

US EPA ARCHIVE DOCUMENT

RCRA REVISION CHECKLIST 167 C

Land Disposal Restrictions Phase IV – Corrections

63 FR 28556-28753

May 26, 1998

as amended at 63 FR 31266, June 8, 1998

(RCRA Cluster VIII, HSWA provisions)

Note: On August 10, 1998 (63 FR 42580), a rule was promulgated to clarify the correct adoption sequence of the May 4, 1998 rule (63 FR 24596, CL 165), the May 26, 1998 rule (63 FR 28556, CL 167), and the June 29, 1998 (63 FR 35147) technical amendment to the May 4, 1998 rule, as they relate to the organobromine production waste entries at 40 CFR 268.40 and 268.48. Subsequently, on April 9, 1999, the U.S. Court of Appeals vacated the listing of these organobromine production wastes and in turn, the May 4, 1998; June 29, 1998; and August 10, 1998 rules have been withdrawn. If a State chooses to follow this vacatur, it should remove the vacated wastes in the tables at 40 CFR 268.40 and 268.48, as indicated in footnotes 3 and 4. If the vacatur is not followed by a State, then the vacated wastes should remain as shown in the May 26, 1998 rule in tables 40 CFR 268.40 and 268.48.

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRI N- GENT	BROADER IN SCOPE
PART 268 - LAND DISPOSAL RESTRICTIONS						
SUBPART A - GENERAL						
TREATMENT SURFACE IMPOUNDMENT EXEMPTION						
replace colon after “at least annually” with a semicolon; delete second sentence beginning with “However, residues which are”	268.4(a)(2)(ii)					
insert period after “for subsequent management” and delete remainder of sentence	268.4(a)(2)(iii)					

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Phase IV--Corrections (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRI N- GENT	BROADER IN SCOPE
TESTING, TRACKING, AND RECORDKEEPING REQUIREMENTS FOR GENERATORS, TREATERS, AND DISPOSAL FACILITIES						
for entry 1, insert “Numbers” after “Waste”, replace “Manifest numbers” with “Manifest Number of first shipment”; for entry 3, replace parenthetical phrase with “in characteristic wastes” and delete “ U ” under 268.7(a)(3) column	268.7(a)(4)/table					
replace “restricted” with “prohibited”; after first occurrence of “or solid waste or” replace “exempt” with “is exempted”; delete comma after first occurrence of “Subtitle C regulation” and after “261.4(a)(2)”; insert “that” after “261.4(a)(2) or”; insert “, or are managed in an underground injection well regulated by the SDWA” after “CWA-equivalent,”; replace “stating” with “describing”; insert “on-site” after “facility’s”; change “file” to “files”	268.7(a)(7)					

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRI- N- GENT	BROADER IN SCOPE
†',1 for entry 1, insert “Numbers” after “Waste”, replace “Manifest numbers” with “Manifest Number of first shipment” remove “U” from §268.7(b) column; for entry 2, replace parenthetical phrase with “in characteristic wastes”	268.7(b)(3)(ii)/Table					
†' add new paragraph; for characteristic wastes subject to 268.40 that are reasonably expected to contain 268.2(i) hazardous constituents which are treated on-site and then sent off-site, the certification must state; certification statement	268.7(b)(4)(iv)					
†' add new paragraph; for characteristic wastes containing underlying hazardous constituents as defined in 268.2(i) that are treated on-site to hazardous constituent levels in 268.48, the certification must state; certification statement	268.7(b)(4)(v)					
†' replace “treatment or storage” with “treatment, storage, or disposal”; insert comma after second occurrence of “storage”	268.7(b)(5)					

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRI- N- GENT	BROADER IN SCOPE
† ,2 replace both references to “(b)(4)” with “(b)(3)”; replace reference to “(b)(5)” with “(b)(4)”	268.7(b)(6)					

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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
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SUBPART D - TREATMENT STANDARDS

APPLICABILITY OF TREATMENT STANDARDS

3	replace “(D001–D003, and D012–D043)” with “(D001–D043)”; insert “and are not managed in a wastewater treatment system...injection well,” after “Hazardous Wastes,”; replace ““Table UTS,”” with “Table Universal Treatment Standards,”	268.40(e)				
3,4	replace existing table with the table found at 63 FR 28643-28738 (May 26, 1998)	268.40/table “Treatment Standards for Hazardous Wastes”				

TREATMENT STANDARDS EXPRESSED AS SPECIFIED TECHNOLOGIES

	remove “paragraphs (a)(1) and (a)(2) of this section and in”; replace “in paragraphs (a)(1) and (a)(2) and Table 1 of this section” with “in the table entitled “Technology... Standards” in this section”	268.42(a)				
5	remove	268.42(a)(1) – (a)(3)				

TREATMENT STANDARDS FOR HAZARDOUS DEBRIS

	replace reference to “261.3(e)(2)” with “261.3(f)(2)”	268.45(a) intro				
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FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRI- N- GENT	BROADER IN SCOPE
insert "treatment" after "meet the"; replace "under §268.43" with "in 'Treatment Standards for Hazardous Wastes' at §268.40"	268.45(d)(3)					
replace "technology-based standards for ... under §268.42" with "technology specified in the treatment standard for D001: Ignitable Liquids"	268.45(d)(4)					
UNIVERSAL TREATMENT STANDARDS						
3,6 replace existing table with the table found at 63 FR 28739-28750 (May 26, 1998)	268.48(a)/table UTS					
APPENDIX VII TO PART 268						
remove entries for waste code F033; revise second entry for F032, second entry for F034, first entry for K088, entries for D003–D011; add two entries for F035	Appendix VII, Table 1					
revise entry number 9 and add entries 12 and 13	Appendix VII, Table 2					
APPENDIX VIII TO PART 268						
revise title; add in alphanumeric order the entry for "NA"	Appendix VIII					

†i

These changes are conditionally optional. If the State has adopted the optional revisions to the recordkeeping and paperwork requirements in Revision Checklist 157, then the State is required to adopt the changes to 268.7 in this checklist with the exception of adding the entries for contaminated soils in the Tables at 268.7(a)(4) and 268.7(b)(3)(iii).

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¹ Note that the Tables at 268.7(a)(4) and (b)(3)(ii) are also addressed by Revision Checklist 167 B. That checklist redesignated entry 8 as 9 and added a new entry 8 in the Table at 268.7(a)(4), and it redesignated entry 5 as 6 and added a new 5 in the Table at 268.7(b)(3)(ii). These changes should not be adopted unless the State adopts the other changes made by Revision Checklist 167 B.

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² The internal reference at 268.7(b)(6) has incorrectly been changed from “266.20(b)” to “268.20(b)”. There is no 40 CFR 268.20; therefore, the original reference appears to have been correct and should be retained.

³ Revisions made at 268.40(e), and the replacement of the 268.40 and 268.48 tables, are included on both Revision Checklists 167A and 167C as revisions were made to these tables both because of changes due to the new LDR Phase IV restrictions and because of corrections needed to the existing tables.

⁴ If a State has chosen to follow the April 9, 1999 vacatur, it should not include entries for K140 and U408 when it revises/replaces its analog to the 40 CFR 268.40 “Treatment Standards for Hazardous Wastes” table. Wastes K140 and U408 were added by Revision Checklist 165 (63 FR 24596, May 4, 1998; 63 FR 35147, June 29, 1998).

⁵ Revision Checklist 167C removed subparagraphs at 40 CFR 268.42(a)(1)-(a)(3). Beginning with the 1998 version, the CFR contains an error in that these paragraphs were not removed.

⁶ If a State has chosen to follow the April 9, 1999 vacatur, it should not include the entry for “2,4,6-Tribromophenol” when it revises/replaces its analog to the 40 CFR 268.48(a) “Universal Treatment Standards” table. This waste was added by Revision Checklist 165 (63 FR 24596, May 4, 1998; 63 FR 35147, June 29, 1998). Revision Checklist 165 was withdrawn by EPA because the listing of “2,4,6-Tribromophenol” was vacated on April 9, 1999 by the U.S. Court of Appeals for the District of Columbia in Great Lakes Chemical Corporation vs. EPA.