

US EPA ARCHIVE DOCUMENT

Revision Checklist 137 Summary

Rule Title:	Land Disposal Restrictions Phase II--Universal Treatment Standards, and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes
Checklist Title:	Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes
Reference:	59 <u>FR</u> 47982-48109 and 60 <u>FR</u> 242-302
Promulgation Date:	September 19, 1994 and January 3, 1995
Effective Date:	December 19, 1994
Cluster:	RCRA Cluster V
Provision Type:	HSWA/Non-HSWA
Linkage:	Revision Checklists 13, 34, 39, 50, 63, 66, 83, 100, 102, 103, 106, 109, 116, 123, 124, 151, 157, and 167A-C
Optional:	Partially

Summary. The September 19, 1994 rule promulgates Land Disposal Restrictions treatment standards for the newly identified organic toxicity characteristic (TC) wastes, except for those managed in the following:

- Clean Water Act (CWA) systems,
- CWA equivalent systems, or
- Class I Safe Drinking Water Act (SDWA) injection wells.

The September 19, 1994 rule also promulgates treatment standards for newly listed coke by-product and chlorotoluene production wastes. EPA is also promulgating dilution prohibitions for high total organic content (TOC) ignitable and toxicity characteristic pesticides. These newly promulgated treatment standards and dilution prohibitions fulfill the requirements of a proposed consent decree between EPA and the Environmental Defense Fund and of a settlement agreement between EPA, the Hazardous Waste Treatment Council, and a number of environmental groups including the Natural Resources Defense Council.

The September 19, 1994 rule also makes modifications to the existing Land Disposal Restrictions program to simplify and provide consistency in these requirements. Specifically:

- A single set of requirements, referred to as the universal treatment standards (UTS), is established that applies to most hazardous wastes. These standards replace the myriad constituent concentration levels with a uniform set of constituent levels.
- The three separate tables containing treatment standards are consolidated into a single table (the "Treatment Standards for Hazardous Wastes" table in 268.40).
- The information required on notification forms is reduced.
- The regulations for the treatment of lab packs are simplified.

The preamble to the September 19, 1994 rule also provides a series of easy-to-read flowcharts and a simple guide to paperwork requirements in order to make the rule's requirements clearer and easier to understand and implement.

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Finally, the September 19, 1994 rule modifies the hazardous waste recycling requirements at 261.2(e)(1)(iii) to remove the requirement that the process be a primary production process. As a result, secondary materials that are recycled back into the secondary production process from which they were generated are excluded from the definition of solid waste.

The January 3, 1995 rule makes amendments to the September 19, 1994 rule including revising and republishing the 268.40 table.

State Authorization: This checklist is placed in RCRA Cluster V. The State modification deadline is July 1, 1996 (or July 1, 1997 if a State statutory change is necessary). Except for the modifications to the definition of solid waste, this rule was promulgated relative to HSWA authorities. Normally, all of the HSWA requirements would go into effect immediately. However, currently many States are authorized for the land disposal restrictions, and the modifications made to simplify the treatment standards (i.e., the Universal Treatment Standards (UTS)) would result in the authority for these programs to return, in part, to EPA. Because the Agency believes that it was not Congress' intent that the responsibility for already-authorized HSWA programs be returned to EPA every time EPA promulgates modifications to HSWA program requirements, EPA has decided not to implement the UTS separately for those wastes for which the State has already received LDR authorization. Under this approach, those States authorized for some or all of the LDRs will continue to implement those portions of the program for which they are authorized, whether or not they have adopted the new standards. In EPA's view, the regulated industry will be subject to the State standards, regardless of whether they differ from the new UTS. States are strongly urged to implement the new UTS standards as quickly as possible, both for simplicity of implementation and national consistency. (See the December 19, 1994 memo from Mike Shapiro in Appendix N of the SAM.)

This approach relative to implementation of HSWA authority applies only to the UTS for wastes that are already restricted. The treatment standards for the newly listed wastes addressed by the September 19, 1994 rule go into effect immediately in all States and will be enforced by EPA. This also is the case for changes made relative to the notification forms and to the regulations for the treatment of lab packs. The attached memo from the Director of the Office of Solid Waste outlines the rationale for this approach. Both interim and final authorization are available for those HSWA provisions going into effect immediately. Interim authorization expires January 1, 2003.

The changes to 260.30, 260.31, 260.32, 260.33, and 261.2 are considered non-HSWA changes. The changes to 261.2(e)(1)(iii) and 260.30(b) are considered by EPA to narrow the scope of the Federal regulations and are therefore designated as optional on the checklist. The changes to 260.30, 260.31, 260.32 and 260.33 are included to be consistent with the changes in the closed-loop exclusion and the related 260.30(b) variance. As such these also have also been marked as optional. EPA will implement these non-HSWA requirements only in States that do not have interim or final authorization. In authorized States, the non-HSWA requirements will not be applicable until the States revise their programs to adopt equivalent requirements under State law.

The State Revision Application must include applicable regulations, AG statement addendum, Revision Checklist 137, other associated checklists and other application materials, i.e. a program description and an MOA, as determined by the Regional office.

Attorney General's Statement Entries: The following entry should be placed at Subsection II C in the Model Revision Attorney General's Statement.

C. [OPTIONAL]: This is a reduced requirement.] State statutes and regulations allow secondary materials that are recycled back into the secondary production process from which they

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were generated to be excluded from the definition of solid as per 261.2(e)(1)(iii) and indicated in Revision Checklist 137.

Federal Authority: RCRA §§3001 and 3004; 40CFR 260.30, 260.30(b), 260.31(a)&(b), 260.32, 260.33, 260.33(a)&(b), and 261.2(e)(1)(iii) as amended September 19, 1994 (59 FR 47982).

Citation of Laws and Regulations: Date of Enactment and Adoption

Remarks of the Attorney General

The following entry should be placed at Subsection XXI Q in the Model Revision Attorney General's Statement

Q. State statutes and regulations contain treatment standards for certain newly identified organic toxicity wastes and for newly listed coke product and chlorotoluene production wastes as well as dilution prohibitions for high total organic content (TOC) ignitable and toxicity characteristic pesticides as indicated in Revision Checklist 137.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40CFR 264.1(g)(6), 265.1(c)(10), and 268 as amended September 19, 1994 (59 FR 47982) and January 3, 1995 (60 FR 242).

Citation of Laws and Regulations: Date of Enactment and Adoption

Remarks of the Attorney General

The following entry should be placed at Subsection XXI R in the Model Revision Attorney General's Statement

R. State statutes and regulations contain modifications to the land disposal restrictions which simplify and provide consistency including the Universal Treatment Standards, treatment standards from three tables consolidated into one table, reduced information on notification forms, and simplified regulations for lab pack treatment as indicated in Revision Checklist 137.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40CFR 264.1(g)(6), 265.1(c)(10), and 268 as amended September 19, 1994 (59 FR 47982) and January 3, 1995 (60 FR 242).

Citation of Laws and Regulations: Date of Enactment and Adoption

Remarks of the Attorney General

The following entry should be placed at Subsection XXI S in the Model Attorney General's Statement.

S. State statutes and regulations require compliance with the requirements in 40 CFR 268 applicable to users of materials that are used in a manner constituting disposal, as indicated in Revision Checklist 137.

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Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 266.23(a), as amended September 19, 1994 (59 FR 47982).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

The following entry should be placed at Subsection XX H in the Model Attorney General's Statement.

H. State statutes and regulations exempt certain mercury recovery furnaces from the requirements of 40 CFR 266.102 through 266.111, as indicated in Revision Checklist 137.

Federal Authority: RCRA §§2002 and 3004; 40 CFR 266.100(c)(1); 266.100(c)(3); and 266 Appendix XIII as amended September 19, 1994 (59 FR 47982).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General