

US EPA ARCHIVE DOCUMENT

RCRA REVISION CHECKLIST 162

Clarification of Standards for Hazardous Waste LDR Treatment Variances

62 FR 64504-64509

December 5, 1997

(RCRA Cluster VIII, HSWA provisions)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

PART 268

SUBPART D - TREATMENT STANDARDS

† VARIANCES FROM A TREATMENT STANDARD

Guidance Note: 40 CFR 268.44(a)-(g) are not delegable because the variance addressed by these provisions could result in nationally-applicable standards for a new waste treatability group. States who have correctly adopted these provisions with the authority remaining with EPA are strongly encouraged to make the optional revisions to 40 CFR 268.44(a) addressed by this checklist.

completely revise paragraph; based on petition, Administrator may approve a variance from applicable treatment standard if:	268.44(a) intro					
add new subparagraph; it is not physically possible to treat waste to level specified in or by method specified as the treatment standard; petitioner must demonstrate that physical/chemical properties of waste differ significantly from waste analyzed in developing treatment standard; or	268.44(a)(1)					

RCRA REVISION CHECKLIST 162: Clarification of Standards
for LDR Treatment Variances (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
add new subparagraph; it is inappropriate to require waste to be treated to level specified or by method specified, even though such treatment is technically possible; petitioner must demonstrate that:	268.44(a)(2) intro					
add new subparagraph; treatment to specified level or by specified method is technically inappropriate; or	268.44(a)(2)(i)					
add new subparagraph; for remediation waste only, treatment is environmentally inappropriate because it would discourage aggressive remediation	268.44(a)(2)(ii)					

completely revise paragraph; based on petition, Administrator or delegated representative may approve a site-specific variance from an applicable treatment standard if:	268.44(h) intro					

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for LDR Treatment Variances (cont'd)**

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
add new subparagraph; it is not physically possible to treat waste to level specified in or by method specified as the treatment standard; petitioner must demonstrate that physical/chemical properties of waste differ significantly from waste analyzed in developing treatment standard; or	268.44(h)(1)					
add new subparagraph; it is inappropriate to require waste to be treated to level specified or by method specified, even though such treatment is technically possible; petitioner must demonstrate that:	268.44(h)(2) intro					
add new subparagraph; treatment to specified level or by specified method is technically inappropriate; or	268.44(h)(2)(i)					
add new subparagraph; for remediation waste only, treatment is environmentally inappropriate because it would discourage aggressive remediation	268.44(h)(2)(ii)					

RCRA REVISION CHECKLIST 162: Clarification of Standards
for LDR Treatment Variances (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
add new subparagraph; public notice and opportunity for comment must be provided before granting or denying petition	268.44(h)(3)					
add paragraph; for all variances, petitioner must demonstrate that compliance with treatment variance is sufficient to minimize threats to human health and environment; in evaluating demonstration, EPA may take into account whether a treatment variance should be approved if the waste is to be used in manner constituting disposal under 40 CFR 266.20 through 266.23	268.44(m)					
remove	268.44(p)					