

US EPA ARCHIVE DOCUMENT

## RCRA REVISION CHECKLIST 39

## California List Waste Restrictions

52 FR 25760-25792

July 8, 1987

as amended on October 27, 1987, at 52 FR 41295-41296  
(HSWA Cluster II)

Notes: 1) The following Part 268 sections are not delegable to States because of the national concerns which must be examined when decisions are made relative to them: 268.5 (case-by-case effective date extensions); 268.42(b) (application for alternate treatment method); and 268.44 (variance from a treatment standard). "No migration" petitions under 268.6 will be handled by EPA, even though States may be authorized to grant such petitions in the future. States have the authority to grant such petitions under RCRA Section 3006 because such decisions do not require a national perspective, as is the case for decisions under 268.5, 268.42(b) or 268.44. However, EPA has had few opportunities to implement the land disposal restrictions and expects to gain valuable experience and information from reviewing "no-migration" petitions.

2) In the past, the nondelegable sections/paragraphs of the LDR regulations have been omitted from the LDR checklists because States could not assume the authority for them. However, this procedure has led to confusion among the States on how to handle the sections/paragraphs in their code. For this reason, the Agency has decided to include these nondelegable sections on the LDR checklists. To differentiate these sections from the delegable portions of the LDR restrictions, asterisks precede (a single row) and follow (a double row) each non-delegable section. If States have already filled out a version of Revision Checklist 39 which does not include the nondelegable sections, they need not fill out a revised version containing these sections. This change in format was made only to improve clarity.

The Agency suggests that States incorporate the nondelegable portions of the LDR regulation into their regulations. It is essential, however, that States leave the terms "Administrator", "Federal Register" and "Agency" unchanged, i.e., States may not substitute analogous State terms for these Federal terms. Similarly, States incorporating by reference must be careful to except these sections from blanket substitutions of State terms for Federal terms. For a more complete discussion of issues surrounding nondelagable sections, see Appendix J of the State Authorization Manual (SAM).

3) Note that while 268.40(b) is delegable to States, "Administrator" in the following phrase "approved by the Administrator under the procedures set forth in 268.42(b)" should not be replaced with an analogous State term because it is referring to decisions under 268.42(b) which will be made by the EPA Administrator.

4) Revision Checklist 50 (53 FR 31138, August 17, 1988) amends certain sections of code addressed by Revision Checklist 39, but does not affect the delegability outlined in the previous note. Other related Checklists include Revision Checklist 62 (54 FR 18836, May 2, 1989), Revision Checklist 63 (54 FR 26594, June 23, 1989), Revision Checklist 66 (54 FR 36967, September 6, 1989), Revision Checklist 78 (55 FR 22520, June 1, 1990), and Revision Checklist 83 (56 FR 3864, January 31, 1991).

RCRA REVISION CHECKLIST 39: California List Waste Restrictions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
			EQUIV- ALENT	MORE STRINGENT	BROADER IN SCOPE

PART 260 - HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART B - DEFINITIONS

REFERENCES

- 1 Parts 260  
through 270 260.11(a)

PART 262 - STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

SUBPART G - FARMERS

FARMERS

- † pesticide disposal  
2 by farmers 262.70

PART 264 - STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE  
TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART B - GENERAL FACILITY STANDARDS

GENERAL WASTE ANALYSIS

- annual removal of 264.13(b)  
specific residues (7) (iii)

PART 265 - INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF  
HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART B - GENERAL FACILITY STANDARDS

GENERAL WASTE ANALYSIS

- annual removal of 265.13(b)  
specific residues (7)(iii)

PART 268 - LAND DISPOSAL RESTRICTIONS

RCRA REVISION CHECKLIST 39: California List Waste Restrictions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
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SUBPART A - GENERAL

PURPOSE, SCOPE AND APPLICABILITY

† pesticide disposal by farmers	268.1(c)(5)
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DEFINITIONS APPLICABLE TO THIS PART

add "halogenated organic compounds"	268.2(a)
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revise "land disposal"	268.2(a)
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add "polychlorinated biphenyls"	268.2(a)
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DILUTION PROHIBITED AS A SUBSTITUTE FOR TREATMENT

add restriction regarding circum- vention of effective dates and avoidance of prohibition of Subpart C or RCRA 3004	268.3
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TREATMENT SURFACE IMPOUNDMENT EXEMPTION

provide clari- fication and add new section and statutory prohibi- tion references	268.4(a)(2)
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add section con- cerning hazardous constituent evaporation	268.4(b)
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RCRA REVISION CHECKLIST 39: California List Waste Restrictions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
			EQUIV- ALENT	MORE STRINGENT	BROADER IN SCOPE

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Guidance note: 268.5 is NOT DELEGABLE. States should see Note 2 at the beginning of this checklist regarding how to incorporate this section into their code.

PROCEDURES FOR CASE-BY-CASE EXTENSIONS TO AN EFFECTIVE DATE

add ending clause

regarding situation

where treatment

standards have not

been specified 268.5(a)(2)

change "268.50(a)(1)"

to "268.50(a)" 268.5(h)(1)

add "and RCRA

section 3005(j)(1)"

to end of paragraph 268.5(h)(2)(iii)

add new paragraph

stating that land

disposal of specified

PCB wastes must

also comply with

40 CFR 761.75 and

Parts 264 and 265 268.5(h)(2)(v)

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Guidance note: 268.6 is NOT DELEGABLE. States should see Note 2 at the beginning of this checklist regarding how to incorporate this section into their code.

PETITIONS TO ALLOW LAND DISPOSAL OF A WASTE PROHIBITED  
UNDER SUBPART C OF PART 268

noneligibility of certain

liquid PCB waste for

"no migration"

petitions under 268.6 268.6(k)

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## RCRA REVISION CHECKLIST 39: California List Waste Restrictions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
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WASTE ANALYSIS AND RECORDKEEPING					
268.32 exception:	268.7(a)				
add 268.32 and RCRA 3004(d) prohibition to notification					
restrictions:	268.7(a)(1)				
add 268.32 and RCRA 3004(d) treat- ment standards to notification	268.7(a)(1)(ii)				
add reference to Subpart D and prohibitions in 268.32 and 3004(d) to notice and certification:	268.7(a)(2)				
add prohibitions in 268.32 and RCRA 3004(d) to notice:	268.7(a)(2) (i)(B)				
add prohibitions in 268.32 and RCRA 3004(d) to certification	268.7(a)(2)(ii)				
add testing require- ments of 268.32 for wastes prohibited under 268.32 or RCRA 3004(d):	268.7(b)				
add prohibitions in 268.32 and RCRA 3004(d) to notice:	268.7(b)(1)(ii)				
add prohibitions in 268.32 and RCRA 3004(d) to certifi- cation requirements:	268.7(b)(2)				
add 268.32 and RCRA 3004(d) prohibi- tions to certifica- tion requirements and to certification:	268.7(b)(2)(i)				

## RCRA REVISION CHECKLIST 39: California List Waste Restrictions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
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add testing requirements of 268.32 for wastes prohibited under 268.32 or RCRA 3004(d)	268.7(c)				

## SUBPART C - PROHIBITIONS ON LAND DISPOSAL

## WASTE SPECIFIC PROHIBITIONS - SOLVENT WASTES

add residues of  
268.30 a(1), a(2),  
and a(3) to wastes  
not subject to  
November 8, 1986,  
land disposal pro-  
hibition

268.30(a)(4)

## WASTE SPECIFIC PROHIBITIONS - CALIFORNIA LIST WASTE

prohibitions effective July 8, 1987:

268.32(a)

liquids/ph less than  
or equal to 2.0;

268.32(a)(1)

liquids/PCBs greater  
than or equal to  
50 ppm;

268.32(a)(2)

liquids/HOCs greater  
than or equal to  
1,000 mg/l and less  
than 10,000 mg/l

268.32(a)(3)

November 8, 1988  
date for contaminated  
soil or debris from  
response under  
CERCLA 104 or 106  
or RCRA corrective  
action

268.32(d)

prohibitions effective July 8, 1989:

268.32(e)

liquid/HOCs greater  
than or equal to  
1,000 mg/l;

268.32(e)(1)

## RCRA REVISION CHECKLIST 39: California List Waste Restrictions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
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nonliquid/HOCs greater than or equal to 1,000 mg/kg	268.32(e)(2)				
July 8, 1987 and July 8, 1989 dates for dis- posal and landfills and surface impoundments meeting 268.5(h)(2) requirements	268.32(f)				
requirements don't apply when:	268.32(g)				
granted a 268.6 exemption;	268.32(g)(1)				
granted a 268.5 extension	268.32(g)(2)				
in compliance with Subpart D standards or RCRA 3004(d) or section prohibitions	268.32(g)(3)				
requirements do not apply when subject to Part 268, Subpart C prohibition	268.32(h)				
1 method					
9095 required	268.32(i)				
applicability of waste analysis/ recordkeeping requirements of 268.7:	268.32(j)				
initial generator must use 261.22(a)(1) procedures or knowledge of pH; pH less than 2.0 restriction;	268.32(j)(1)				
initial generator must test for or have knowledge of HOC or PCB concentration levels; restriction above levels	268.32(j)(2)				



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SUBPART D - TREATMENT STANDARDS

APPLICABILITY OF TREATMENT STANDARDS

land disposal if  
extract or residue  
meets 268.41 Table

CCWE values 268.40(a)

3 land disposal  
after treatment  
is acceptable

268.40(b)

TREATMENT STANDARDS EXPRESSED AS SPECIFIED TECHNOLOGIES

standard for  
incineration  
of liquid  
hazardous wastes  
containing PCBs

268.42(a)(1)

standard for  
incineration of  
non-liquid  
hazardous waste  
containing HOCs

268.42(a)(2)

RCRA REVISION CHECKLIST 39: California List Waste Restrictions (cont'd)

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Guidance note: 268.42(b) is NOT DELEGABLE. States should see Note 2 at the beginning of this checklist regarding how to incorporate this paragraph into their code.

replace "level" with

"measure" before "of performance"; replace

"will not present an unreasonable risk to human health or the environment" with "is in compliance with Federal, State and local requirements and is protective of human health and the environment"; in last

sentence replace "certification" with "approval"

268.42(b)

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SUBPART E - PROHIBITIONS ON STORAGE

PROHIBITIONS ON STORAGE OF RESTRICTED WASTES

storage prohibition 268.50(a)

† no prohibition where treatment standards are not specified or are met, or compliance with 268.32 or RCRA 3004 exists

268.50(e)

liquid hazardous waste containing PCBs

268.50(f)

RCRA REVISION CHECKLIST 39: California List Waste Restrictions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
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APPENDIX III TO PART 268

add new appendix:  
HOC definition and  
list of HOCs regu-  
lated under 268.32                      Appendix III

In determining the concentration of HOCs in a hazardous waste for purposes of the §268.32 land disposal prohibition, EPA has defined the HOCs that must be included in the calculation as any compounds having a carbon-halogen bond which are listed in this Appendix (see §268.2). Appendix III to Part 268 consists of the following compounds: (For electronic version of checklist see 52 FR 25791.)

RCRA REVISION CHECKLIST 39: California List Waste Restrictions (cont'd)

			STATE ANALOG IS:		
FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	EQUIV- ALENT	MORE STRINGENT	BROADER IN SCOPE

RCRA REVISION CHECKLIST 39: California List Waste Restrictions (cont'd)

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PART 270 - EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS  
WASTE PERMIT PROGRAM

SUBPART D - CHANGES TO PERMITS

†,4 MINOR MODIFICATIONS OF PERMITS

add permitted when  
waste prohibited  
under RCRA

Section 3004 270.42(o)(1)

add permitted when  
treatment according  
to 268.4 and 268.3  
and:

270.42(o)(2)

treatment standards  
under 268.41, 268.42  
or 268.44 are met; or

270.42 (o)(2)(i)

no standards exist  
and treatment  
removes prohibitions  
of 268.32 and RCRA  
3004

270.42(o)(2)(ii)

allow facilities to  
change operation to  
treat or store if:

270.42(p)

major permit  
modification  
is requested;

270.42(p)(1)

demonstrates  
necessity to comply  
with 268 or  
RCRA 3004; and

270.42(p)(2)

ensures compliance  
pending administra-  
tive determination

270.42(p)(3)

RCRA REVISION CHECKLIST 39: California List Waste Restrictions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
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SUBPART G - INTERIM STATUS

CHANGES DURING INTERIM STATUS

no reconstructing;  
changes do not  
include tank/  
container changes  
to comply with  
land disposal  
restrictions

270.72(e)

- <sup>1</sup> See amendment to rule at 52 FR 41295 (October 27, 1987).
- <sup>2</sup> Note that the FR gives Subpart E, 262.51 as the citation for Farmers. This is not correct as the August 8, 1986 (51 FR 28664) final rule regarding exports changed this section and moved it to Subpart G, 262.70. This error was corrected at 53 FR 27164 (July 19, 1988).
- <sup>3</sup> The reference to "Administrator" near the end of this paragraph should not be replaced with an analogous State term. See note 3 at the beginning of this checklist.
- <sup>4</sup> Note that 270.42 is not required by 271.14. Thus, this optional change applies only to States that opted to include an analog to 270.42, i.e., Minor Modifications to Permits.