

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264, 265, 268, 270, and 271

[FRL 4656-7]

Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today amending the treatment standards under the land disposal restrictions (LDR) program for wastes displaying the characteristic of ignitability (EPA Hazard Code D001) other than those ignitable wastes containing greater than 10 percent total organic carbon (i.e., D001 high TOC subcategory), and corrosivity (EPA Hazard Code D002) that are managed in systems other than those regulated under the Clean Water Act (CWA), those zero dischargers treating wastewater by CWA-equivalent treatment prior to ultimate land disposal, and those injecting into Class I deep wells regulated under the Safe Drinking Water Act (SDWA). This action is being taken to comply with the September 25, 1992 decision of the U.S. Court of Appeals in *Chemical Waste Management v. EPA*, 976 F.2d 2 (D.C. Cir. 1992). The underlying rule at issue in the opinion was signed on May 8, 1990, and published on June 1, 1990 (55 FR 22520). In the court's decision, the deactivation treatment standards for certain ignitable and corrosive wastes were vacated. Because land disposal of these wastes would be prohibited if no treatment standard is in place, EPA is replacing the vacated treatment standard before the court's mandate becomes effective to avoid an absolute ban on land disposal of these wastes.

DATES: This interim final rule is effective on May 10, 1993.

Comments may be submitted on or before July 9, 1993.

ADDRESSES: The public must send an original and two copies of their written comments to the EPA RCRA Docket (OS-305), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Place the Docket Number F-93-TTCF-FFFFF on your comments. The official record for this rulemaking is also located in the RCRA Docket, room 2427, at the above address. It is open from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays. The public must make an appointment to review docket materials by calling (202)

260-9327. A maximum of 100 pages from the docket may be copied at no cost. Additional copies cost \$.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424-9346 (toll free) or (703) 412-9810 locally. For information on specific aspects of this rule, contact Rhonda Craig, and for technical information about treatment standards, contact Lisa Jones, Office of Solid Waste (OS-322W), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (703) 308-8434. For information on capacity determinations, contact Bengie Carroll, Office of Solid Waste (OS-321W), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (703) 308-8440.

>>>> Preamble has not been included in this file. <<<<

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

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

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

2. Section 264.1, paragraph (g)(6) is revised to read as follows:

§ 264.1 Purpose, scope and applicability.

* * * * *

(g) * * *

(6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in § 260.10 of this chapter, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in § 268.42, Table 2, of this chapter), or corrosive (D002) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in § 264.17(b) of this part.

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

3. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

4. Section 265.1, paragraph (c)(10) is revised to read as follows:

§ 265.1 Purpose, scope and applicability.

* * * * *

(c) * * *

(10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in § 260.10 of this chapter, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in § 268.42, Table 2, of this chapter), or corrosive (D002) waste, in order to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in § 265.17(b).

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PART 268-LAND DISPOSAL RESTRICTIONS

5. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

6. In § 268.1, paragraphs (e) (4) and (5) are added to read as follows:

§ 268.1 Purpose, scope /and applicability.

* * * * *

(e) * * *

(4) De minimis losses to wastewater treatment systems of commercial chemical product or chemical intermediates that are ignitable (D001), or corrosive (D002), and that contain underlying hazardous constituents as defined in § 268.2 of this part, are not considered to be prohibited wastes. De minimis is defined as losses from normal material handling operations (e.g. spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage

tanks or containers; leaks from well-maintained pump packings and seals; sample purgings; and relief device discharges.

(5) Land disposal prohibitions do not apply to laboratory wastes displaying the characteristic of ignitability (D001) or corrosivity (D002), that are commingled with other plant wastewaters under designated circumstances: ignitable and corrosive laboratory wastes containing underlying hazardous constituents from laboratory operations, that are mixed with other plant wastewaters at facilities whose ultimate discharge is subject to regulation under the CWA (including wastewaters at facilities which have eliminated the discharge of wastewater), provided that the annualized flow of laboratory wastewater into the facility's headwork does not exceed one percent, or provided that the laboratory wastes' combined annualized average concentration does not exceed one part per million in the facility's headwork.

7. In § 268.2, paragraph (i) is added to read as follows:

§ 268.2 Definitions applicable in this part.

* * * * *

(i) "Underlying hazardous constituent" means any regulated constituent present at levels above the F039 constituent-specific treatment standard at the point of generation of the hazardous waste.

8. In § 268.7, the introductory text of paragraph (a), and paragraphs (a)(1)(ii) and (b)(4)(ii) are revised to read as follows:

§ 268.7 Waste analysis and recordkeeping.

(a) Except as specified in § 268.32 if a generator's waste is listed in 40 CFR part 261, subpart D, the generator must test his waste, or test an extract using the test method described in part 261, appendix II of this chapter, or use knowledge of the waste, to determine if the waste is restricted from land disposal under this part. Except as specified in § 268.32, if a generator's waste exhibits one or more of the characteristics set out at 40 CFR part 261, subpart C of this chapter, the generator must test an extract using the test method described in appendix IX of this part, or use knowledge of the waste, to determine if the waste is restricted from land disposal under this part. If the generator determines that his waste displays the characteristic of ignitability (D001) (and is not in the High TOC Ignitable Liquids Subcategory or is not treated by INCIN, FSUBS, or RORGS of § 268.42, Table 1), or the characteristic of

corrosivity (D002), and is prohibited under § 268.37, the generator must determine what underlying hazardous constituents (as defined in § 268.2 of this part), are reasonably expected to be present in the D001 or D002 waste.

(1) * * *

(ii) The corresponding treatment standards for wastes F001-F005, F039, wastes prohibited pursuant to § 268.32 or RCRA section 3004(d), and for underlying hazardous constituents (as defined in § 268.2 of this part), in D001 and D002 wastes if those wastes are prohibited under § 268.37 of this part. Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater (as defined in § 268.2(f)) or nonwastewater (as defined in § 268.2(d)) category, the applicable subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanides), and the CFR section(s) and paragraph(s) where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in § 268.42, the applicable five-letter treatment code found in Table 1 of § 268.42 (e.g., INCIN, WETOX) also must be listed on the notification.

* * * * *

(b) * * *

(4) * * *

(ii) The corresponding treatment standards for wastes F001-F005, F039, wastes prohibited pursuant to § 268.32 or RCRA section 3004(d), and for underlying hazardous constituents (as defined in § 268.2 of this part), in D001 and D002 wastes if those wastes are prohibited under § 268.37 of this part. Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater (as defined in § 268.2(f)) or nonwastewater (as defined in § 268.2(d)) category, the applicable subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanides), and the CFR section(s) and paragraph(s) where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in § 268.42, the applicable five-letter treatment code found in Table 1 of § 268.42 (e.g., INCIN, WETOX) also must be included on the notification.

* * * * *

9. In § 268.9, paragraph (a) is revised to read as follows:

§ 268.9 Special rules regarding wastes that exhibit a characteristic.

(a) The initial generator of a solid waste must determine each EPA Hazardous Waste Number (waste code) applicable to the waste in order to determine the applicable treatment standards under subpart D of this part. For purposes of part 268, the waste will carry the waste code for any applicable listing under 40 CFR part 261, subpart D. In addition, the waste will carry one or more of the waste codes under 40 CFR part 261, subpart C, where the waste exhibits a characteristic, except in the case when the treatment standard for the waste code listed in 40 CFR part 261, subpart D operates in lieu of the standard for the waste code under 40 CFR part 261, subpart C, as specified in paragraph (b) of this section. If the generator determines that his waste displays the characteristic of ignitability (D001) (and is not in the High TOC Ignitable Liquids Subcategory or is not treated by INCIN, FSUBS, or RORGS of § 268.42, Table 1), or the characteristic of corrosivity (D002), and is prohibited under § 268.37 of this Part, the generator must determine what underlying hazardous constituents (as defined in § 268.2 of this Part), are reasonably expected to be present in the D001 or D002 waste.

* * * * *

10. Section 268.37 is added to read as follows:

§ 268.37 Waste specific prohibitions-ignitable and corrosive characteristic wastes whose treatment standards were vacated.

(a) Effective August 9, 1993, the wastes specified in 40 CFR 261.21 as D001 (and is not in the High TOC Ignitable Liquids Subcategory), and specified in § 261.22 as D002, that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA), or that are zero dischargers that engage in CWA-equivalent treatment before ultimate land disposal, are prohibited from land disposal. CWA-equivalent treatment means biological treatment for organics, alkaline chlorination or ferrous sulfate precipitation for cyanide, precipitation/sedimentation for metals, reduction of hexavalent chromium, or other treatment technology that can be demonstrated to perform equally or greater than these technologies.

(b) Effective February 10, 1994, the wastes specified in 40 CFR 261.21 as D001 (and is not in the High TOC Ignitable Liquids Subcategory), and specified in § 261.22 as D002, that are managed in systems defined in 40 CFR 144.6(e) and 146.6(e) as Class V

injection wells, that do not engage in CWA-equivalent treatment before injection, are prohibited from land disposal.

11. In § 268.40, paragraph (b) is revised to read as follows:

§ 268.40 Applicability of treatment standards.

* * * * *

(b) A restricted waste for which a treatment technology is specified under § 268.42(a), or hazardous debris for which a treatment technology is specified under § 268.45, may be land disposed after it is treated using that specified technology or an equivalent treatment method approved by the Administrator under the procedures set forth in § 268.42(b). For waste displaying the characteristic of ignitability (D001) and reactivity (D003), that are diluted to meet the deactivation treatment standard in § 268.42(a) Tables 1 and 2 (DEACT), the treater must comply with the precautionary measures specified in 40 CFR 264.17(b) and 265.17(b) of this chapter.

* * * * *

12. In § 268.41(a), Table CCWE, the entry for F039 is amended by revising the "Waste code" and the "See also" columns to read as follows:

§ 268.41 Treatment standards expressed as concentrations in waste extract.

(a) * * *

268.41 Table CCWE.-Constituent Concentrations in Waste Extract

Waste code	Commercial chemical name	See also	Regulated hazardous constituent	CAS No. for regulated hazardous constituent	Wastewaters		Nonwastewaters	
					Concentration (mg/l)	Notes	Concentration (mg/l)	Notes
*	*	*	*	*	*	*	*	*
F039 (and D001 and D002 wastes prohibited under § 268.37).	***	Table 2 in 268.42, and Table CCW in 268.43.	***	***	***	** *	***	** *
*	*	*	*	*	*	*	*	*

* * * * *

13. In § 268.42(a) the entries for D001 and D002 in Table 2 are revised to read as follows:

§ 268.42 Treatment standards expressed as specified technologies.

(a) * * *

268.42 Table 2.-Technology-Based Standards by RCRA Waste Code

Waste code	See also	Waste descriptions and/or treatment subcategory	CAS No. for regulated hazardous constituent	Technology code	
				Wastewaters	Nonwastewaters
D001	Table CCWE in 268.41 and Table CCW in 268.43	All descriptions based on 40 CFR 261.21, except for the § 261.21(a)(1) High TOC subcategory, managed in non-CWA/non-CWA-equivalent/non-Class I SDWA systems.	NA	DEACT, and meet F039; or FSUBS; RORGS; or INCIN.	DEACT, and meet F039; or FSUBS; RORGS; or INCIN.
D001	NA	All descriptions based on 40 CFR 261.21, except for the § 261.21(a)(1) High TOC subcategory, managed in CWA, CWA-equivalent, or Class I SDWA systems.	NA	DEACT.	DEACT.
D001	NA	All descriptions based on 40 CFR 261.21(a)(1)-High TOC Ignitable Liquids Subcategory-Greater than or equal to 10% total organic carbon.	NA	NA	FSUBS; RORGS; or INCIN.
D002	Table CCWE in 268.41 and Table CCW in 268.43	Acid, alkaline, and other subcategory based on 261.22 managed in non-CWA/non-CWA-equivalent/non-Class I SDWA systems.	NA	DEACT and meet F039.	DEACT and meet F039.
D002	NA	Acid, alkaline, and other subcategory based on 261.22 managed in CWA, CWA-equivalent, or Class I SDWA systems.	NA	DEACT.	DEACT.
*	*	*	*	*	*

Note: NA means Not Applicable.

* * * * *

14. In § 268.43(a), Table CCW, the entry for F039 is amended by revising the "Waste code" and the "See also" columns to read as follows:

§ 268.43 Treatment standards expressed as waste concentrations.

(a) * * *

268.43 Table CCW.-Constituent Concentrations in Wastes

Waste code	Commercial chemical name	See also	Regulated hazardous constituent	CAS number for regulated hazardous constituent	Wastewaters		Nonwastewaters	
					Concentration (mg/l)	Notes	Concentration (mg/kg)	Notes
F039 (and D001 and D002 wastes prohibited under § 268.37).	* * *	Table 2 in 268.42, and Table CCWE in 268.41.	* * *	* * *	* * *	* * *	* * *	* * *

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

15. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

16. In § 270.42, Appendix I is amended by redesignating item B(1)(c) as B(1)(d), removing the second item B(1)(b), and adding item B(1)(c) to read as follows:

Appendix I to § 270.42 -- Classification of Permit Modifications

Modifications	Class
* * * * *	* *
B. General Facility Standards	
1. * * *	
c. To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes.	¹ 1
* * * * *	* *

FOOTNOTE: ¹Class 1 Modifications requiring prior Agency approval.

>>>> Part 271 has not been included because it is not required as part of a State's Hazardous Waste Program. <<<<

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