

Sec. 22a-449(c)-105. Interim status standards for owners and operators of hazardous waste treatment, storage, and disposal facilities

(a) Incorporation by Reference

(1) 40 CFR 265 is incorporated by reference in its entirety except as provided in subdivision (2) of this subsection and except for the provisions of this subdivision which are not incorporated:

- (A) 40 CFR 265.1(c)(4) (which relates to the requirements of 40 CFR 265),
- (B) 40 CFR 265.1(c)(15)
(which relates to a facility in New York),
- (C) 40 CFR 265.1(f) (which relates to storage of waste military munitions),
- (D) 40 CFR 265.90(e) (which provides for a waiver for surface impoundments under specified conditions),
- (E) 40 CFR 265.90(f) (which relates 40 CFR 265, subpart F alternatives),
- (F) 40 CFR 265.110(c) (which relates to the applicability of 40 CFR 265.121),
- (G) 40 CFR 265.110(d) (which relates to alternative closure requirements),
- (H) 40 CFR 265.112(b)(8) (which relates to certain closure plan requirements),
- (I) 40 CFR 265.112(c)(1)(iv) (which relates to certain closure plan changes),
- (J) 40 CFR 265.118(c)(4)&(5) (which relates to certain post-closure plan changes),
- (K) 40 CFR 265.118(d)(1)(iii) (which relates to certain post-closure plan amendments),
- (L) 40 CFR 265.121 (which relates to certain post-closure requirements),
- (M) 40 CFR 265.140(d) (which relates to alternative financial requirements),
- (N) 40 CFR 265.149 (which relates to state-required financial mechanisms),
- (O) 40 CFR 265.201(b)(3) (which allows small quantity generators to operate uncovered tanks with 60 centimeters of freeboard),
- (P) 40 CFR 265.201(e)(1)(iii) (which allows small quantity generators to store ignitable and/or reactive waste in a tank used solely for emergencies),
- (Q) 40 CFR 265.314(c)(1)&(3) (which relates to placing free liquids in landfills),
- (R) 40 CFR 265.314(f) (which relates to sorbents used to treat free liquids),
- (S) 40 CFR 265.340(b) (which relates to integration of MACT standards),
- (T) 40 CFR 265, Subpart R (which relates to underground injection),
- (U) 40 CFR 265.1080(e), (f) and (g) (which relate to a facility in West Virginia),
- (V) 40 CFR 265.1082(a) (which relates to an expired implementation schedule),
- (W) 40 CFR 265, subpart EE (which relates to storage of hazardous waste munitions and explosives).

(2) The provisions of this subdivision are incorporated by reference with the specified changes:

- (A) 40 CFR 265.1(b)
 - delete “40 CFR 264.552, 264.553, and 264.554” and replace with “40 CFR 264.552 and 264.553”
- (B) 40 CFR 265.1(c)(14) introductory paragraph
 - after each occurrence of “handling” add “or transporting”
 - in the second sentence, after “handlers” add “and transporters”
 - after “273” add “and section 22a-449(c)-113(b) of the Regulations of Connecticut State Agencies”

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- (C) 40 CFR 265.1(c)(14)(iii)
— delete “and”
- (D) 40 CFR 265.1(c)(14)(iv)
— delete the period and replace with “; and”
— add a new paragraph (v) as follows: “(v) used electronics as described in section 22a-449(c)-113(b) of the Regulations of Connecticut State Agencies.”
- (E) 40 CFR 265.11
— delete “(45 FR 12746)”
- (F) 40 CFR 265.13(c)(3)
— delete “a biodegradable sorbent to the waste in the container” and replace with “a non-biodegradable sorbent in accordance with 40 CFR 265.316(b)”
- (G) 40 CFR 265.15(b)(4)
— after “when in use” add “and emergency equipment designated in the contingency plan shall be inspected at least once each calendar month to ensure that such equipment is in the proper location and available for use as specified in the contingency plan. The owner or operator of a facility not required to have a contingency plan shall develop a specific list of emergency equipment, including its locations and availability for use, to be included in the schedule for inspection and such equipment shall be inspected at least once each calendar month. Satellite accumulation areas are not subject to the monthly requirement stated herein.”
- (H) 40 CFR 265.70
— delete “, and to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under 40 CFR 266.203(a)”
- (I) 40 CFR 265.71(a)(4)
— after “generator” add “, generator state and consignment state”
- (J) 40 CFR 265.71(b)(4)
— after each “generator” add “, generator state and consignment state”
- (K) 40 CFR 265.73(b)(13)
— delete the last “and”
- (L) 40 CFR 265.73(b)(14)
— delete the period and replace with “; and”
— add a new paragraph (15) as follows: “(15) Any other information required by section 22a-449(c)-105 of the Regulations of Connecticut State Agencies to be maintained in the operating record.”
- (M) 40 CFR 265.75
— after paragraph (j), add a new paragraph (k) as follows: “(k) Any other information which the commissioner specifies relating to the facility’s activities. The commissioner shall specify such information in writing prior to submission of the report.”
- (N) 40 CFR 265.90(c)
— after “subpart” add “or section 22a-449(c)-105(c) of the Regulations of Connecticut State Agencies”
— add a new paragraph (3) as follows: “(3) The commissioner may impose conditions he deems necessary to protect human health and the environment regarding any groundwater monitoring waiver issued pursuant to 40 CFR 265.90(c). The commissioner may rescind

the waiver of any monitoring requirements based upon indications of a release, the concentration of identified contaminants, a review of site history or facility operation and management practices, the facility's proximity to groundwater wells, the water quality classification and goal for the facility and surrounding area under section 22a-426 of the Connecticut General Statutes, changed circumstances, or non-compliance with any conditions imposed concerning the granting of a waiver or similar considerations."

(O) 40 CFR 265.143(g)

— delete "If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrator of all such Regions." and replace with "If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance submitted for such facilities to any other EPA regional office or state agency regulating hazardous waste shall be submitted to the commissioner."

(P) 40 CFR 265.145(e)(11)

— delete "direct of higher tier" and replace with "direct or higher tier"

— delete "(f)(1)" and replace with "(e)(1)"

— delete "(f)(3)" and replace with "(e)(3)"

(Q) 40 CFR 265.145(g)

— delete "If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrator of all such Regions." and replace with "If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance submitted for such facilities to any other EPA regional office or state agency regulating hazardous waste shall be submitted to the commissioner."

(R) 40 CFR 265.147(b)(1)

— add new paragraphs (i) and (ii) as follows: "(i) Each insurance policy shall be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement shall be identical to the wording specified in 40 CFR 264.151(i). The wording of the Certificate of Insurance shall be identical to the wording specified in 40 CFR 264.151(j). The owner or operator shall submit a signed duplicate original of the endorsement or the certificate of insurance to the commissioner. If requested by the commissioner, the owner or operator shall provide a signed duplicate original of the insurance policy. (ii) Each insurance policy shall be issued by an insurer which is licensed by the Connecticut Department of Insurance to transact the business of insurance in the state of Connecticut."

(S) 40 CFR 265.192(d)

— after "performed" add "and the tank system shall successfully pass a test for tightness"

(T) 40 CFR 265.193(c)

— in the Note, after each "as amended" add "and chapter 446k of the Connecticut General Statutes"

(U) 40 CFR 265.196(b)(1)

— after "demonstrates" add "to the Commissioner and the Commissioner agrees"

— at the end of the paragraph add "The owner or operator shall make all reasonable efforts to mitigate the effect of the release."

(V) 40 CFR 265.196(d)(1)

— delete “Regional Administrator within 24 hours of” and replace with “commissioner immediately upon”

— delete “If the release has been reported pursuant to 40 CFR 302, that report will satisfy this requirement” and replace with “Any release that has been reported to the National Response Center pursuant to 40 CFR 302, shall still be reported separately to the commissioner using the 24-hour Emergency Spill Response telephone number at (860) 424-3338 or, if that number is unavailable, at (860) 424-3333. In addition to this oral notification, the owner or operator shall comply with all other applicable reporting or notification requirements regarding the release, including but not limited to, the reporting required by section 22a-450 of the Connecticut General Statutes.”

(W) 40 CFR 265.201(a)

— delete “6000” and replace with “1000”

(X) 40 CFR 265.221(g)

— after “obtains” add “the commissioner’s prior written approval of a”

— after “overtopping,” in the last sentence add “and the commissioner’s written approval”

(Y) 40 CFR 265.222(a)

— after “leakage rate to the Regional Administrator” add “for the commissioner’s review and approval”

— delete “Within 60 days of receipt of the notification, the” and replace with “The”

— delete “; or extend the review period for up to 30 days. If no action is taken by the Regional Administrator before the original 60 or extended 90 day review periods, the action leakage rate will be approved as proposed by the owner or operator”

(Z) 40 CFR 265.222(b)

— delete “shall” and replace with “may, in the commissioner’s discretion,”

(AA) 40 CFR 265.223 Containment system.

— delete “§ 265.223 Containment system. All earthen dikes must have a protective cover, such as grass, shale, or rock, to minimize wind and water erosion and to preserve their structural integrity.”

— delete the editorial note in its entirety

(BB) 40 CFR 265.224

— delete “Reserved” and replace with “The owner or operator shall ensure that all earthen dikes used with a surface impoundment has a protective cover, such as grass, shale, or rock, to minimize wind and water erosion and preserve the structural integrity of any such dike.”

(CC) 40 CFR 265.228(b)(2)

— delete “§§ 265.221(c)(2)(iv) and (3)” and replace with “40 CFR 264.221(c)(2)(iv) and (3)”

(DD) 40 CFR 265.229(b)(2)

— delete paragraph (b)(2) in its entirety

(EE) 40 CFR 265.229(b)(3)

— after “obtains” add “the commissioner’s prior written approval of “

(FF) 40 CFR 265.229(b)(4)

— after “it” add “and the commissioner’s written approval of said certification”

(GG) 40 CFR 265.255(a)

— after “leakage rate to the Regional Administrator” add “for the commissioner’s review and approval”

— delete “Within 60 days of receipt of the notification, the” and replace with “The”

— delete “; or extend the review period for up to 30 days. If no action is taken by the Regional Administrator before the original 60 or extended 90 day review periods, the action leakage rate will be approved as proposed by the owner or operator”

(HH) 40 CFR 265.255(b)

— delete “shall” and replace with “may, in the commissioner’s discretion,”

— delete “surface impoundment” and replace with “waste pile”

(II) 40 CFR 265.272(a)

— delete paragraph (a) and replace with the following: “Before applying any hazardous waste to a treatment zone, the owner or operator shall submit to the commissioner for review and approval, a demonstration that hazardous constituents in the waste can be completely degraded or transformed in the treatment zone. The owner or operator shall not apply any hazardous waste to a treatment zone unless and until the owner or operator receives the written approval of the commissioner.”

(JJ) 40 CFR 265.301(a)

— delete “ § 264.301(d), (e), or (f), of this chapter” and replace with “40 CFR 264.301(c), unless exempted under 40 CFR 264.301(d), (e) or (f)”

(KK) 40 CFR 265.302(a)

— after “leakage rate to the Regional Administrator” add “for the commissioner’s review and approval”

— delete “Within 60 days of receipt of the notification, the” and replace with “The”

— delete “; or extend the review period for up to 30 days. If no action is taken by the Regional Administrator before the original 60 or extended 90 day review periods, the action leakage rate will be approved as proposed by the owner or operator”

(LL) 40 CFR 265.302(b)

— delete “shall” and replace with “may, in the commissioner’s discretion,”

— delete “surface impoundment” and replace with “landfill”

(MM) 40 CFR 265.316(b)

— after “a sufficient quantity of” add “nonbiodegradable”

— delete “, determined to be nonbiodegradable in accordance with § 265.314(f),”

— at the end of the paragraph add “For purposes of this paragraph, nonbiodegradable sorbents are (i) inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, fuller’s earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth; perlite (volcanic glass); expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; activated charcoal/activated carbon); or (ii) high molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (hdpe), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers); or (iii) mixtures of these nonbiodegradable materials. A sorbent is also nonbiodegradable if it is

determined to be nonbiodegradable under any of the following tests: (i) ASTM method G21-70 (1984a)-standard practice for determining resistance of synthetic polymer materials to fungi; or (ii) ASTM method G22-76 (1984b)-standard practice for determining resistance of plastics to bacteria; or (iii) OECD test 301B: (CO₂ evolution modified strum test). Nonbiodegradable sorbents do not include polymers derived from biological material or polymers specifically designed to be degradable.”

(NN) 40 CFR 265.340(c)

— in the introductory paragraph, delete “are” and replace with “may request of the commissioner that they be”

— after 40 CFR 265.340(c)(4) add the following: “in making a request under 40 CFR 265.340(c), an owner or operator shall provide, for the commissioner’s review and approval, all documentation that the commissioner deems necessary to evaluate the owner or operator’s request. An owner or operator shall comply with all of the requirements of this subpart unless and until the commissioner specifies otherwise in writing.”

(OO) 40 CFR 265.375(c)

— after “lead” add “, cadmium,”

(PP) 40 CFR 265.440(a)

— delete paragraph (a) and replace it with the following: “(a) The requirements of this subpart apply to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation, or surface water run-off to an associated collection system.

(1) For drip pads used for the management of wastes specified in 40 CFR 261.31 as F032:

(i) existing drip pads are those constructed before December 6, 1990 and those for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 6, 1990; and

(ii) the requirement at 40 CFR 265.443(b)(3) to install a leak collection system applies only to those drip pads that are constructed after December 24, 1992, except for those constructed after December 24, 1992 for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 24, 1992.

(2) For drip pads used for management of hazardous wastes other than hazardous waste specified in 40 CFR 261.31 as F032:

(i) existing drips pads are those constructed before October 31, 2001 and those for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to October 31, 2001. All other drip pads are new drip pads; and

(ii) the requirement at 40 CFR 265.443(b)(3) to install a leak collection system applies only to those drip pads that are constructed after October 31, 2001, except for those drip pads constructed October 31, 2001 for which the owner or operator has a design and has entered into binding financial or other agreement for construction prior to October 31, 2001.”

(QQ) 40 CFR 265.440(c)(1)(iv)

— delete “Federal” and replace with “state of Connecticut”

(RR) 40 CFR 265.443(a)(4)(i) delete “§ 265.442(a) instead of § 265.442(b)” and replace with “40 CFR 265.442(b) instead of 40 CFR 265.442(a)”

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- (SS) 40 CFR 265.443(b)
— delete “§ 265.442(b) instead of § 265.442(a)” and replace with “40 CFR 265.442(a) instead of 40 CFR 265.442(b)”
- (TT) 40 CFR 265.1033(k) introductory paragraph
— delete “by implementing the following requirements”
- (UU) 40 CFR 265.1033(k)(1)
— delete “in accordance with the following requirements” and replace with “to ensure proper operation and maintenance of such system. At a minimum, such monitoring and inspection shall include compliance with the following requirements”
- (VV) 40 CFR 265.1033(k)(1)(ii)(A)
— in the second sentence delete “following any” and replace with “each”
- (WW) 40 CFR 265.1033(k)(2)
— delete “in accordance with the following requirements” and replace with “to ensure proper operation and maintenance of such system. At a minimum, such monitoring and inspection shall include compliance with the following requirements”
- (XX) 40 CFR 265.1034(f)
— after “knowledge of the waste,” add “the owner or operator shall, within thirty days, or another time period approved by the commissioner in writing, implement”
— delete “may be used” and replace with “or another approach that the commissioner approves in writing”
- (YY) 40 CFR 265.1063(f)
— after “weight,” add “the owner or operator shall comply with”
— delete “can be used” and replace with “or another approach that the commissioner approves in writing”
- (ZZ) 40 CFR 265.1080(b)(3)
— after “plan” add “, provided the owner or operator has complied with or remains in compliance with the closure plan approved by the commissioner”
- (AAA) 40 CFR 265.1080(b)(4)
— after “plan” add “, provided the owner or operator has complied with or remains in compliance with the closure plan approved by the commissioner”
- (BBB) 40 CFR 265.1080(b)(7)
— delete “in accordance with” and replace with “in compliance with”
- (CCC) 40 CFR 265.1080(c) introductory paragraph
— delete the paragraph in its entirety and replace with the following: “(c) The owner or operator of a facility issued a permit by the commissioner pursuant to section 22a-449(c)-110 of the Regulations of Connecticut State Agencies, prior to December 6, 1996, shall comply with the requirements of 40 CFR 265, subpart CC, even if the permit does not require such compliance, unless the permit requires compliance with 40 CFR 264, subpart CC, in which event the requirements of 40 CFR 264, subpart CC shall apply. The requirements of 40 CFR 264, subpart CC shall apply if and when any permit described in this section is renewed.”
- (DDD) 40 CFR 265.1080(d) introductory paragraph
— delete “are administratively stayed for” and replace with “shall not apply to”
— delete “when” and replace with “provided”

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- delete “meets” and replace with “has complied and remains in compliance with”
(EEE) 40 CFR 265.1080(d)(1)
- after “identifies” add “, in writing as part of documentation prepared and maintained pursuant to 40 CFR 265.1090(i),”
(FFF) 40 CFR 265.1080(d)(3)
- after “the facility owner or operator” add “and shall note that documentation prepared in compliance with 40 CFR 265.1080(d)(2) and 265.1090(i) shall be made available if requested by the commissioner”
(GGG) 40 CFR 265.1081
- add the following definition in alphabetical order: “m³” means cubic meter.
- add the following definition in alphabetical order: “kPa” means kilopascal.
- in the definition of “Point of waste origination”, add a new paragraph (3) as follows:
“(3) For a generator, the point of waste origination means the point where a solid waste produced by a system, process, or waste management unit is determined to be a hazardous waste as defined in 40 CFR 261.”
- (HHH) 40 CFR 265.1082(b)(2)(i)
- delete “30” and replace with “12”
- (III) 40 CFR 265.1082(c)
- delete “30-month” and replace with “12-month”
- (JJJ) 40 CFR 265.1082
- add a new paragraph (e) as follows: “(e) For purposes of 40 CFR 265.1082, references to the term “the amendment” mean a statutory or regulatory amendment that renders the owner or operator of a facility subject to 40 CFR 265, subpart I, J, or K.”
- (KKK) 40 CFR 265.1083(b)
- delete “each hazardous waste management unit” and replace with “each tank, surface impoundment, and container”
- (LLL) 40 CFR 265.1083(c)(2)
- after “has been reduced” add “or destroyed”
- (MMM) 40 CFR 265.1083(c)(2)(vii)
- delete “has either”
- (NNN) 40 CFR 265.1083(c)(2)(vii)(A)
- delete “been issued a final permit” and replace with “has a currently valid and effective permit issued by the commissioner”
- (OOO) 40 CFR 265.1083(c)(2)(viii)
- delete “has either”
- (PPP) 40 CFR 265.1083(c)(2)(viii)(A)
- delete “been issued a final permit” and replace with “has a currently valid and effective permit issued by the commissioner”
- (QQQ) 40 CFR 265.1083(c)(5)(i)
- after “Waste Operations” add “and all applicable state air pollution control requirements”
- (RRR) 40 CFR 265.1083(c)(5)(iii)
- after “appendix B” add “and all applicable state air pollution control requirements”
- after the second occurrence of “Total Enclosure” add “in 40 CFR 52.741, appendix

B”

(SSS) 40 CFR 265.1083(d)(2)(ii)

— after “appropriate method” add “and the owner or operator shall perform a waste determination using the method specified by the commissioner.”

(TTT) 40 CFR 265.1084(a)(1)(i)

— delete “An initial” and replace with “An owner or operator shall perform and initial”

— delete each occurrence of “shall be made”

— after “thereafter” add “an owner or operator shall perform”

(UUU) 40 CFR 265.1084(a)(1)(ii)

— delete “Perform” and replace with “An owner or operator shall perform”

(VVV) 40 CFR 265.1084(b)(1)(i)

— delete “An initial” and replace with “An owner or operator shall perform an initial”

— delete “shall be made”

— after “thereafter” add “an owner or operator shall”

(WWW) 40 CFR 265.1084(b)(1)(ii)

— delete “Perform” and replace with “An owner or operator shall perform”

(XXX) 40 CFR 265.1085(c)

— delete “meet” and replace with “comply with”

(YYY) 40 CFR 265.1085(c)(1)

— delete “a hazardous waste” and replace with “each hazardous waste”

(ZZZ) 40 CFR 265.1085(c)(2)

— delete “designed to meet” and replace with “that meets”

(AAAA) 40 CFR 265.1085(c)(2)(i)

— delete “be designed to”

(BBBB) 40 CFR 265.1085(c)(2)(ii)

— after “installed” add “and maintained”

(CCCC) 40 CFR 265.1085(e)

— delete “meet” and replace with “comply with”

(DDDD) 40 CFR 265.1085(f)

— delete “meet” and replace with “comply with”

(EEEE) 40 CFR 265.1085(f)(1)

— delete “design the external floating roof in accordance with” and replace with “ensure that an external floating roof meets”

(FFFF) 40 CFR 265.1085(f)(1)(i)

— delete “be designed to”

(GGGG) 40 CFR 265.1085(f)(1)(ii)(A)

— delete “the metallic shoe seal shall be designed so that one end extends” and replace with “one end of the metallic shoe seal shall extend”

— delete “other end extends” and replace with “other end shall extend”

(HHHH) 40 CFR 265.1085(g)

— delete “meet” and replace with “comply with”

(IIII) 40 CFR 265.1085(g)(3)(iii)

— delete “perform the inspections” and replace with “inspect the air emission control equipment”

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- (JJJJ) 40 CFR 265.1085(h)
— delete “meet” and replace with “comply with”
- (KKKK) 40 CFR 265.1085(h)(1)
— delete “be designed not to” and replace with “not”
- (LLLL) 40 CFR 265.1085(h)(3)
— delete “or the following conditions as” and replace with “condition”
- (MMMM) 40 CFR 265.1085(i)
— delete “meet” and replace with “comply with”
- (NNNN) 40 CFR 265.1085(i)(1)
— after “appendix B” add “and all applicable state air pollution control requirements”
— after the second reference to “Total Enclosure” add “under 40 CFR 52.741, Appendix B”
- (OOOO) 40 CFR 265.1085(l) introductory paragraph
— delete “subpart” and replace with “40 CFR 265.1085”
- (PPPP) 40 CFR 265.1085(l)(1)(ii)
— delete “the procedures specified in the applicable section of this subpart” and replace with “the applicable procedures in 40 CFR 265.1085”
— at the end of the paragraph add the following: “This written plan and schedule and the results of all inspections shall be maintained in the facility operating record.”
- (QQQQ) 40 CFR 265.1086(b)
— delete “the surface impoundment” and replace with “each surface impoundment subject to this sections”
— after “installing” add “, maintaining”
- (RRRR) 40 CFR 265.1086(c)
— delete “meet” and replace with “comply with”
- (SSSS) 40 CFR 265.1086(c)(1)
— delete “designed to meet the following specifications” and replace with “that complies with the following requirements”
- (TTTT) 40 CFR 265.1086(c)(1)(i)
— delete “be designed to”
- (UUUU) 40 CFR 265.1086(c)(3)(ii)
— delete “perform the inspections” and replace with “inspect the floating membrane cover and its closure devices”
- (VVVV) 40 CFR 265.1086(d)
— delete “meet” and replace with “comply with”
- (WWWW) 40 CFR 265.1086(d)(1)(i)
— delete “be designed to”
- (XXXX) 40 CFR 265.1086(d)(1)(ii)
— delete each occurrence of “be designed to”
- (YYYY) 40 CFR 265.1086(d)(3)(iii)
— delete “perform the inspections” and replace with “inspect the air emission control equipment”
- (ZZZZ) 40 CFR 265.1086(g)
— delete “subpart” and replace with “40 CFR 265.1086”

(AAAAA) 40 CFR 265.1086(g)(2)

— delete “the procedures specified in the applicable section of this subpart” and replace with “the applicable procedures in 40 CFR 265.1086”

— at the end of the paragraph add the following: “This written plan and schedule and the results of all inspections shall be maintained in the facility operating record.”

(BBBBB) 40 CFR 265.1087(c)(4)(iii)

— after “removed from the container and” add “placed in a container that complies with the requirements of 40 CFR 265.1087.”

— delete the third occurrence of “the container” and replace with “The defective container”

(CCCCC) 40 CFR 265.1087(d)(4)(iii)

— after “removed from the container” add “, placed in a container that complies with the requirements of 40 CFR 265.1087”

(DDDDD) 40 CFR 265.1087(e)(2)

— delete “meet” and replace with “comply with”

(EEEEEE) 40 CFR 265.1087(e)(2)(i)

— after “appendix B” add “and any applicable state air pollution control requirements”

— after the second occurrence of “Total Enclosure” add “under 40 CFR 52.741, appendix B”

(FFFFF) 40 CFR 265.1087(e)(4)

— delete “subpart” and replace with “40 CFR 265.1087”

(GGGGG) 40 CFR 265.1087(g)(1)

— delete “Each potential” and replace with “For purposes of determining whether a container operates with no detectable emissions, the owner or operator shall check each potential”

— delete “, shall be checked”

(HHHHH) 40 CFR 265.1087(g)(2)

— delete “The test shall be performed” and replace with “In determining whether a container operates with no detectable emissions, the owner or operator shall perform the test”

(IIIII) 40 CFR 265.1087(h)

— delete “Procedure for determining a container to be” and replace with “In determining whether a container is”

— after “section” add “, the following shall apply”

(JJJJJ) 40 CFR 265.1088(b)

— delete “meet” and replace with “comply with”

(KKKKK) 40 CFR 265.1088(b)(1)

— delete “meets” and replace with “complies with”

(LLLLL) 40 CFR 265.1088(c)

— at the beginning of the paragraph add the following: “Except as is provided for in 40 CFR 265.1088(c)(2), a control device shall comply with the applicable specifications and requirements in 40 CFR 265.1088(c)(1)(i) to (iii), inclusive, at all times when gases, vapors or fumes are vented from the waste management unit through the closed vent system to the control device.”

- delete “meet” and replace with “comply with”
(MMMMM) 40 CFR 265.1088(c)(2)(vi)
- delete “operate the closed-vent system such that” and replace with “not allow”
- delete “are not actively vented” and replace with “to be vented”
(NNNNN) 40 CFR 265.1088(c)(3)(ii)
- at the beginning of the paragraph add the following: “The owner or operator shall determine whether carbon removed from a control device is a hazardous waste in accordance with 40 CFR 262.11.”
(OOOOO) 40 CFR 265.1088(c)(6)
- after “design analysis” add “as specified in 40 CFR 265.1088(c)(5)(iv), then such design analysis cannot be used to demonstrate compliance with the requirements of this section and within sixty (60) days of being notified of such disagreement, the owner or operator shall perform a performance test as specified in 40 CFR 265.1088(c)(5)(iii). The”
 - delete “then the disagreement shall be resolved the”
 - after “section” add “shall be used to determine compliance with 40 CFR 265.1088”
(PPPPP) 40 CFR 265.1089(b)
 - after “40 CFR 265.15” add “, including recording inspections in accordance with 40 CFR 265.15(d)”
(QQQQQ) 40 CFR 265.1090(a)
 - delete “a minimum of three years” and replace with “the facility until closure of the facility”
 - in the third sentence delete “operating record until the” and replace with “operating record for a minimum of three years after any”
(RRRRR) 40 CFR 265.1090(b)(1)(ii)(A)
 - after “conducted” add “, the name of the inspector and a notation of any observations made during the inspection”
(SSSSS) 40 CFR 265.1090(b)(2)(i)
 - after “collected,” add “the name of the person taking the samples, a description of the sampling methodology,”
(TTTTT) 40 CFR 265.1090(b)(2)(iii)(B)
 - after “performed,” add “the name of the person taking the measurements, a description of the device(s) used to take the measurements”
(UUUUU) 40 CFR 265.1090(c)(3)(i)
 - after “conducted” add “the name of the inspector and a notation of any observations made during the inspection”
(VVVVV) 40 CFR 265.1090(i) introductory paragraph
 - after “shall be provided” add “in the facility operating record”
(WWWWW) 40 CFR 265.1091
 - delete “[Reserved]” and replace with “
(a) Each owner or operator managing hazardous waste in a tank, surface impoundment, or container exempted from using air emission controls under the provisions of 40 CFR 265.1083(c) shall report to the commissioner each occurrence when hazardous waste is placed in the waste management unit in noncompliance with the conditions specified in 40 CFR 265.1083(c)(1) or (2), as applicable. Examples of such occurrences include placing in

the waste management unit a hazardous waste having an average VO concentration equal to or greater than 500 ppmw at the point of waste origination; or placing in the waste management unit a treated hazardous waste of which the organic content has been reduced by an organic destruction or removal process that fails to achieve the applicable conditions specified in 40 CFR 265.1083(c)(2)(i) to (vi), inclusive. The owner or operator shall submit a written report to the commissioner within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

(b) Each owner or operator using air emission controls on a tank in accordance with the requirements 40 CFR 265.1085(c) shall report to the commissioner each occurrence when hazardous waste is managed in the tank in noncompliance with the conditions specified in 40 CFR 265.1085(b). The owner or operator shall submit a written report to the commissioner within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

(c) Each owner or operator using a control device in accordance with the requirements of 40 CFR 265.1088 shall submit a semiannual written report to the commissioner, except as provided for in 40 CFR 265.1091(d). The report shall describe each occurrence during the previous 6-month period when either: (1) a control device is operated continuously for 24 hours or longer in noncompliance with the applicable operating values defined in 40 CFR 265.1035(c)(4); or (2) a flare is operated with visible emissions for five minutes or longer in a two-hour period, as defined in 40 CFR 265.1033(d). The written report shall include the EPA identification number, facility name and address, and an explanation why the control device could not be returned to compliance within 24 hours, and actions taken to correct the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

(d) A report to the commissioner in accordance with the requirements of 40 CFR 265.1091(c) is not required for a 6-month period during which all control devices subject to 40 CFR 265, subpart CC are operated by the owner or operator such that: (1) During no period of 24 hours or longer did a control device operate continuously in noncompliance with the applicable operating values defined in 40 CFR 265.1035(c)(4); and (2) No flare operated with visible emissions for longer than five minutes during a two-hour period, as defined in 40 CFR 265.1033(d).”

(XXXXXX) 40 CFR 265.1100(d)

— delete “permit” and replace with “prevent”

(3) In addition to the provisions incorporated by reference in subdivisions (1) and (2) of this subsection, the provisions in subsections (b) to (g), inclusive, of this section shall apply.

(b) Facility Containment Standards

In addition to the requirements of 40 CFR 265, Subpart I, the owner or operator of a facility shall comply with the containment system standards specified in 40 CFR 264.175.

(c) Ground Water Monitoring

(1) Applicability

(A) In addition to the provisions of 40 CFR 265.90(a), the commissioner may, when authorized by any applicable law, issue an order requiring the owner or operator of any facility which treats, stores, or disposes of hazardous waste to implement a ground water monitoring program. Any such order may impose requirements in addition to those specified in this subsection.

(B) An owner or operator required to implement a ground water monitoring program shall at all times during the active life of the facility, including closure, and during the post-closure care period conduct ground water monitoring in accordance with the requirements of 40 CFR 265.90 TO 265.94, inclusive, section 22a-449(c)-105(c) of the Regulations of Connecticut State Agencies, and the plan submitted pursuant to section 22a-449(c)-105(c) of the Regulations of Connecticut State Agencies. In the case of any inconsistency between the regulations and the plan, the owner or operator shall comply with the more stringent requirement.

(2) Ground Water Monitoring Program

(A) On or before November 19, 1981, the owner or operator of a facility who is required, either by 40 CFR 265.90(a) or by order issued by the commissioner under any applicable law, to implement a ground water monitoring program shall submit to the commissioner a comprehensive written ground water monitoring plan. All amendments to a ground water monitoring plan shall be submitted to the commissioner in accordance with subparagraph (C) of this subdivision. The owner or operator shall keep a copy of the plan, as amended, at the facility at all times. The ground water monitoring plan and any amendments to the plan shall describe a monitoring program which meets the requirements of 40 CFR 265.91 and complies with 40 CFR 265.92 to 265.94, inclusive, this subsection, and any order of the commissioner. In addition to the requirements of 40 CFR 265.91 to 265.94, inclusive, such plan shall include, at a minimum, a narrative description of all aspects of the ground water monitoring program, including but not limited to the following:

(i) Site and source characterization, including, but not limited to: vicinity maps, to scale, with title, date, scale, north arrow and legend, showing site location and natural and artificial features in the area surrounding the site; site map, to scale, with title, date, scale, north arrow and legend, depicting site boundaries, natural and artificial features, surface waters, and all solid waste management units; descriptions of site activities and processes, current and historic, and hazardous materials used or generated; and current and historic sources of pollution on-site;

(ii) Geology and hydrogeology summary for the site and vicinity, including, but not limited to: geologic map(s) with title, date, scale, north arrow and legend, providing regional and site-specific detail; hydro-stratigraphic cross-section(s) with title, date, scale, north arrow and legend; identification of the uppermost aquifer below the site, its connection with other water-bearing strata, and its vertical and lateral boundaries; evaluation of vertical and lateral components of flow in the uppermost aquifer; hydraulic conductivity of the uppermost aquifer and its variability; pertinent physical and chemical properties of any

confining stratum relative to wastes on-site; seasonal or other temporal changes which may affect site hydrogeologic interpretations; location of water supply wells and surface waters on-site and in the potentially affected area and discussion of how the site may impact water quality; and a summary and interpretation of all ground water monitoring data collected to date, if any;

(iii) A description of and justification for the ground water monitoring system, including, but not limited to: the number of monitoring wells and piezometers; a site map with title, date, scale, north arrow and legend, showing their locations; placement rationale for each well and piezometer (relative to ground water flow, geology, suspected sources of pollution, and ground water monitoring program objectives); depths and screened intervals (including rationale); boring logs (including aborted holes and unusual drilling conditions); as-built construction diagrams; and construction and development methodology and the rationale for their selection;

(iv) A list of monitoring parameters and sampling frequency, including those required by 40 CFR 265.92 (b), water level, and any additional parameters which could reasonably be expected to be present at the site (site-specific parameters) and which may impact ground water quality, and the rationale for their selection, based on an evaluation of the contaminant source, site history and characteristics, and related factors;

(v) A ground water sampling and analysis plan, including, but not limited to: procedures and techniques for sample collection, sample preservation and shipment; analytical procedures; chain of custody control; and field and laboratory quality assurance/quality control procedures;

(vi) Details of data evaluation and response procedures which meet the requirements of 40 CFR 265.93, and include, but are not limited to: monitoring program objectives and the rationale behind evaluation procedures; specific evaluation techniques, including details of any statistical or trend analyses proposed, showing how the program objectives are achieved; and reporting format; and

(vii) Other information as the Commissioner deems necessary in order to determine whether the monitoring program is adequate to determine the effect of the facility on the ground waters of the State.

(B) All monitoring which is required by law or specified in the ground water monitoring plan shall be conducted at least quarterly throughout the active life of the facility, including closure, and during the post-closure care period. Commencing with the second year following the installation of monitoring wells, and upon the completion of at least four quarterly sampling events, an owner or operator may conduct the monitoring required by law or specified in the ground water monitoring plan on a semi-annual basis provided that he has obtained the prior written approval of the commissioner. Such approval shall be based upon site-specific technical information submitted by the owner or operator which clearly demonstrates that more frequent monitoring is unnecessary in evaluating the impact of the site on any waters of the state. Any approval issued by the commissioner reducing the frequency of sampling may include conditions the commissioner deems necessary to protect human health and the environment. The commissioner may require the resumption of quarterly monitoring based upon indications of a release, the concentration of identified contaminants, a review of site history or facility operation and management practices, the

facility's proximity to groundwater wells, the water quality classification and goal for the facility and surrounding area under section 22a-426 of the Connecticut General Statutes, changed circumstances, or non-compliance with any conditions imposed concerning the reduction in monitoring requirements or similar considerations.

(C) Except as allowed by the Commissioner in writing or as required by law, including but not limited to 40 CFR 265.93 (d), the owner or operator shall submit any amendment to the ground water monitoring plan to the Commissioner no later than sixty days prior to implementation of the amendment. Any change in the ground water monitoring program which modifies a post-closure plan or the length of a post-closure care period shall be made in accordance with 40 CFR 265.118 and shall not be implemented until the Commissioner has made any determination required by 40 CFR 265.118. Notwithstanding the time deadlines specified in this subparagraph, the owner or operator shall comply with any more stringent time deadlines set forth in 40 CFR 265.93 (d).

(3) Reporting Requirements.

(A) In addition to any other reporting requirements imposed by law, including but not limited to 40 CFR 265.93(d), if requested in writing by the commissioner, the owner or operator of a facility shall submit a report or reports on ground water monitoring conducted or to be conducted at a facility. Such report(s) shall be submitted to the commissioner within the timeframe specified by the commissioner. However, if no timeframe is specified and the request concerns groundwater monitoring which has already been conducted, the requested report(s) shall be submitted within thirty days of receipt of the commissioner's written request. If no timeframe is specified and the request concerns groundwater monitoring which has not yet been conducted, the requested report(s) shall be submitted within fifteen days of the owner or operator's receipt of groundwater monitoring sampling results or sixty days after the completion of groundwater monitoring, whichever is sooner. Unless otherwise specified by the commissioner in writing, in addition to the requirements of 40 CFR 265.94, such reports shall include, but not be limited to, the following:

(i) One table in which the following is shown for all wells and piezometers: the date of sampling, monitoring data, including replicate values if applicable, and ground water depths and elevations;

(ii) Identification, by well and parameter, of all data with values which exceed those in 40 CFR 265 Appendix III, any Maximum Contaminant Levels (MCLs) in 40 CFR 141, any potable water standard determined by the Connecticut Department of Health Services and any remediation standard established under section 22a-133k-1 to 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies;

(iii) A ground water flow contour map to scale with title, date, scale, north arrow and legend, based on the data from the sampling event including, at a minimum: well and piezometer location, ground water elevations, ground water elevation contours, flow direction, solid waste management units, structures and paved areas, property boundaries, and surface waters on-site and in the potentially affected area;

(iv) As-built construction drawings, boring logs, and supporting field notes for construction and development of any wells and piezometers installed since the last report;

(v) Scheduled date of next sampling event; and

(vi) Results of any site-specific data and statistical evaluation required or specified in

the ground water monitoring plan.

(B) In addition to any other reporting requirements imposed by law, including but not limited to 40 CFR 265.93(d), the owner or operator of any facility required to implement a ground water monitoring program pursuant to the State Hazardous Waste Management Regulations shall summarize, on a calendar year basis in an annual report, the results of ground water monitoring at a facility. Such annual report shall be submitted to the commissioner by March first of the following calendar year. In addition to the requirements of 40 CFR 265.94, the annual report shall include, at a minimum, the following:

(i) One data table for each well, continuing the previous year's data, arranged with monitoring parameters, including ground water depth and elevation, on the vertical axis and sampling date on the horizontal axis;

(ii) One table in which the following is shown for all wells and piezometers: the date of sampling, monitoring data, including replicate values if applicable, and ground water depths and elevations;

(iii) Identification, by well and parameter, of all data with values which exceed those in 40 CFR 265 Appendix III, any Maximum Contaminant Levels (MCLs) in 40 CFR 141, any potable water standard determined by the Connecticut Department of Health Services and any remediation standard established under section 22a-133k-1 to 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies;

(iv) A ground water flow contour map for each sampling event conducted during the previous year to scale with title, date, scale, north arrow and legend, based on the data from the sampling event including, at a minimum: well and piezometer location, ground water elevations, ground water elevation contours, flow direction, solid waste management units, structures and paved areas, property boundaries, and surface waters on-site and in the potentially affected area;

(v) Copies of all construction drawings, completion and development documentation, and boring logs for wells and piezometers installed during the previous year;

(vi) A separate graph for each monitored parameter, including ground water elevation. Each graph shall include data from the most recent three years and shall display the concentration on the vertical axis and the sampling date on the horizontal axis. The data points for each sampling location shall be connected by a straight line;

(vii) Discussion and interpretation of the ground water monitoring data and ground water flow directions. Such discussion shall include, but not be limited to: any site-specific data or statistical evaluations for the previous year, any variations in reported data throughout the history of monitoring at the site, and the results of determinations of concentration, extent, and rate of migration of monitored constituents in the ground water;

(viii) Evaluation of the adequacy of the monitoring system and program including but not limited to: discussion of results of the field and laboratory quality assurance and quality control program; review of the suitability of the specific wells and piezometers, parameters, and data evaluation methods for the program objectives; summary and evaluation of any modifications implemented in the ground water monitoring program in the previous two years; and evaluation of the condition of the wells and piezometers, specific actions that will be taken to correct any deficiencies and a schedule of implementation for such actions;

(ix) One summary table containing established baseline values and statistical values,

which are used for data evaluation, and the data from which they were derived;

(x) One data table summarizing construction and completion details for all wells and piezometers used in the monitoring program, including, but not limited to, top of casing elevation, screen top elevation, screen length, total depth, typical ground water elevation, identification of the water bearing horizon, and the reason the well or piezometer is included in the monitoring program; and

(xi) Copies of laboratory analytical reports and field notes, for the previous year, from which the summary tables in the sampling event and annual reports were prepared.

(4) **Notice of Deficiencies**

(A) The commissioner may, at any time, review a ground water monitoring plan or report, submitted pursuant to this section and issue a notice of deficiency. Upon receipt of any such notice of deficiency the owner or operator shall immediately correct its ground water monitoring program and shall resubmit the plan or report, with the deficiencies corrected, within the time specified by the commissioner or, if no time is specified by the commissioner, within thirty days of the date that the notice of deficiency was mailed or personally delivered by the commissioner.

(B) The commissioner may issue a notice of deficiency under this subsection regardless of any previous approval. Failure of the commissioner to issue a notice of deficiency does not imply that the monitoring program, or any plan or report is approved or that it meets the requirements of 40 CFR 265.90 to 265.94, inclusive, or this section.

(C) The issuance of a notice of deficiency by the commissioner and the provision of any deadlines for correction of deficiencies shall not excuse non-compliance or delayed compliance with this section or prevent the commissioner from taking any other action authorized by law, including but not limited to action to ensure compliance or assess penalties.

(d) **Cost Estimates for Closure**

The owner or operator of a facility shall submit to the Commissioner the original cost-estimates for closure and post-closure care and all subsequent adjustments to the cost-estimates within thirty days of their completion in accordance with 40 CFR 265.142 and 40 CFR 265.144.

(e) **Tank Systems**

As soon as waste begins to accumulate in a tank or tank system, the owner or operator shall clearly label the tank or the tank system, whichever would be more conspicuous, with "Hazardous Waste" and other words which clearly identify the contents of the tank or tank system, such as "flammable", "acid", "alkaline", "cyanide", "reactive", "explosive", "halogenated solvent" or the chemical name. If it is not possible to label the tank or tank system so that the label is conspicuous, then the area adjacent to the tank or tank system shall be labeled as prescribed above so that the identification of the contents of the tank is clearly visible for inspection.

(f) **Underground Injection**

Treatment, storage, or disposal of hazardous waste by underground injection is prohibited.

(g) **Management of Containers**

The owner or operator of a hazardous waste facility using containers to store hazardous waste, shall ensure that each container storing hazardous waste is labeled or marked clearly

with the words “Hazardous Waste” and other words that identify the contents of the container such as “flammable”, “acid”, “alkaline”, “cyanide”, “reactive”, “explosive”, “halogenated solvent” or the chemical name.

(h) Corrective Action at Interim Status Disposal Facilities

(1) For purposes of this subsection only, all terms shall be defined as defined in section 22a-449(c)-100 of the Regulations of Connecticut State Agencies, except that the following terms shall be defined as follows:

(A) “Disposal facility” means a facility that has not been issued a hazardous waste permit under section 22a-449(c)-110 of the Regulations of Connecticut State Agencies, at which: (i) hazardous waste was disposed of in a surface impoundment, waste pile, land treatment unit, or landfill, after July 26, 1982; (ii) an owner or operator either certified closure of or applied for a closure by removal determination regarding the closure of a surface impoundment, waste pile, land treatment unit, or landfill, after January 26, 1983; (iii) hazardous waste was disposed of on the land or in the waters of the state, other than in a surface impoundment, waste pile, land treatment unit, or landfill, after July 26, 1982, except at a facility engaged solely in the storage or treatment of hazardous waste in containers or tanks; (iv) a tank system is required to meet the requirements for a landfill pursuant to 40 CFR 265.197; or (v) a containment building is required to meet the requirements for a landfill pursuant to 40 CFR 265.1102.

(B) “Environmental condition assessment form” or “ECAAF” means a form, prescribed and provided by the commissioner, that contains all of the information about environmental conditions at the disposal facility, is prepared under the supervision of a licensed environmental professional, and is executed by the owner or operator of a disposal facility. ECAAF includes the form defined in section 22a-134(17) of the Connecticut General Statutes.

(C) “Hazardous substance” or “Hazardous substances” means hazardous substances as defined on 42 U.S.C. § 9601 (section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980); any hazardous constituent identified in 40 CFR 261, Appendix VIII, or a petroleum product or by-product for which there are remediation standards pursuant to section 22a-133k of the Connecticut General Statutes or for which such remediation standards have a process for calculating the numeric criteria of such substance.

(D) “Licensed Environmental Professional” means a person with a current valid and effective license issued by the commissioner pursuant to section 22a-133v of the Connecticut General Statutes.

(E) “Release” means any discharge, spillage, uncontrolled loss, seepage, filtration, leakage, injection, escape, dumping, pumping, pouring, emitting, emptying, spilling or disposal of a substance.

(F) “Substance” means an element, compound or material which, when added to air, water, soil or sediment, may alter the physical, chemical, biological or other characteristic of such air, water, soil or sediment.

(2) The requirements of this subsection shall apply only to the owner or operator of a disposal facility required to operate under, currently operating under, or authorized to operate under interim status pursuant to 40 CFR 270.70. The owner or operator of a disposal facility subject to this subsection shall investigate and remediate all releases of hazardous

waste and hazardous substances at or from the facility in accordance with the requirements of this subsection.

(3) ECAF Submission.

(A) An owner or operator of a disposal facility subject to this subsection that has submitted an ECAF to the commissioner on or after October 1, 1995, pursuant to section 22a-134 to 22a-134e, inclusive, of the Connecticut General Statutes (commonly known as the “Transfer Act”), need not submit another ECAF for any such facility, but may instead provide the commissioner with written notice of the date such ECAF was filed and shall include in any such notice an update to the information in the previously filed ECAF. Any update to the information in a previously filed ECAF shall be prepared under the supervision of a licensed environmental professional and executed by the owner or operator of the disposal facility. Any notice to the Commissioner submitted pursuant to this subparagraph shall be submitted on or before February 26, 2003.

(B) An owner or operator of a disposal facility subject to this subsection that has not previously submitted an ECAF to the commissioner shall submit an ECAF to the commissioner on or before August 27, 2003. An owner or operator of a disposal facility subject to this subsection that has submitted an ECAF to the commissioner pursuant to the Transfer Act before October 1, 1995, shall submit a new ECAF to the commissioner for such disposal facility on or before August 27, 2003.

(4) Upon review of the environmental condition assessment form and any other information about a disposal facility, the commissioner may notify the owner or operator of the facility, in writing, whether any further investigation and remediation of releases of hazardous waste or hazardous substances at or from such facility is required. In addition, the notification provided by the commissioner shall also indicate whether or not the review and approval of the investigation and remediation by the commissioner will be required or whether such investigation and remediation may be overseen by a licensed environmental professional. Before making any such determination, the commissioner may require the owner or operator of such facility to submit additional information, including but not limited to technical plans, technical reports, or other information related to any investigation or remediation undertaken at the facility.

(5) Investigation and Remediation – Licensed Environmental Professionals. The owner or operator of a disposal facility shall ensure that any investigation and remediation of a facility overseen by an LEP complies with the following requirements:

(A) On or before thirty (30) days of receipt of the notice from the commissioner pursuant to subdivision (4) of this subsection (“the notice”), or such later date as may be approved in writing by the commissioner, the owner or operator of the facility shall submit to the commissioner a schedule for investigating and remediating releases of hazardous waste and hazardous substances at or from the facility. Such schedule shall, unless a later date is approved by the commissioner in writing, provide that investigation shall be completed within two years of the date of receipt of the notice from the commissioner and provide that remediation at the facility shall be initiated within three years of the date of receipt of the notice from the commissioner. The schedule shall also include a schedule for public participation prior to the initiation of remediation in accordance with subdivision (7) of this subsection. The owner or operator shall investigate and remediate the disposal facility in

accordance with the proposed schedule and any modifications made thereto by the commissioner.

(B) The owner or operator of the disposal facility shall notify the commissioner in writing of any modifications to the schedule proposed under subparagraph (A) of this subdivision. The owner or operator shall obtain the written approval of the commissioner regarding any proposed modification if: (i) the proposed modification is to a schedule previously approved by the commissioner; or (ii) the modifications sought by the owner or operator would result in all investigation activities at the facility not being completed within two years of the date of receipt of the notice from the commissioner, or would result in not all remediation at the facility being initiated within three years of the date of the date of receipt of the notice from the commissioner. Any other modifications to the schedule do not need to be approved by the commissioner.

(C) The owner or operator of a disposal facility shall submit to the commissioner an independent verification by a licensed environmental professional that the disposal facility has been investigated in accordance with prevailing guidelines and standards and remediated in accordance with the remediation standard regulations, sections 22a-133k-1 through 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies.

(D) Notwithstanding any previous notification that an investigation or remediation may be overseen by an LEP, the commissioner may at any time, notify the owner or operator of a disposal facility that the commissioner's review and written approval of any investigation or remedial action at the facility is necessary. If the owner or operator of facility receives any such notice, then the provisions of subdivision (6) of this subsection shall thereafter apply to all investigation and remediation undertaken at the facility.

(6) Investigation and Remediation – The Department. The owner or operator of a disposal facility shall ensure that any investigation and remediation of a facility overseen by the Commissioner complies with the following requirements:

(A) On or before thirty (30) days of the receipt of notice from the commissioner pursuant to subdivision (4) of this subsection, or such later date as may be approved in writing by the commissioner, the owner or operator of the disposal facility shall submit for the commissioner's review and written approval, a proposed schedule for: (i) investigating and remediating the facility; and (ii) submitting to the commissioner scopes of work, technical plans, technical reports and progress reports related to such investigation and remediation. The schedule shall also include a schedule for public participation prior to initiation of remediation in accordance with subdivision (7) of this subsection. Upon the commissioner's approval of such schedule, the owner or operator shall, in accordance with the approved schedule, submit scopes of work, technical plans, technical reports and progress reports to the commissioner for the commissioner's review and written approval. The commissioner may approve any such scopes of work, reports, plans or reports with modifications. The owner or operator shall perform all actions identified in the scopes of work, technical plans, technical reports and progress reports, as approved by the commissioner, in accordance with the schedule approved by the commissioner.

(B) The commissioner may approve, in writing, any modification to a previous approval regarding the investigation, remediation, or the schedule for performing any investigation or remediation undertaken pursuant to this subdivision.

(C) Notwithstanding any previous notification that the investigation or remediation of a disposal facility shall be overseen by the Commissioner, the commissioner may at any time, notify the owner or operator of a disposal facility in writing that the commissioner's review and written approval of the investigation or remediation at a disposal facility is no longer necessary. If the owner or operator of facility receives any such notice, then the provisions of subdivision (5) of this subsection shall thereafter apply to all investigation and remediation activities undertaken and all subsequent investigation and remediation at any such facility shall be overseen by a licensed environmental professional.

(7) Public Participation

(A) Prior to the commencement of any remedial action undertaken pursuant to this subsection, the owner or operator of a disposal facility shall provide public notice of the proposed remediation in accordance with the schedule submitted pursuant to this subsection or an alternative schedule approved by the commissioner. Any such notice shall summarize the investigations undertaken, the results of the investigations and clearly identify the proposed remediation activities. The notice shall also include an address, telephone number for an office and contact person from which any interested person may obtain additional information about the investigation undertaken and the proposed remediation, including but not limited to, access to all the scopes of work, plans, reports, sampling, analysis, and sampling results regarding the investigation undertaken at the facility and the consideration, if any, of alternative remedial actions. The notice shall also provide that comments of the proposed remediation may be submitted to the commissioner within forty-five days of the publication or mailing of such notice.

The owner or operator shall: (i) publish such notice in a newspaper having a substantial circulation in the municipality in which the disposal facility is located and the municipality or area affected by the facility; (ii) provide a copy of the notice to the director of health of the municipality where the disposal facility is located; (iii) provide a copy of the notice to all persons on the facility mailing list maintained pursuant to 40 CFR 124.10(c)(1)(ix); and (iv) either (I) erect and maintain for at least thirty days in a legible condition a sign not less than six feet by four feet at the facility, which sign shall be clearly visible from the public highway, and shall include the words "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER INFORMATION CONTACT:", including a telephone number for an office from which any interested person may obtain additional information about the remediation, or (II) mail a copy of the notice to each owner of record of property which abuts the facility, at the address for such property on the last-completed grand list of the municipality where the facility is located.

(B) The commissioner shall forward a copy of all comments received by the date specified in the public notice on the proposed remediation, and all comments made at a public hearing, to the owner or operator of the facility. The owner or operator shall, within sixty days of receiving such comments, submit to the commissioner a written summary of all such comments and a written response to each such comment. The commissioner shall review such summary and responses and shall adopt it as his own, adopt it with modifications, or reject it and prepare a summary of and response to each comment. The commissioner shall send a copy of the summary and responses to comments and his action with respect thereto to each person who submitted comments on the remediation proposal.

(C) If the commissioner determines that there is substantial public interest in any remediation proposed pursuant to this subsection, he may hold a public meeting on such proposed remediation, and he shall hold a meeting upon receipt of a petition signed by twenty-five or more persons. Notice of any such meeting shall be given in the manner prescribed by subparagraph (A) of this subdivision. Any such meeting need not be conducted pursuant to the provisions of chapter 54 of the Connecticut General Statutes.

(8) The investigation and remediation required under this subsection shall, at a minimum, be equivalent to that specified for corrective action in 40 CFR 264.101 and the commissioner shall, to the extent feasible, ensure that any such investigation and remediation is consistent with investigation and remediation undertaken under other state programs. Nothing in this subsection, however, shall relieve an owner or operator from any other obligation imposed by law, including but not limited to, any obligation imposed under the state's hazardous waste management regulations, including any closure or post-closure obligation; or any requirement imposed under sections 22a-133k-1 to 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies.

(9) Upon request by the commissioner, the owner or operator shall submit to the commissioner copies of technical plans, reports, analytic results of any other information related to investigation and remediation of a facility undertaken pursuant to this subsection. Unless the Commissioner specifies another period of time, the owner or operator shall submit the information requested by the Commissioner within thirty days of the Commissioner's request.

(10) Disposal Facilities Also Subject to Section 22a-134 to 22a-134e of the Connecticut General Statutes, inclusive.

(A) Investigation. Except as provided for in this subparagraph, an owner or operator who is performing or has completed an investigation of a disposal facility pursuant to sections 22a-134 to 22a-134e of the Connecticut General Statutes, inclusive, (commonly known as the "Transfer Act") shall be deemed to be satisfying or have satisfied the requirement to investigate such disposal facility as required by this subsection. The foregoing shall apply, however, only to that portion of a disposal facility at which an investigation is being performed or has been completed under the Transfer Act. If for any reason, including but not limited to, a review of the investigation undertaken at such disposal facility, or comments received pursuant to 40 CFR 270.73, the Commissioner determines that any such disposal facility, or any portion thereof, is not being investigated or has not been investigated in accordance with prevailing standards or guidelines or any other requirement of the Transfer Act or that the investigation undertaken is not sufficient to identify the nature and extent of all releases of hazardous waste and hazardous substances at or from such disposal facility, the owner or operator shall not be deemed to have satisfied the requirements of this subsection and shall perform the investigation required by this subsection. The Commissioner will notify the owner or operator in writing, pursuant to subdivision (4) of this subsection, if he determines that further investigation of a disposal facility is required and shall include the basis for any such determination in any such notification.

(B) Remediation. Except as provided for in this subparagraph, an owner or operator who is completing or has completed remediation of a disposal facility pursuant to sections 22a-134 to 22a-134e of the Connecticut General Statutes, inclusive, (commonly known as the

“Transfer Act”) shall be deemed to be satisfying or have satisfied the requirement to remediate such disposal facility as required by this subsection. The foregoing shall apply, however, only to that portion of a disposal facility at which remediation is actually being performed or has been completed under the Transfer Act. If for any reason, including but not limited to, a review of the remediation undertaken at any such disposal facility, or comments received pursuant to 40 CFR 270.73, the Commissioner determines that that any such disposal facility, or any portion thereof, is not being remediated or has not been remediated in accordance with the remediation standards or any other requirement of the Transfer Act or that the remediation undertaken is not protective of human health or the environment, the owner or operator shall not be deemed to have satisfied the requirements of this subsection and shall perform the remediation required by this subsection. The Commissioner will notify the owner or operator in writing, pursuant to subdivision (4) of this subsection, if he determines that further remediation of a disposal facility is required and shall include the basis for any such determination in any such notification.

(C) Nothing in this subdivision shall exempt an owner or operator from the requirement to submit an ECAF under subdivision (3) of this subsection.

(11) Nothing in this subsection shall affect the authority of the Commissioner under any other statute or regulation, including, but not limited to, the authority to issue any order to prevent or abate pollution or potential sources of pollution.

(Effective July 17, 1990; Amended October 31, 2001; Amended June 27, 2002; Amended September 10, 2002)