

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 268 and 271**

[FRL-7390-8; Docket Number: RCRA-2002-0027]

RIN 2050-AE99

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** EPA is proposing to take direct final action to grant a national treatability variance from the Land Disposal Restrictions (LDR) treatment standards for radioactively contaminated cadmium-, mercury-, and silver-containing batteries by designating new treatment subcategories for these wastes in response to a rulemaking petition from the Department of Energy. The current treatment standards of thermal recovery for cadmium batteries and of roasting and retorting for mercury batteries are technically inappropriate because any recovered metals would likely contain residual radioactive contamination and not be usable. The current numerical treatment standard for silver batteries is also inappropriate because of the potential increase in radiation exposure to workers associated with manually segregating silver-containing batteries for the purpose of treatment. Macroencapsulation in accordance with the provisions for treatment standards

for hazardous debris is proposed as the required treatment prior to land disposal.

In the "Rules and Regulations" section of the **Federal Register**, we are publishing a direct final rule that would designate a new treatment subcategory for radioactively contaminated cadmium, mercury, and silver-containing batteries without prior proposal because we view this action as noncontroversial and we anticipate no significant adverse comment. We have explained our reasons for this approach in the preamble to the direct final rule. If we receive significant adverse comment on the direct final rule, however, we will withdraw the direct final action and the treatment variance will not take effect. We will not institute a second comment period on this action. Any parties interested in commenting on this proposed variance must do so at this time.

**DATES:** To make sure EPA considers your comments or suggested revisions to this proposal, they must be postmarked on or before November 6, 2002.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand/delivery/courier. You must send an original and two copies of the comments referencing Docket Number RCRA-2002-0027 to: EPA Docket Center (EPA/DC), B102, EPA West, 1301 Constitution Ave. NW, Washington, DC 20460-0002.

**FOR FURTHER INFORMATION CONTACT:** For general information, call the RCRA Call Center at 1-800-424-9346 or TDD 1-800-553-7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703-412-9810 or TDD 703-412-3323 (hearing impaired). The RCRA Call Center is

open Monday-Friday, 9 a.m. to 4 p.m., Eastern Standard Time. For more information on specific aspects of this proposed/direct final rule, contact Mr. John Austin at 703-308-0436, [austin.john@epa.gov](mailto:austin.john@epa.gov), or write him at the Office of Solid Waste, 5302W, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:** This document concerns Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium-, Mercury-, and Silver-Containing Batteries. For further information, please see the information provided in the direct final action that is located in the "Rules and Regulations" section of this **Federal Register** publication.

**List of Subjects***40 CFR Part 268*

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

*40 CFR Part 271*

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous material transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: September 30, 2002.

**Christine Todd Whitman,**  
*Administrator.*

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