Environmental Protection Agency

§ 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. This determination may be made concurrently with the hazardous waste determination required in §262.11 of this chapter. For purposes of part 268, the waste will carry the waste code for any applicable listed waste (40 CFR part 261, subpart D). In addition, where the waste exhibits a characteristic, the waste will carry one or more of the characteristic waste codes (40 CFR part 261, subpart C), except when the treatment standard for the listed waste operates in lieu of the treatment standard for the characteristic waste, as specified in paragraph (b) of this section. If the generator determines that their waste displays a hazardous characteristic (and is not D001 nonwastewaters treated by CMBST, RORGS, OR POLYM of §268.42, Table 1), the generator must determine the underlying hazardous constituents (as defined at §268.2(i)) in the characteristic waste.

(b) Where a prohibited waste is both listed under 40 CFR part 261, subpart D and exhibits a characteristic under 40 CFR part 261, subpart C, the treatment standard for the waste code listed in 40 CFR part 261, subpart D will operate in...
lieu of the standard for the waste code
under 40 CFR part 261, subpart C, pro-
vided that the treatment standard for
the listed waste includes a treatment
standard for the constituent that
causes the waste to exhibit the char-
acteristic. Otherwise, the waste must
meet the treatment standards for all
applicable listed and characteristic
waste codes.

(c) In addition to any applicable
standards determined from the initial
point of generation, no prohibited
waste which exhibits a characteristic
under 40 CFR part 261, subpart C may
be land disposed unless the waste com-
piles with the treatment standards
under subpart D of this part.

(d) Wastes that exhibit a char-
acteristic are also subject to §268.7 re-
quirements, except that once the waste is no longer hazardous, a one-time no-
tification and certification must be
placed in the generator’s or treater’s
on-site files. The notification and cer-
tification must be updated if the proc-
ess or operation generating the waste
changes and/or if the subtitle D facility
receiving the waste changes.

(1) The notification must include the
following information:
(i) Name and address of the RCRA
Subtitle D facility receiving the waste
shipment; and
(ii) A description of the waste as ini-
tially generated, including the applica-
able EPA hazardous waste code(s), treat-
ability group(s), and underlying haz-
ardous constituents (as defined in
§268.2(1)), unless the waste will be
replaced and treated and monitored, there is no re-
quirement to list any of the underlying hazardous constituents on the notice.

(2) The certification must be signed
by an authorized representative and
must state the language found in
§268.7(b)(4).

(i) If treatment removes the char-
acteristic but does not meet standards
applicable to underlying hazardous
constituents, then the certification
found in §268.7(b)(4)(iv) applies.

(ii) [Reserved]