§ 27-0912. Land disposal of hazardous waste.

1. The commissioner may promulgate rules and regulations restricting or prohibiting the land disposal of specified hazardous wastes which are identified or listed pursuant to section 27-0903 of this title. Such rules and regulations may also restrict or prohibit the storage of any hazardous waste, or classes of hazardous wastes, which is restricted or prohibited from one or more methods of land disposal under this section unless such storage is solely for the purpose of the accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

2. The commissioner shall make a written determination of each such waste or class of wastes for which land burial may not be adequately protective of public health and the environment. In making any such determination, the commissioner shall take into account the following factors:

a. the long-term containment uncertainties associated with land burial, and

b. characteristics of the hazardous waste which degrade containment mechanisms used in authorized hazardous waste land burial facilities, and

c. the persistence, toxicity, mobility, and propensity to bio-accumulate of such hazardous wastes and their toxic constituents.

3. The commissioner may, upon application of any person, certify that any specifically identified or listed hazardous waste or class of wastes is exempt from a restriction or prohibition against land burial established in the rules and regulations promulgated pursuant to this section. Such certification of exemption may be issued only in the event the commissioner makes a written determination that it is not practicable, for the reasonably foreseeable future, to manage such wastes by any means other than land burial, when public health, environmental and economic factors are considered together.

Certificates of exemptions shall be valid for a fixed term not to exceed one year. Any such certificate of exemption shall be published in the environmental notice bulletin. Any request for a renewal, reissuance or recertification of exemption shall be treated as an application for a new certificate of exemption.

4. As used in this section, the term "land disposal" shall be deemed to include, but not be limited to, any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave; and the term "land burial" means any placement of hazardous waste in or on land where the waste will remain after closure. "Land burial" is a form of "land disposal".

5. Any rules and regulations, and any amendments thereof adopted pursuant to the provisions of this section shall be subject to review pursuant to article seventy-eight of the civil practice law and rules.