

US EPA ARCHIVE DOCUMENT

Revision Checklist 201 Summary

Rule Title: Land Disposal Restrictions: National Treatment Variance To Designate New Treatment Subcategories for Radioactively Contaminated Cadmium-, Mercury-, and Silver- Containing Batteries

Checklist Title: Treatment Variance for Radioactively Contaminated Batteries

Reference: 67 FR 62618 – 62624

Promulgation Date: October 7, 2002

Effective Date: November 21, 2002

Cluster: RCRA Cluster XIII

Provision Type: HSWA

Linkage: 137, 151, 167A, 167C

Optional: Yes

Summary: The October 7, 2002 rule grants a national treatability variance from the Land Disposal Restrictions (LDR) treatment standards for radioactively contaminated cadmium-, mercury-, and silver-containing batteries by designating new treatment subcategories for these wastes. The current treatment standards of thermal recovery for cadmium batteries and of roasting and retorting for mercury batteries are technically inappropriate, because any recovered metals would likely contain residual radioactive contamination and not be usable. The current numerical treatment standard for silver batteries is also inappropriate because of the potential increase in radiation exposure to workers associated with manually segregating silver-containing batteries for the purpose of treatment. Macroencapsulation is designated as the required treatment prior to land disposal for the new waste subcategories.

State Authorization: This rule is placed in RCRA Cluster XIII. The State modification deadline is July 1, 2004 (or July 1, 2005 if a State statutory change is necessary). Revisions to 268.40 are promulgated pursuant to HSWA authority. These treatment standards are considered neither more nor less stringent than existing requirements. Although States are only required to adopt requirements that are more stringent than the existing provisions, EPA strongly encourages States to adopt the provisions of this rule.

Attorney General (AG) Certification Guidance: Specific AG certification of statutory authority may not be required for this checklist as long as the AG has previously demonstrated authority for setting treatment standards.

Program Description (PD) Guidance: A State seeking authorization for this checklist should determine whether the revisions impact the program described in the Program Description.

Incorporation by Reference Guidance: The table at 40 CFR 268.40 was revised by Revision Checklist 165 (May 4, 1998; 63 FR 24956, as amended June 29, 1998; 63 FR 35147) which was later withdrawn by EPA because of a U.S. court vacatur on April 9, 1999. States that adopt the

1999 CFR and choose to follow the vacatur should not include the entries for K140 and U408 in their regulations. Note that Revision Checklist 185 (65 FR 12378; March 8, 2000) removed the K140 and U408 entries from the 268.40/table. See IBR Guidance for more information.