments is attached. The proposed regulations and public hearing schedule will be available on MassDEP's web site at [www.mass.gov/dep/](http://www.mass.gov/dep/).

If you have any questions or would like any additional information at this time, please contact James Paterson at (617) 556-1096.

Sincerely,

Steven A. DeGabriele, Director  
Business Compliance Division

April 27, 2009





## 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. Many of these rules have already been adopted by MassDEP and can be found in 310 CMR 30.000; minor revisions for some of these rules are being proposed to ensure consistency with the federal program. The remaining rules have not yet been adopted by MassDEP and are being proposed as amendments to 310 CMR 30.000:

## 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 |

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