

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 268****[RCRA–2004–0009; FRL–7839–2]****Land Disposal Restrictions: Site-Specific Treatment Variance for Selenium Waste for Chemical Waste Management, Chemical Services LLC****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed Rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is today proposing to grant a site-specific treatment standard variance from the Land Disposal Restrictions (LDR) treatment standards for a selenium-bearing hazardous waste generated by the glass manufacturing industry. EPA is proposing to grant this variance because the chemical properties of the waste differ significantly from those of the waste used to establish the current LDR treatment standard for selenium (5.7 mg/L, as measured by the Toxicity Characteristic Leaching Procedure (TCLP)), and the petition has adequately demonstrated that the waste cannot be treated to meet this treatment standard. In addition, EPA is also proposing to modify an existing treatment variance for this same waste that has been previously granted to another treatment facility.

In the “Rules and Regulations” section of the **Federal Register**, we are publishing a parallel direct final rule that would grant this site-specific treatment variance 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, however, based on today’s proposed rule, we receive significant adverse comment, we will withdraw the direct final action and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on the proposed variance must do so at this time.

**DATES:** Written comments must be received by December 20, 2004.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. RCRA–2004–0009. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Comments may be submitted electronically, by mail, or through hand

delivery/courier. Comments may be mailed to the EPA Docket Center—OSWER Docket, Environmental Protection Agency, Mailcode: 5305 T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. RCRA–2004–0009. Follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Call Center at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For more detailed information on specific aspects of this rulemaking, contact Juan Parra at (703) 308–0478 or [parra.juan@epa.gov](mailto:parra.juan@epa.gov), Office of Solid Waste (MC 5302 W), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:****I. General Information**

In this document, EPA is proposing to grant a site-specific treatment variance from the Land Disposal Restrictions (LDR) treatment standards for a selenium-bearing hazardous waste from the glass manufacturing industry. This selenium waste will be treated by Chemical Waste Management, Chemical Services LLC (CWM). In addition, EPA is proposing to modify an existing treatment variance for the same waste granted to Heritage Environmental Services LLC. We have explained our reasons for these actions in the preamble to the direct final rule. For further information, please see the direct final action that is located in the “Rules and Regulations” section of this **Federal Register** publication.

EPA has established an official public docket for this action under Docket ID No. RCRA–2004–0009. Documents in the official public docket are listed in the index list in EPA’s electronic public docket and comment system, EDOCKET. Documents may be available either electronically or in hard copy. Electronic documents may be viewed through EDOCKET. Hard copy documents may be viewed at the EPA Docket Center—OSWER Docket, Environmental Protection Agency, EPA West Building, Room B102, 1301 Constitution Ave NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Docket Center Public Reading Room is (202) 566–1744, and the telephone number for the OSWER Docket is (202) 566–0272.

You may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr>. You can also go to the federal-wide eRulemaking site at <http://www.regulations.gov> to submit comments.

An electronic version of the public docket is available through EDOCKET. You may use EDOCKET at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select “search,” then key in the appropriate docket identification number.

Certain types of information will not be placed in EDOCKET. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EDOCKET. EPA’s policy is that copyrighted material will not be placed in EDOCKET but will be available only in printed, paper form in the official public docket.

For public commenters, it is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EDOCKET. Public comments that are mailed or delivered to the Docket will be scanned and placed in EDOCKET. Where practical, physical objects will be photographed, and the photograph will be placed in EDOCKET along with a brief description written by the docket staff.

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment

period will be marked "late." EPA is not required to consider these late comments.

## II. Description of Proposed Amendments

EPA is proposing to grant a variance to Chemical Waste Management, Chemical Services LLC (CWM) to stabilize a selenium-bearing waste from Guardian Industries Corp. (Guardian) at their RCRA permitted facility in Model City, New York. If this proposal is finalized, CWM may treat the specific

waste to an alternate selenium treatment standard of 28 mg/L, as measured by the TCLP, for the Guardian waste. CWM may dispose of the treated waste in a RCRA Subtitle C landfill, provided they meet the applicable LDR treatment standards for any hazardous constituents in the waste.

EPA is also modifying the existing alternative treatment standard for the Guardian selenium waste that EPA had previously granted to Heritage Environmental Services LLC to be

consistent with the levels that CWM has demonstrated as BDAT for this selenium waste (69 FR 6567, February 11, 2004).

### List of Subjects in 40 CFR Part 268

Environmental protection, hazardous waste, selenium, variance.

Dated: November 10, 2004.

**Thomas P. Dunne,**

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

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