

CHAPTER 65-80

SOLID WASTE MANAGEMENT REGULATIONS

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Appendix I 40 CFR 258 (1999)

Appendix II 40 CFR 257 (1999)

Chapter Authority: 1 CMC §§ 2646-2649; 1 CMC § 2650; 2 CMC §§ 3101-3135; 2 CMC §§ 3511-3521.

Chapter History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: For a complete history of the authority of the Division of Environmental Quality (DEQ), see the commission comment to NMIAC chapter 65-10.

PL 6-30 (effective May 23, 1989), the “Commonwealth Solid Waste Management Act of 1989,” codified as amended at 2 CMC §§ 3511-3521, specifically addresses the collection, disposal and management of solid waste in the Commonwealth. 2 CMC § 3515 empowers DEQ to issue permits for the collection and disposal of solid waste and to establish rules and regulations to enforce DEQ’s powers under the act.

Executive Order No. 2013-24, promulgated at 35 Com. Reg. 34596 (Nov. 28, 2013), established a new Bureau of Environmental and Coastal Quality. This Order reorganized the Division of Environmental Quality as a division of the Bureau of Environmental and Coastal Quality, and provided that “all rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Executive Order shall continue to be effective until revised, amended, repealed or terminated.”

Part 001 - General Provisions

§ 65-80-001 Applicability

(a) The regulations in this chapter have been promulgated by the Division of Environmental Quality under the authority of Commonwealth Solid Waste Management Act, 1989, 2 CMC §§ 3511 to 3521; the Commonwealth Environmental Protection Act (CEPA), 1982, 2 CMC §§ 3101 to 3134, and the Commonwealth Environmental Amendments Act (CEAA), 1999, PL 11-103. The regulations in this chapter shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

(b) The regulations in this chapter are applicable to all persons involved in the management of solid waste.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-005 Purpose & Prohibitions

(a) The purpose of the regulations in this chapter is to establish the requirements and criteria for new and existing solid waste management activities and solid waste management facilities (SWMFs) including, but not limited to, municipal solid waste landfills and other landfilling operations, incineration, solid waste collection and transfer, materials processing, recycling, composting, and salvage. These requirements and criteria ensure the protection of human health and the environment.

(b) All new and existing solid waste management activities and SWMFs failing to comply with the regulations and criteria in this chapter are prohibited. Facilities for the disposal of solid waste that fail to satisfy the requirements of this chapter are considered open dumps, and the use of open dumps is prohibited.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-010 Definitions

(a) Definitions from federal regulations incorporated by reference are included in the appendices to this chapter.

(b) The following are additional definitions included for clarity as they pertain to the CNMI Solid Waste Management Regulations, codified in this chapter:

(1) “Acts” mean the CEPA, SWMA, and the CEAA unless otherwise stated.

(2) “Bioconversion” means the processing of the organic fraction of the waste stream through biological or chemical means to perform composting or to generate products, including, but not limited to, fertilizers, feeds, methane, alcohols, tars, and other products. This term includes, but is not limited to, biogasification, acid hydrolysis, pyrolysis, and fermentation. This term does not include any form of

incineration or methane gas extraction from a MSWLF.

- (3) "CEAA" means Commonwealth Environmental Amendments Act, 1999, PL 11-103.
- (4) "CEPA" means Commonwealth Environmental Protection Act, 1982, 2 CMC §§ 3101 to 3134.
- (5) "CESQG wastes" means hazardous wastes from a conditionally exempt small quantity generator as defined in 40 CFR 261.5 (1999).
- (6) "CFR" means the United States Code of Federal Regulations, 1999.
- (7) "Closure" means those actions taken by the owner or operator of a solid waste management facility to cease disposal operations and to ensure that closure is in conformance with applicable requirements as described in part 200.
- (8) "CNMI" or "Commonwealth" means the Commonwealth of the Northern Mariana Islands.
- (9) "Collection" means the removal of solid waste from a generation or transfer point and the subsequent transport of the solid waste to a site/facility for further processing, additional transfer, or disposal.
- (10) "Composting" means a process in which organic solid wastes, such as biosolids (sewage sludge), vegetative waste materials, manures, and non-treated wood chips and shavings, are biologically decomposed and stabilized under controlled conditions to produce a stable humus-like mulch or soil amendment. This term includes the processing of organic and non-treated wood waste materials for the generation of wood chips or other materials that can be used as soil amendment, planting mixes, mulches for horticultural and agricultural applications, landfill cover, and land reclamation.
- (11) "Convenience center" means waste handling facilities performing limited transfer station operations and receiving less than five tons per day of exclusively household/residential waste.
- (12) "Cover material" means soil or other suitable material that has been approved by the Director of DEQ for use as cover material for solid waste at a MSWLF.
- (13) "DEQ" means the CNMI Division of Environmental Quality.
- (14) "Director" means the Director of the CNMI Division of Environmental Quality or person designated to act by the Director unless otherwise specified.
- (15) "DPW" means the CNMI Department of Public Works unless otherwise specified.
- (16) "Hazardous waste" means any waste defined as hazardous under 40 CFR part 261 (1999).
- (17) "Incineration" means the destruction of solid waste by combustion in a furnace designed for such purposes where solid waste essentially is reduced to ash, carbon dioxide and water vapor.
- (18) "Nuisance" means an act or an omission of an act which annoys, injures, or endangers the comfort, health, or safety of others, offends decency, or unlawfully interferes with, or obstructs or tends to obstruct, any public park, square, street, or highway, or in any way renders other persons

insecure in life, or in the use of property.

(19) "Permit" means any authorization, license, or equivalent control document issued under the authority of DEQ that regulates the management of solid waste including location, design, construction, operation, groundwater monitoring, corrective action, closure, post-closure care, and financial assurance elements applicable to solid waste management activities and SWMFs.

(20) "Permit by rule" means an abbreviated procedure by which those solid waste management facilities considered by the Director of DEQ to have limited impact to the community and the environment may begin operations in accordance with § 65-80-108 of this chapter.

(21) "Person" means an individual, firm association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(22) "Post-closure" means the requirements placed upon landfill disposal sites after closure to enable their environmental safety for a thirty-year period.

(23) "Premises" means tract or parcel of land with or without buildings.

(24) "Processing" means an operation to convert solid waste or recyclable materials into a useful product or prepare such materials for disposal.

(25) "Pyrolysis" means the process in which solid waste is heated in an enclosed device in the absence of oxygen to vaporize the waste, producing a hydrocarbon-rich gas capable of being burned for recovery or energy.

(26) "RCRA" means the federal Resource Conservation and Recovery Act, 1976, as amended to 1999, 42 USC §§ 6901 to 6992.

(27) "Refuse" means anything putrescible or non-putrescible that is discarded or rejected as waste.

(28) "Reserved" means a section having no requirements and which is set aside for future possible rulemaking as a note to the regulated community.

(29) "Salvage" means the incidental removal of solid waste for reuse under the control of the facility owner or operator.

(30) "Solid waste management activity" means any activity that provides for the systematic administration of the collection, source separation, storage, transportation, transfer, transformation, processing, treatment, and disposal of solid waste.

(31) "Solid waste management facility" (SWMF) means any site at which solid wastes are aggregated for storage, transfer, transformation, processing, or disposal, including but not limited to municipal solid waste landfills (MSWLFs), (as defined under 40 CFR part 258 (1999) adopted by reference under part 200 of this chapter), non-municipal, non-hazardous waste disposal units that receive conditionally exempt small quantity generator (CESQG) waste (as defined under 40 CFR part 257 (1999) adopted by reference under part 300 of this chapter), transfer stations, recycling operations, or incinerators, but not including sites where a single person has collected his/her own solid wastes for a brief period prior to removal to a solid waste management facility, unless such person has created thereby a public

nuisance or health hazard.

(32) "Solid waste management permit" means a permit issued by DEQ to a public or private entity that is involved in the collection and disposal of solid waste.

(33) "Source separation" means separation of solid waste into some or all of its component parts at the point of generation of the solid waste.

(34) "Storage" means the holding of solid waste materials for any temporary period.

(35) "Stream" means the point at which any confined freshwater body of surface water reaches a mean annual flow rate of twenty feet per cubic second.

(36) "Surface water" means all lakes, rivers, ponds, streams, inland waters, salt waters and water courses within the jurisdiction of the CNMI.

(37) "SWMA" means Solid Waste Management Act, 1986, 2 CMC §§ 3511 to 3521.

(38) "Transfer station" means a site to which solid wastes are brought from their point of generation or previous transfer and where such wastes are temporarily stored prior to transfer to a site of additional transfer or separation, recycling, storage, processing, or disposal.

(39) "Treatment" means the physical, chemical or biological processing of solid waste to make such solid waste safer for storage or disposal, amenable for energy or material source recovery, or reduced in volume.

(40) "Used oil transporter" means a person licensed or certified under local, state, or federal requirements to transport used oil.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 100 - General Permit Requirements - Solid Waste Management Activities/Facilities

§ 65-80-101 Applicability

(a) It shall be unlawful for any person to perform solid waste management activities or own or operate a SWMF except in accordance with a permit issued under this chapter. All permit applications shall be submitted to DEQ, and all permits will be issued by DEQ. DEQ shall have the authority to impose requirements on all solid waste management activities and SWMFs to ensure compliance with

these and all applicable regulations.

(b) Permits issued by DEQ shall be valid for five years following the date of issuance.

Modified, 1 CMC § 3806(d), (e).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-102 Exemptions

The following are exempted from requirements of this part. These exemptions do not apply to facilities regulated under 40 CFR parts 257 and 258 (1999).

(a) A single family or multiple residence composting only green or vegetative solid wastes generated on its premises.

(b) Minor facilities/activities not involving the disposal of municipal solid waste, as determined in writing by DEQ.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-104 Application for Permit

An application for a permit shall be completed on forms furnished by DEQ and shall include, but not be limited to the following:

- (a) Name, address, and telephone number of the applicant;

- (b) Type of application (new, revision, or renewal);

- (c) A description of how the proposed solid waste management facility/activities complies with applicable regulations; certification of compliance with local ordinances and zoning requirements;

- (d) A written description of the proposed solid waste management facility/activities, including information such as general plan of operation of the solid waste management facility/activities (e.g., collection, segregation, disposal, etc.); proposed method and length of operation; area/population to be served; characteristics, quantity, and source material to be managed; the use and distribution of processed materials; method of processed residue disposal; type of equipment to be used; number of solid waste management personnel and the responsibilities of personnel; source and type of cover material (if applicable); emergency operating procedures; frequency and proposed routes of transportation to be used for the solid waste management facility/activities;

- (e) Detailed description of plans and specifications for the solid waste management facility/activities and a detailed map showing the location of the solid waste management facility/activities. Final design specifications shall comply with all applicable regulations and criteria including those found in parts 200 and 300 of this chapter and be submitted to DEQ for approval prior to commencement of operations/activities;

- (f) For MSWLF and non-municipal non-hazardous waste disposal units receiving CESQG wastes, a description of the plans for ground-water monitoring and corrective action as required in parts 200 and 300 of this chapter;

- (g) For MSWLF, description of the plans for the closure and post-closure as required in part 200 of this chapter;

- (h) For MSWLF, description of the how the facility will meet the financial assurance requirements as required in part 200 of this chapter;

- (i) Other specific requirements as stated for each facility/activity.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-106 Fees

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-108 Permit by Rule

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-110 Regulatory Agency Review

(a) DEQ may require any additional information necessary to issue permits that are adequate to ensure compliance with the local and federal regulations and to ensure protection of public health and the environment of the CNMI.

(b) DEQ shall within a reasonable amount of time from the date the application is received and the payment of the application fee, notify the applicant in writing if any additional information or items are required. Within 180 days of the receipt of a complete application DEQ will notify the applicant of approval or disapproval.

(c) The 180 days time period will be tolled for any requests for additional information and for the

public comment period.

(d) Within one hundred eighty days of receiving a complete application, and after consideration of public comments in accordance with § 65-80-112, DEQ shall:

(1) Approve an application for a permit if the application and the supporting information clearly show that the issuance thereof does not pose a threat to the environment, public health, or welfare, and that the solid waste management activity or SWMF is designed, built, and equipped to operate without causing a violation of applicable rules and regulations;

(2) Deny an application for a permit if the application and supporting information clearly show that the issuance, thereof, poses a threat to the environment, public health, or welfare, or that solid waste management activity or SWMF is not designed, built, and equipped to operate in compliance with applicable rules and regulations.

(3) With the exception of all federally-approved and delegated programs, if no determination on a permit application has been made one hundred eighty days after receipt of a complete application, the application shall be considered approved provided that the applicant acts consistently with the application and all plans, specifications, and other information contained therein. The permittee shall be subject to all applicable or relevant and appropriate federal and CNMI laws and regulations.

Modified, 1 CMC § 3806(c), (e), (g).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: In subsection (d)(3), the Commission corrected the spelling of “permittee.”

§ 65-80-112 Public Notice, Public Comment Period, and Public Hearing

(a) Before issuing a permit for a MSWLF, and before issuing any other permits covered by this chapter which DEQ determines warrant public participation, representatives of DEQ shall conduct a public hearing pursuant to 2 CMC § 3122(d) regarding DEQ’s intention to issue such a permit and give public notice providing for a forty-five day public review and comment period on the permit application documents and on the proposed action. The contents of the public notice shall include at least the following:

(1) Name, address, and phone number of DEQ and applicant;

- (2) Brief description of each applicant's activities or operations;
- (3) A short description of the location of the MSWLF, or other solid waste management activity or SWMF indicating whether such MSWLF, or solid waste management activity or SWMF is new or existing;
- (4) Address and phone numbers of premises at which interested persons may obtain further information and inspect a copy of the application and supporting documents.

(b) A public hearing shall be held no less than twenty-one days from the start of the public comment period. DEQ shall address public comments at the hearing. Comments received at the public hearing and during the public comment period shall be considered in making a decision and DEQ shall prepare written responses to all significant comments. The response to comments shall be made available to the public upon request.

Modified, 1 CMC § 3806(d), (e).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-114 Public Notification of Permit Determination

Pursuant to CEPA, DEQ shall make known to the public through public notice its determinations regarding any MSWLF permit, or other any other solid waste management activity or SWMF permit which DEQ has determined warrants public participation under § 65-80-112, within thirty days of such a determination.

Modified, 1 CMC § 3806(c), (e).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-116 Effect of the Permit

- (a) Written acceptance of any and all permit conditions by the applicant shall be necessary prior to

any commencement of facility construction/operation or prior to commencement of any activities for which the permit is required;

(b) The owner or operator must notify DEQ that construction, operations, or activities have been completed in accordance with the approved plans and specifications;

(c) Prior to commencement of the permitted facility, operation, or activity, an inspection will be conducted by DEQ to confirm that the facility, operations, or activities are ready to commence in compliance with applicable requirements.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-118 Modification of Existing Permits

(a) DEQ may, on its own motion or the application of any person, modify a permit if, after affording the applicant an opportunity for a hearing, the Director determines that:

- (1) Any condition of the permit has been violated or due to change in any condition requiring either a temporary or permanent reduction or elimination of the permitted activity or facility.
- (2) There is a change in the applicable laws or regulations governing solid waste management.
- (3) Such an action is in the public interest.

(b) DEQ shall develop a schedule to revisit and reissue all existing permits affected by the change in the law or regulations at the time of the change. Modification of the permit shall become final ten days after service of notice of the final decision to modify the permit.

Modified, 1 CMC § 3806(e).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-120 Suspension of Permit

(a) DEQ may, on its own motion or based on the application of any person, suspend a permit if, after affording the applicant an opportunity for a hearing, DEQ determines that:

- (1) Any condition of the permit has been violated;
- (2) Any statute or regulation of the local or federal government has been violated; or
- (3) Or such an action is in the public interest.

(b) The permit shall be suspended until all conditions of the permit are met or all violations have been properly corrected. Suspension of a permit shall become final ten days after service of notice of the final decision to suspend on the holder of the permit.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-122 Revocation of Permit

(a) DEQ may on his own motion or the application of any person, revoke any permit if, after affording the applicant an opportunity for a hearing, DEQ determines that:

- (1) There is a violation of any condition of the permit;
- (2) The permit was obtained by misrepresentation, or failure to disclose fully all relevant facts;
- (3) There is change in any condition that requires either a temporary or permanent reduction or elimination of the permitted disposal; or
- (4) Such an action is in the public interest.

(b) Revocation of a permit shall become final ten days after service of notice of the final decision to revoke on the holder of the permit.

Modified, 1 CMC § 3806(e).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-124 Permit Renewal

The permittee must apply for renewal of the permit sixty days before the permit expires. At the time of renewal of a solid waste management permit, the facility is reevaluated and the permit conditions updated to reflect changes to the current operational procedures. The criteria for permit renewal determination is the same as for the initial application and shall be in accordance with §§ 65-80-104 through 65-80-116 of this chapter.

Modified, 1 CMC § 3806(c), (d), (e), (g).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: The Commission corrected the spelling of “permittee.”

§ 65-80-126 Transfer of Permit

A permit shall not be transferable, whether by operation of law or otherwise, either from one location to another, from one SWMF to another or from one person to another, without the written approval of DEQ. A transfer shall not be approved by the Director unless he determines that all applicable laws and regulations have been and will continue to be complied with after the transfer and only if the transferee provides a written assurance that it will so comply.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-128 Reporting Termination

Sixty days prior to closure any person issued a permit shall report the permanent termination of the solid waste management activity or SWMF for which the permit has been issued to DEQ and within the

thirty days after the closure shall surrender the permit to DEQ. DEQ may approve immediate closure of any SWMF if the facility poses a major threat to human health and the environment.

Modified, 1 CMC § 3806(e).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-130 Posting of a Permit

Upon granting an approval for a permit, DEQ shall issue to the applicant a permit that shall be posted in a conspicuous place at or near the operation site for which the permit was issued.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-132 Falsifying or Altering a Permit

No person shall knowingly deface, alter, forge, counterfeit, or falsify a permit. If the permit holder, his agents or employees, are found responsible for any such activity it shall bring about immediate revocation of the permit.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-134 Annual Reporting

The permittee shall submit an annual report to DEQ with information including the total volume and types of solid waste collected and the average number of individual residences or households and businesses serviced by the permittee on a weekly basis. The annual reports also shall be submitted with the application for a MSWLF permit renewal.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-136 Conformance with Other CNMI and Federal Regulations

The owner or operator of a solid waste management activity or a SWMF must comply with any other applicable Commonwealth or federal rules, laws, regulations, or other requirements. Compliance with the regulations in this chapter does not exempt the owner or operator of a solid waste management activity or a SWMF from complying with such applicable Commonwealth or federal requirements.

Modified, 1 CMC § 3806(f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-138 Inspection

(a) Representatives of DEQ, in accordance with the law, may enter and inspect a facility for the purpose of conducting inspections adequate to determine compliance with the solid waste management regulations including the terms of a permit. The inspections may be made with or without advance notice, with good purpose, and at the discretion of the Director of DEQ. The authority to inspect shall include the ability:

- (1) To obtain any and all information, including records and reports, from an owner/operator of a solid waste management activity or SWMF necessary to determine whether the owner/operator is in compliance with the solid waste management regulations.
- (2) To inspect any equipment.
- (3) To collect samples of waste, and conduct monitoring or testing to ensure that the owner/operator is in compliance with the solid waste management regulations in this chapter.
- (4) To observe operations involving the use or disposal of waste.

(b) Rights to Entry

In accordance with 2 CMC § 3132(a), for purposes of enforcing the provisions of the Commonwealth of the Northern Mariana Islands Solid Waste Management Regulations, codified in this chapter, the Director of DEQ or his authorized representative is authorized:

- (1) To enter, at reasonable times, any establishment, site, premise subject or other place subject to

the permit program or where solid waste is disposed, stored for transfer, or processed; including where records relevant to the operation of regulated facilities or activities are kept.

(2) To enter any premises at any time if there is substantial reason to believe that any waste disposed or stored, or otherwise present on such premises is, through accident, carelessness, or other circumstance, producing adverse effects on human health or the environment, for the purpose of taking such action as may be necessary to prevent or mitigate further adverse effects.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-140 Variances

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-142 Existing Facilities

All owners or operators of existing solid waste management activities or SWMF shall file immediately an application for a permit to continue to operate. Permit applications for existing facilities will be reviewed according to part 100 of this chapter.

Modified, 1 CMC § 3806(c).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 200 - Municipal Solid Waste Landfill Criteria

§ 65-80-201 Municipal Solid Waste Landfill Criteria

40 CFR part 258 (1999) is hereby adopted by reference in its entirety and is attached as appendix I to this chapter. All municipal solid waste landfills shall comply with the provisions of 40 CFR part 258 (1999).

Modified, 1 CMC § 3806(d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 300 - Classification of Solid Waste Disposal Facilities and Standards for Non-municipal Non-hazardous Waste Disposal Facilities That Receive CESQG Waste

§ 65-80-301 Adoption of Federal Standards

40 CFR part 257 (1999) is hereby adopted by reference in its entirety and is attached as appendix II to this chapter.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: The Commission created the section titles in part 300.

§ 65-80-305 Applicability in the CNMI

All non-municipal, non-hazardous waste disposal facilities that receive CESQG waste shall comply with the provisions of 40 CFR part 257, subpart B (1999).

Modified, 1 CMC § 3806(f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 400 - Transfer Stations

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 500 - Convenience Centers

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 600 - Recycling

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 700 - Collection: Requirements for Commercial Waste Haulers

§ 65-80-701 Registration Required

It shall be unlawful for any person to initiate or continue the commercial collection of municipal solid waste without first registering with the DEQ. The annual registration fee shall be \$25 initially, and may

be revised, in writing, by the Director of DEQ.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: With the exception of § 65-80-725, the Commission created the section titles in part 700.

§ 65-80-705 Information Required for Registration

All applicants shall complete and submit their registration on forms furnished by the DEQ and provide the following information for approval determination:

- (a) A copy of their current business license.
- (b) A list of all trucks and other equipment involved in the operation.
- (c) The location of any vehicle or equipment storage facility.
- (d) A copy of the insurance card for each vehicle.
- (e) A copy of the CNMI Department of Public Safety (DPS) vehicle registration.

Modified, 1 CMC § 3806(f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-710 Applicant Responsible for Operation

Each registration form shall contain the original signature of the owner and applicant and shall constitute acknowledgment that the applicant will assume responsibility for operation of the collection business in accordance with the rules and regulations in this chapter and any conditions made a part of registration.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-715 Approval of Registration

Registration applications containing all required information shall be considered approved 30 days following submittal, unless specific action is taken by DEQ. Commercial waste hauler registrations shall be renewed annually. The annual fee shall be \$25 initially, and may be revised in writing, by the Director of DEQ.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-720 Modification, Suspension, Revocation or Transfer

The registration may not be modified or transferred (including change of business address) without approval from the Director of DEQ. The Director, as specified under §§ 65-80-118, 65-80-120, or 65-80-122 of this chapter, may modify, suspend or revoke any commercial waste hauler's registration, if the Director determines any of the standard conditions or any of the provisions of 2 CMC §§ 3511 to 3521 or 2 CMC §§ 3101 to 3135 have been violated, or that such modification, suspension, or revocation is in the public interest. Modifications, suspensions, or revocations shall become final 10 days after service of the notice of final decision on the holder of the registration.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-725 Standard Conditions

- (a) All employees shall have received proper safety training as required by OSHA.
- (b) All loads shall be covered or otherwise managed to prevent windblown debris.
- (c) The company name, vehicle identification number, and volumetric capacity shall be printed on both the left and right doors of all vehicles.
- (d) The operator shall have in place management standards to minimize public nuisances such as odors and vectors (i.e. flies and rodents) or leaking loads.
- (e) All refuse shall be managed in such a manner as to prevent any impact on public health and safety.
- (f) All employees shall be made aware of any DEQ or DSWM disposal restrictions.
- (g) All employees shall strictly follow any instructions given by DSWM personnel at the solid waste management facility.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 800 - Miscellaneous Facilities/Activities

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 900 - Financial Assurance for Non-MSWLF Facilities/Operations/Activities

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 1000 - Enforcement Authority and Procedures

§ 65-80-1001 Remedies for Violations

The Director of DEQ is authorized to impose the following remedies for violation of the CNMI Solid Waste Management Regulations, codified in this chapter.

(a) Pursuant to 2 CMC § 3131(a) and (c), and 2 CMC § 3519(a) and in accordance with § 65-80-1020, the Director may issue any order necessary to enforce the Acts, the regulations in this chapter, and any term of any permit issued under these regulations including but not limited to:

- (1) An order to cease and desist, immediately or within a stated period of time, any violation of the Acts, the regulations in this chapter or any term of any permit issued under these regulations.
- (2) An order to cease and desist immediately any activity which may endanger or cause damage to human health or the environment.
- (3) An order to take such mitigating measures as may be necessary to reverse or reduce any significant adverse effects of a violation of the Acts, the regulations in this chapter, or any term of any permit issued under these regulations.
- (4) An order to pay any civil penalties authorized by law for violations of the regulations in this chapter, any order issued under these regulations and any term of a permit granted pursuant to these regulations.
- (5) An order to a pay a penalty for any amount expended by DEQ in taking necessary action to reverse or reduce any significant adverse effect of a violation of the regulations in this chapter, any order issued under these regulations, any term of a permit granted pursuant to these regulations.

(b) Pursuant to 2 CMC § 3131(b), the Director, through the CNMI Attorney General, may institute a civil action in the Commonwealth Superior Court to take any action authorized by law, including but not

limited to the following:

- (1) Enjoin any threatened or continuing activity that violates the Acts, the regulations in this chapter, any order issued under these regulations and any term of a permit granted pursuant to these regulations.
- (2) Recover civil penalties for violations of the Acts, the regulations in this chapter, any order issued under these regulations and any term of a permit granted pursuant to these regulations.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: With the exception of § 65-80-1020, the Commission created the section titles in part 1000.

§ 65-80-1005 Right to Intervene

In accordance with 2 CMC § 3131(i), any citizen having an interest that is or may be adversely affected, shall be allowed to intervene as a right in any civil action to obtain the remedies specified in § 65-80-1001.

Modified, 1 CMC § 3806(c).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-1010 Suspension, Revocation, Modification of Permits

If appropriate, and consistent with §§ 65-80-118, 65-80-120, and 65-80-122 and 65-80-1025 of this chapter, the Director may suspend, revoke, or modify any permit, license, or certification issued by DEQ for violation of the Acts, the regulations in this chapter and any permit or license issued pursuant to these regulations.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-1015 Knowing and Willful Violations

Any person who knowingly and willfully commits any criminal act in violation of the Acts, the regulations in this chapter, and any permit, or order issued under this chapter, and who is found guilty by a court of competent jurisdiction may be punished by a fine and/or imprisonment in accordance with the law. Any other penalties or remedies provided by this chapter, the law and/or ordered by the Director shall also remain in effect.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-1020 Procedures for Administrative Orders

(a) Any person who is subject to civil penalties, revocation, or suspension may be served with a notice of violation and administrative order and may, upon written request, seek a hearing before the Director or designee. Request for a hearing may be served upon the Division within seven calendar days from receipt of the administrative order. Failure to request an appeal within seven calendar days shall result in the person's waiving the right to any appeal or hearing.

(b) The written request for a hearing shall serve as the answer to the complaint. The request for hearing or "answer" shall clearly and directly admit, deny, or explain each of the factual allegations contained in the complaint with regard to which the alleged violator (respondent) has any knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The answer shall also state

(1) The circumstances or arguments which are alleged to constitute the grounds of defense,

- (2) The facts which respondent intends to place at issue, and
- (3) Whether a hearing is requested.
- (4) Failure to admit, deny, or explain any material factual allegation contained in the complaint constitutes an admission of the allegations. An oral answer may also be given at the time of hearing should a hearing be requested.

(c) The respondent may also request an informal settlement conference. An informal settlement conference shall not affect the respondents obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval by the Director.

(d) If a hearing is conducted the Director or his designee will preside over the hearing. The Director shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record of the hearing. The type of record made shall be at the discretion of the Director. Evidence presented at such a hearing need not conform with the prescribed rules of evidence, but may be limited by the Director in any manner the Director reasonably determines to be just and efficient and promote the ends of justice. The Director shall issue a final written decision within 15 working days of the close of the enforcement hearing. The decision shall include written findings of fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.

(e) An appeal from the final enforcement decision shall be to the Commonwealth Superior Court within thirty calendar days following service of the final agency decision.

(f) For filing deadline purposes counting of the days shall start on the day after issuance or receipt (whichever is specified). If any filing date falls on a Saturday, Sunday, or Commonwealth holiday, the filing date shall be extended to the next working day.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: The final paragraph of subsection (b) was not designated. The Commission

designated it subsection (b)(4).

§ 65-80-1025 Director's Responsibility

The Director shall have the responsibility to prepare, issue, modify, revoke and enforce orders for compliance with any of the provisions of this chapter or of any rules and regulations issued pursuant thereto and requiring the taking of such remedial measures as may be necessary or appropriate to implement or effectuate the provisions and purposes of this chapter.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-1030 Civil Actions

The Director may initiate civil actions through the Commonwealth courts which shall be transmitted through and with the approval of the Office of the Governor and the Attorney General as necessary to enforce the regulations in this chapter. The Attorney General will institute legal actions to enjoin a violation, continuing, violation, or threatened violation of this chapter.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-1035 Search Orders or Warrants

If the Director has probable cause to believe there has been a violation of the regulations in this chapter, upon receipt of an order or warrant from the Commonwealth Trial Court or the District Court, DEQ may enter upon and search any property, take necessary samples or readings therefrom, seize evidence found therein and examine or impound any book or record found therein or specified in such order or warrant.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: The “Commonwealth Judicial Reorganization Act,” PL 6-25 (effective May 2, 1989), renamed the Commonwealth Trial Court and directed that references to the Commonwealth Trial Court in the Commonwealth Code be interpreted to refer to the new Commonwealth Superior Court. See 1 CMC § 3201 and the commission comment thereto.

§ 65-80-1040 Searches Without Warrants

The Director or his authorized representative may enter property for purposes specified in § 65-80-138 without a warrant if: a violation has occurred or is imminent; the violation poses a serious, substantial, and immediate threat to public health or welfare; or the process of obtaining a warrant or order would prolong or increase the threat, impair discovery of evidence of a violation, or impair mitigation of the threat.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: The Commission changed “treat” to “threat” to correct a manifest error. The Commission inserted commas after the words “substantial” and “violation” pursuant to 1 CMC § 3806(g).

Part 1100 - Miscellaneous Provisions

§ 65-80-1101 Severability

Should any part, section, paragraph, sentence, clause, phrase, or application of the rules and regulations

in this chapter be declared unconstitutional or invalid for any reason by competent authority, the remainder or any other application of these rules and regulations shall not be affected in any way thereby.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Appendix I

40 CFR 258 (1999)

Adopted by reference, in its entirety, at § 65-80-201 of this chapter

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Appendix II

40 CFR 257 (1999)

Adopted by reference, in its entirety, at § 65-80-301 of this chapter

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).