and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and Subchapter I, Part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moveover, due to the nature of the federal-state relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v *US EPA,* 427 US 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a federal mandate that may result in estimated annual costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this SIP or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under sections 110 and 187 of the Clean Air Act. These rules may bind state, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action would impose any mandate upon the state, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated annual costs of $100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

Under 5 U.S.C. section 605(b), I certify that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This rule may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations.

40 CFR Part 81

Air pollution control, National parks, and Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 31, 1996.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 96–16158 Filed 6–27–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 148 and 268

[EPA # F–96–PH3F–FFFFF; FRL–5528–1]

RIN 2050–AD38

Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical correction.

SUMMARY: On April 8, 1996, EPA published regulations covering both congressionally-mandated and court-ordered prohibitions on land disposal of certain hazardous wastes. On the same day, EPA published a partial withdrawal and correction of those regulations to the extent the Land Disposal Program Flexibility Act (LDPFA) (signed by the President on March 26, 1996) revoked most of the court-ordered prohibitions. This notice corrects technical errors in the final regulations and the partial withdrawal notice.

EFFECTIVE DATE: This rule is effective on June 28, 1996.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA. The Docket Identification Number is F–96–PH3F–FFFFF. The RCRA Docket is open from 9 a.m. to 4 p.m. Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at (800) 424–9346 (toll free) or (703) 920–9810 in the Washington, DC metropolitan area. For information on this notice contact Michael Petruska (5302W), Office of Solid Waste, 401 M Street, S.W., Washington, DC 20460, (703) 308–8434.

SUPPLEMENTARY INFORMATION:

I. Reasons and Basis for Today's Amendment

The Agency has received comments from the regulated community and State agencies requesting clarification on certain aspects of the April 8, 1996 Land Disposal Restrictions (LDR) Phase III final rule (61 FR 15566) and the April 8, 1996 withdrawal notice (61 FR 15660). Today's amendment responds to these comments and makes technical corrections where appropriate.

II. Amendments to the LDR Phase III Final Rule

There were several errors in the treatment standard table in § 268.40, and in the table of Universal Treatment Standards (UTS) in § 268.48. The errors pertained to portions of the final rule which were not affected by the LDPFA. It should be noted that certain errors in both of these tables are not being corrected here as they are being corrected by the Office of Federal Register.

A. Section 268.40 Table

There were several errors in the table ''Treatment Standards for Hazardous

Waste'' in section 268.40. First, the waste codes for the proposed organobromine wastes—K140 and U404—inadvertently appeared in the table. As was explained in the preamble to the final rule (61 FR 15566, 15569, April 8, 1996), however, the Agency is not promulgating treatment standards for these wastes at this time since the listing of these wastes as hazardous has not been finalized. Today's notice removes these entries from the table.

Second, the treatment standards set out in the table for the carbamate wastes were incorrect. These entries reflected the waste codes and constituents in the proposed listing instead of the waste codes and constituents in the finalized listing (60 FR 7824, February 9, 1995). These entries also are being corrected in today's notice.

Third, the entries for F006, F007, F010, F037, F039, K006, and K062 included treatment standards for constituents for which previously there was no standard (''NA'' had appeared instead). The proposed rule had included treatment standards to replace all of the ''NA'' entries in the table. However, as was explained in the preamble to the final rule (61 FR at 15569), the Agency agreed with commenters who felt it was arbitrary to add a standard for the sake of completeness where previously there was none, and, therefore, the Agency did not finalize the proposed changes. However, EPA inadvertently continued to include the standard for these waste codes in the final rule. Today's notice restores the ''NA'' entries.

B. Section 268.48 Table

The wastewater treatment standards for A2213, Butylate, Cycloate, EPTC, Molinate, Pebulate, Prosulfocarb, Triallate, and Vernolate appeared in the table of UTS as 0.003, although the preamble gave the correct standard as 0.042 (61 FR 15584). Today's notice corrects the UTS table.

III. Amendments to the LDR Phase III Withdrawal Notice

There are four sections in the withdrawal notice that need correction/clarification—§§ 148.1, 268.1, 268.3, and 268.40.

A. Section 148.1

The Agency today is amending the language in § 148.1(d) to more accurately reflect the recently enacted LDPFA. The revised language clarifies that decharacterized wastes injected in any Class I injection well—either hazardous or nonhazardous—are not prohibited wastes, and, therefore, are not subject to the Land Disposal Restrictions (LDR) treatment standards. This result was alluded to in the April 8, 1996 withdrawal notice (61 FR 15661), but the Agency believes it is appropriate to further make it clear that both hazardous and nonhazardous Class I wells are excepted, as provided in the text of the legislation.

B. Section 268.1

The Agency also is amending the language in § 268.1(c) to mirror the amended language in § 148.1(d) described above. We also are clarifying that decharacterized wastewaters managed in Clean Water Act (CWA) or equivalent systems with land disposal units are not prohibited wastes, and, thus, are not subject to LDR treatment standards. As provided in the legislation, the decharacterized wastes managed in CWA or CWA-equivalent systems which remain prohibited are those that have a specified ''method of treatment'' for a treatment standard, or are reactive cyanide wastes. This clarification was also alluded to in the April 8, 1996 withdrawal notice (61 FR 15661).

C. Section 268.3

The Agency is today amending the dilution prohibition language in § 268.3(b) to clarify that the treatment method of deactivation (DEACT) is not considered a specified method of treatment for the purposes of that section. This change merely codifies existing Agency interpretation (see preamble discussion at 55 FR 22666, June 1, 1990; and 57 FR 8087–8088, March 6, 1992).

D. Section 268.40

As discussed in A. and B. of this section, decharacterized wastes managed in CWA or CWA-equivalent systems (with land disposal units receiving the decharacterized waste) are no longer prohibited wastes, with the exception of characteristic wastes that have a specified method as a treatment standard and reactive cyanide. All decharacterized wastes injected into Class I wells also are no longer prohibited wastes.

In the rush of preparing a notice to reflect the new legislation as quickly as possible, EPA inadvertently failed to remove the numerical standards for these categories of wastes and replace them with the characteristic level (61 FR at 15664–15668). Therefore, the treatment standards in the April 8 withdrawal notice for these wastes were in error. For instance, the wastewater treatment standard for benzene in D018 wastes that are managed in CWA, CWA equivalent, or Class I injection wells was given as 0.14 mg/l. In fact, a D018 wastewater managed in one of these systems need only meet the regulatory level of 0.5 mg/l to be rendered nonhazardous (i.e. decharacterized) and, hence, no longer prohibited. Today's notice corrects this mistake by removing that category from the table of Treatment Standards for Hazardous Wastes, and indicating via a footnote that these wastes, once decharacterized, are no longer subject to LDR treatment standards.

The Agency wishes to clarify further that these non-LDR wastes also are not subject to the LDR notification and certification requirements of § 268.7 and § 268.9.

IV. Clarification to the Phase III Withdrawal Notice

Under RCRA regulations in effect before the LDPFA, wastes that are listed solely because they exhibit a hazardous characteristic are not prohibited from land disposal if they are managed in CWA, CWA-equivalent, or Class I injection well systems and are no longer hazardous at the point of land disposal. Id.; see also the codification of this principle at 40 CFR 261.3(a)(2)(iii) and 57 FR at 37210–211 (August 18, 1992). (The exception is for listed wastes that are subject to a method of treatment; these wastes cannot be disposed of in CWA or equivalent systems. See 55 FR at 22656, 22657 (general principle in Third Third final rule that characteristic wastes subject to a method of treatment remain subject to dilution prohibition even when managed in CWA treatment systems) and 57 FR 37210 (same principle should apply to wastes listed solely because they exhibit a characteristic).

In the April 8, 1996 withdrawal notice, EPA stated that it would not, at least for the time being, reopen those land disposal restriction rules applicable to wastes listed solely because they exhibit a hazardous waste characteristic (e.g. U002 commercial chemical product acetone). See 61 FR at 15661–62. This is because the new legislation does not directly apply to such wastes. Id.

EPA is taking this opportunity to clarify that the existing rules on wastes listed solely because they exhibit a characteristic apply to all wastes, regardless of whether they are wastewaters or non-wastewaters, so long as they are managed in the prescribed types of wastewater management systems. Notwithstanding unclear language in the August, 1992 preamble cited above, what the Agency intended to do was to put wastes listed solely because they exhibit a characteristic on

the same footing vis-a-vis the dilution prohibition as the characteristic wastes covered by the Third Third rule. 57 FR at 37210. Under that Third Third rule, most characteristic wastes (whether or not they were in the wastewater or nonwastewater treatability group) could be permissibly be managed in CWA systems and Class I UIC injection wells so long as they were rendered non-hazardous by any means before being placed in a land disposal unit (i.e. surface impoundment or Class I injection well). 55 FR at 22656–658 (June 1, 1990). EPA is formally clarifying this point by means of today's preamble discussion.

V. Rationale for Immediate Effective Date

Today's notice does not create any new regulatory requirements; rather, it restates and clarifies requirements already in effect (by virtue of the new legislation) by correcting a number of errors in the April 8, 1996 final rule and withdrawal notice. For these reasons, EPA finds that good cause exists under section 3010(b)(3) of RCRA, 42 U.S.C. 9903(b)(3), to provide for an immediate effective date. See generally 61 FR at 15662. For the same reasons, EPA finds that there is good cause under 5 U.S.C. 553(b)(3) to promulgate today's corrections in final form and that there is good cause under 5 U.S.C. 553(b)(3) to waive the requirement that regulations be published at least 30 days before they become effective.

VI. Analysis Under Executive Order 12866, the Unfunded Mandates Reform Act of 1995, the Regulatory Flexibility Act, and the Paperwork Reduction Act

This technical correction does not create any new regulatory requirements. It merely corrects technical errors and clarifies requirements already in effect (by virtue of the new legislation) and therefore is not a ''significant'' regulatory action within the meaning of Executive Order 12866, and does not impose any Federal mandate on State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995. For the same reasons, pursuant to the Regulatory Flexibility Act, I certify that this action would not have a significant impact on a substantial number of small entities. Finally, because this is a technical correction, it does not affect requirements under the Paperwork Reduction Act.

VII. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended.

List of Subjects

40 CFR Part 148

Environmental protection, Administrative practice and procedure, Hazardous waste, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

Dated: June 21, 1996.

Elliott Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

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

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

1. The authority citation for part 148 continues to read as follows:

Authority: Secs. 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq.

2. Section 148.1 is amended by revising paragraph (d) to read as follows:

§ 148.1 Purpose, scope and applicability.

* * * * *

(d) Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under this part, or part 268 of this chapter, are not prohibited if the wastes:

(1) Are disposed into a nonhazardous or hazardous injection well as defined under 40 CFR § 146.6(a); and

(2) Do not exhibit any prohibited characteristic of hazardous waste identified in 40 CFR part 261, subpart C at the point of injection.

PART 268—LAND DISPOSAL RESTRICTIONS

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

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

Subpart A—General

4. In section 268.1, paragraph (c) is amended by adding paragraphs (3) and (4) to read as follows:

§ 268.1 Purpose, scope and applicability.

* * * * *

(c) * * *

(3) Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under this part, or part 148 of this chapter, are not prohibited if the wastes:

(i) Are disposed into a nonhazardous or hazardous injection well as defined under 40 CFR 146.6(a); and

(ii) Do not exhibit any prohibited characteristic of hazardous waste identified in 40 CFR part 261, subpart C at the point of injection.

(4) Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under this part, are not prohibited if the wastes meet any of the following criteria, unless the wastes are subject to a specified method of treatment other than DEACT in § 268.40, or are D003 reactive cyanide:

(i) The wastes are managed in a treatment system which subsequently discharges to waters of the U.S. pursuant to a permit issued under section 402 of the Clean Water Act; or

(ii) The wastes are treated for purposes of the pretreatment requirements of section 307 of the Clean Water Act; or

(iii) The wastes are managed in a zero discharge system engaged in Clean Water Act-equivalent treatment as defined in § 268.37(a); and

(iv) The wastes no longer exhibit a prohibited characteristic at the point of land disposal (i.e., placement in a surface impoundment).

* * * * *

5. Section 268.2 is amended by revising paragraph (j) to read as follows:

§ 268.2 Definitions applicable in this part.

* * * * *

(j) *Inorganic metal-bearing waste* is one for which EPA has established treatment standards for metal hazardous constituents, and which does not otherwise contain significant organic or cyanide content as described in § 268.3(c)(1), and is specifically listed in appendix XI of this part.

* * * * *

6. Section 268.3 is amended by revising paragraph (b) to read as follows:

§ 268.3 Dilution prohibited as a substitute for treatment.

* * * * *

(b) Dilution of wastes that are hazardous only because they exhibit a characteristic in treatment systems which include land- based units which treat wastes subsequently discharged to a water of the United States pursuant to a permit issued under section 402 of the Clean Water Act (CWA), or which treat wastes in a CWA-equivalent treatment system, or which treat wastes for the purposes of pretreatment requirements under section 307 of the CWA is not impermissible dilution for purposes of this section unless a method other than DEACT has been specified in § 268.40 as the treatment standard, or unless the waste is a D003 reactive cyanide wastewater or nonwastewater.

* * * * *

7. Section 268.39 is amended by revising paragraph (e) to read as follows:

§ 268.39 Waste specific prohibitions—spent aluminum potliners; reactive; and carbamate wastes.

* * * * *

(e) Between July 8, 1996, and April 8, 1998, the wastes included in paragraphs (a), (c), and (d) of this section may be disposed in a landfill or surface impoundment, only if such unit is in compliance with the requirements specified in § 268.5(h)(2).

* * * * *

8. Section 268.40 is amended by revising the first sentence of paragraph (a), and paragraph (e) to read as follows:

§ 268.40 Applicability of treatment standards.

(a) A prohibited waste identified in the table ''Treatment Standards for Hazardous Wastes'' may be land disposed only if it meets the requirements found in the table. * * *

* * * * *

(e) For characteristic wastes (D001–D003, and D012–D043) that are subject to treatment standards in the following table ''Treatment Standards for Hazardous Wastes,'' all underlying hazardous constituents (as defined in § 268.2(i)) must meet Universal Treatment Standards, found in § 268.48, ''Table UTS,'' prior to land disposal as defined in § 268.2(c) of this part.

* * * * *

§ 268.40 [Amended]

9. In § 268.40, the table at the end of the section is amended by removing the entries for K140, P187, P193, P195, P200, U360–U363, U368–U371, U374, U380, U388, U397–U399, U405, U406, and U408; and by revising the entries for D001–D003, D012–D043, F006, F007, F010, F037, F039, K006, K008, K062, K108, K156–K161, P093, P196, P202, U277, U365, U366, U375–U379, U381–U387, U389–U396, U400–U404, and U407; and by adding the entries for U278, U409, U410, and U411; and by adding footnotes 8 and 9 to read as follows:

* * * * *

TREATMENT STANDARDS FOR HAZARDOUS WASTES

[Note: NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters (Concentration in mg/l [3], or technology code [4])	Nonwastewaters (Concentration in mg/kg [5] unless noted as ''mg/l TCLP''; or technology code)
		Common name	CAS [2] No.		
D001	Ignitable Characteristic Wastes, except for the § 261.21(a)(1) High TOC Subcategory.	NA	NA	DEACT and meet § 268.48 standards;[8] or RORGS;[9] or CMBST [9].	DEACT and meet § 268.48 standards;[8] or RORGS;[9] or CMBST.[9]
	High TOC Ignitable Characteristic Liquids Subcategory based on 40 CFR 261.21(a)(1)—Greater than or equal to 10% total organic carbon. (Note: This subcategory consists of nonwastewaters only).	NA	NA	NA	RORGS;[9] or CMBST.[9]
D002	Corrosive Characteristic Wastes	NA	NA	DEACT and meet § 268.48 standards [8].	DEACT and meet § 268.48 standards [8]
	* * *	*	*	*	*
D003	Reactive Sulfides Subcategory based on 261.23(a)(5).	NA	NA	DEACT and meet § 268.48 standards [8].	DEACT and meet § 268.48 standards.[8]
	Explosives Subcategory based on 261.23(a)(6), (7), and (8).	NA	NA	DEACT and meet § 268.48 standards [8].	DEACT and meet § 268.48 standards.[8]
	Unexploded ordnance and other explosive devices which have been the subject of an emergency response.	NA	NA	DEACT	DEACT
	Other Reactives Subcategory based on 261.23(a)(1).	NA	NA	DEACT and meet § 268.48 standards [8].	DEACT and meet § 268.48 standards.[8]
	Water Reactive Subcategory based on 261.23(a)(2),(3), and (4). (Note: This subcategory consists of nonwastewaters only).	NA	NA	NA	DEACT and meet § 268.48 standards.[8]
	Reactive Cyanides Subcategory based on 261.23(a)(5).	Cyanides (Total) [7]	57–12–5	Reserved	590.[9]
		Cyanides (Amenable)[7].	57–12–5	0.86[9]	30.[9]

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

[Note: NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters (Concentration in mg/l [3], or technology code [4])	Nonwastewaters (Concentration in mg/kg [5] unless noted as "mg/l TCLP"; or technology code)
		Common name	CAS [2] No.		
*	* *	*	*	*	*
D012	Wastes that are TC for Endrin based on the TCLP in SW846 Method 1311.	Endrin	72–20–8	BIODG;[9] or CMBST [9].	0.13 and meet § 268.48 standards.[8]
		Endrin aldehyde	7421–93–4	BIODG;[9] or CMBST [9].	0.13 and meet § 268.48 standards [8]
D013	Wastes that are TC for Lindane based on the TCLP in SW846 Method 1311.	alpha-BHC	319–84–6	CARBN;[9] or CMBST [9].	0.066 and meet § 268.48 standards [8]
		beta-BHC	319–85–7	CARBN;[9] or CMBST [9].	0.066 and meet § 268.48 standards [8]
		delta-BHC	319–86–8	CARBN;[9] or CMBST [9].	0.066 and meet § 268.48 standards [8]
		gamma-BHC (Lindane).	58–89–9	CARBN;[9] or CMBST [9].	0.066 and meet § 268.48 standards [8]
D014	Wastes that are TC for Methoxychlor based on the TCLP in SW846 Method 1311.	Methoxychlor	72–43–5	WETOX [9] or CMBST [9].	0.18 and meet § 268.48 standards [8]
D015	Wastes that are TC for Toxaphene based on the TCLP in SW846 Method 1311.	Toxaphene	8001–35–2	BIODG [9] or CMBST [9].	2.6 and meet § 268.48 standards [8]
D0l6	Wastes that are TC for 2,4-D(2,4-Dichlorophenoxyacetic acid) based on the TCLP in SW846 Method 1311.	2,4-D(2,4-Dichlorophenoxyacetic acid).	94–75–7	CHOXD;[9] BIODG;[9] or CMBST [9].	10 and meet § 268.48 standards [8]
D017	Wastes that are TC for 2,4,5-TP (Silvex) based on the TCLP in SW846 Method 1311.	2,4,5-TP(Silvex)	93–72–1	CHOXD [9] or CMBST [9].	7.9 and meet § 268.48 standards [8]
D018	Wastes that are TC for Benzene based on the TCLP in SW846 Method 1311.	Benzene	71–43–2	0.14 and meet § 268.48 standards [8].	10 and meet § 268.48 standards [8]
D019	Wastes that are TC for Carbon tetrachloride based on the TCLP in SW846 Method 1311.	Carbon tetrachloride	56–23–5	0.057 and meet § 268.48 standards [8].	6.0 and meet § 268.48 standards [8]
D020	Wastes that are TC for Chlordane based on the TCLP in SW846 Method 1311.	Chlordane (alpha and gamma isomers).	57–74–9	0.0033 and meet § 268.48 standards [8].	0.26 and meet § 268.48 standards [8]
D021	Wastes that are TC for Chlorobenzene based on the TCLP in SW846 Method 1311.	Chlorobenzene	108–90–7	0.057 and meet § 268.48 standards[8].	6.0 and meet § 268.48 standards.[8]
D022	Wastes that are TC for Chloroform based on the TCLP in SW846 Method 1311.	Chloroform	67–66–3	0.046 and meet § 268.48 standards[8].	6.0 and meet § 268.48 standards.[8]
D023	Wastes that are TC for o-Cresol based on the TCLP in SW846 Method 1311.	o-Cresol	95–48–7	0.11 and meet § 268.48 standards[8].	5.6 and meet § 268.48 standards.[8]
D024	Wastes that are TC for m-Cresol based on the TCLP in SW846 Method 1311.	M-Cresol (difficult to distinguish from p-cresol).	108–39–4	0.77 and meet § 268.48 standards[8].	5.6 and meet § 268.48 standards.[8]
D025	Wastes that are TC for p-Cresol based on the TCLP in SW846 Method 1311.	p-Cresol (difficult to distinguish from m-cresol).	106–44–5	0.77 and meet § 268.48 standards[8].	5.6 and meet § 268.48 standards.[8]
D026	Wastes that are TC for Cresols (Total) based on the TCLP in SW846 Method 1311.	Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, and p-cresol concentrations).	1319–77–3	0.88 and meet § 268.48 standards[8].	11.2 and meet § 268.48 standards.[8]
D027	Wastes that are TC for p-Dichloro- benzene based on the TCLP in SW846 Method 1311.	p-Dichlorobenzene (1,4-Dichlorobenzene).	106–46–7	0.090 and meet § 268.48 standards[8].	6.0 and meet § 268.48 standards.[8]
D028	Wastes that are TC for 1,2-Dichloroethane based on the TCLP in SW846 Method 1311.	1,2-Dichloroethane	107–06–2	0.21 and meet § 268.48 standard[8].	6.0 and meet § 268.48 standards.[8]

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

[Note: NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters (Concentration in mg/l [3], or technology code [4])	Nonwastewaters (Concentration in mg/kg [5] unless noted as "mg/l TCLP"; or technology code)
		Common name	CAS [2] No.		
D029	Wastes that are TC for 1,1-Dichloroethylene based on the TCLP in SW846 Method 1311.	1,1-Dichlorethylene	75–35–4	0.025 and meet § 268.48 standards[8].	6.0 and meet § 268.48 standards.[8]
D030	Wastes that are TC for 2,4-Dinitrotoluene based on the TCLP in SW846 Method 1311.	2,4-Dinitrotoluene	121–14–2	0.32 and meet § 268.48 standards[8].	140 and meet § 268.48 standards.[8]
D031	Wastes that are TC for Heptachlor based on the TCLP in SW846 Method 1311.	Heptachlor	76–44–8	0.0012 and meet § 268.48 standards[8].	0.066 and meet § 268.48 standards.[8]
		Heptachlor epoxide	1024–57–3	0.016 and meet § 268.48 standards[8].	0.066 and meet § 268.48 standards.[8]
D032	Wastes that are TC for Hexachloro- benzene based on the TCLP in SW846 Method 1311.	Hexachlorobenzene	118–74–1	0.055 and meet § 268.48 standards[8].	10 and meet § 268.48 standards.[8]
D033	Wastes that are TC for Hexachlorobutadiene based on the TCLP in SW846 Method 1311.	Hexachlorobutadiene.	87–68–3	0.055 and meet § 268.48 standards[8].	5.6 and meet § 268.48 standards.[8]
D034	Wastes that are TC for Hexachloroethane based on the TCLP in SW846 Method 1311.	Hexachloroethane ...	67–72–1	0.055 and meet § 268.48 standards[8].	30 and meet § 268.48 standards.[8]
D035	Wastes that are TC for Methyl ethyl ketone based on the TCLP in SW846 Method 1311.	Methyl ethyl ketone	78–93–3	0.28 and meet § 268.48 standard[8].	36 and meet § 268.48 standards.[8]
D036	Wastes that are TC for Nitrobenzene based on the TCLP in SW846 Method 1311.	Nitrobenzene	98–95–3	0.068 and meet § 268.48 standards[8].	14 and meet § 268.48 standards.[8]
D037	Wastes that are TC for Pentachlorophenol based on the TCLP in SW846 Method 1311.	Pentachlorophenol	87–86–5	0.089 and meet § 268.48 standards[8].	7.4 and meet § 268.48 standards.[8]
D038	Wastes that are TC for Pyridine based on the TCLP in SW846 Method 1311.	Pyridine	110–86–1	0.014 and meet § 268.48 standards[8].	16 and meet § 268.48 standards.[8]
D039	Wastes that are TC for Tetrachloroethylene based on the TCLP in SW846 Method 1311.	Tetracholorethylene	127–18–4	0.056 and meet § 268.48 standards..	6.0 and meet § 268.48 standards.[8]
D040	Wastes that are TC for Trichloroethylene based on the TCLP in SW846 Method 1311.	Trichloroethylene	79–01–6	0.054 and meet § 268.48 standards[8].	6.0 and meet § 268.48 standards.[8]
D041	Wastes that are TC for 2,4,5-Trichlorophenol based on the TCLP in SW846 Method 1311.	2,4,5-Trichlorophenol.	95–95–4	0.18 and meet § 268.48 standards[8].	7.4 and meet § 268.48 standards.[8]
D042	Wastes that are TC for 2,4,6-Trichlorophenol based on the TCLP in SW846 Method 1311.	2,4,6-Tricholorphenol.	88–06–2	0.035 and meet § 268.48 standards[8].	7.4 and meet § 268.48 standards.[8]
D043	Wastes that are TC for Vinyl chloride based on the TCLP in SW846 Method 1311.	Vinyl chloride	75–01–4	0.27 and meet § 268.48 standards[8].	6.0 and meet § 268.48 standards.[8]
	* * *	*	*	*	*
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carton steel; and (6) chemical etching and milling of aluminum.	Cadmium	7440–43–9	.069	0.19 mg/l TCLP.
		* *	*	*	*
		Silver	7440–22–4	NA	0.30 mg/l TCLP.
F007	Spent cyanide plating bath solutions from electroplating operations.	Cadmium	7440–43–9	NA	0.19 mg/l TCLP.
		* *	*	*	*

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

[Note: NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters (Concentration in mg/l [3], or technology code [4])	Nonwastewaters (Concentration in mg/kg [5] unless noted as "mg/l TCLP"; or technology code)
		Common name	CAS [2] No.		
*	* *	*	*	*	*
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process.	Cyanides (Total) [7] ...	57–12–5	1.2	590.
		Cyanides (Amenable) [7].	57–12–5	0.86	NA.
*	* *	*	*	*	*
F037	Petroleum refinery primary oil/water/solids separation sludge—Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in: oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from noncontact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in § 261.31(b)(2) (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and KO51 wastes are not included in this listing.	Acenaphthene	83–32–9	0.059	3.4.
		* *	*	*	*
		Nickel	7440–02–0	NA	5.0 mg/l TCLP.
*	* *	*	*	*	*
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under subpart D of this part. (Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Wastes retains its EPA Hazardous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.).	Acenaphthylene	208–96–8	0.059	NA.
		* *	*	*	*
		Acetonitrile	75–05–8	5.6	NA.
		* *	*	*	*
		Carbon disulfide	75–15–0	3.8	NA.
		* *	*	*	*
		2-Chloro-1,3-butadiene.	126–99–8	0.057	NA.
		* *	*	*	*
		Cyclohexanone	108–94–1	0.36	NA
		* *	*	*	*
		1,4-Dioxane	123–91–1	12.0	170.
		Diphenylamine (difficult to distinguish from diphenylnitrosamine).	122–39–4	0.92	NA.
		Diphenylnitrosamine (difficult to distinguish from diphenylamine).	86–30–6	0.92	NA.
		1,2-Diphenylhydrazine.	122–66–7	0.087	NA.
		* *	*	*	*
		Methanol	67–56–1	5.6	NA.
		* *	*	*	*

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

[Note: NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters (Concentration in mg/l [3], or technology code [4])	Nonwastewaters (Concentration in mg/kg [5] unless noted as "mg/l TCLP"; or technology code)
		Common name	CAS [2] No.		
		N-Nitrosodimethylamine.	62–75–9	0.40	NA.
		* * *	*	*	*
		Phthalic anhydride	85–44–9	0.055	NA.
		* * *	*	*	*
		tris(2,3-Dibromopropyl) phosphate.	126–72–7	0.11	NA.
		* *	*	*	*
		Beryllium	7440–41–7	0.82	NA.
		* *	*	*	*
		Cyanides (Amenable).	57–12–5	0.86	NA.
		Fluoride	16964–48–8	35	NA.
		* *	*	*	*
		Thallium	7440–28–0	1.4	NA.
		Vanadium	7440–62–2	4.3	NA.
	* * *	*	*	*	*
K006	Wastewater treatement sludge from the production of chrome oxide green pigments (anhydrous).	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP.
		Lead	7439–92–1	0.69	0.37 mg/l TCLP.
	Wastewater treatment sludge from the production of chrome oxide green pigments (hydrated).	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP.
		Lead	7439–92–1	0.69	0.37 mg/l TCLP.
	* * *	*	*	*	*
K008	Oven residue from the production of chrome oxide green pigments.	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP.
		Lead	7439–92–1	0.69	0.37 mg/l TCLP.
	* * *	*	*	*	*
K062	Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332).	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP.
		Lead	7439–92–1	0.69	0.37 mg/l TCLP.
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP.
	* * *	*	*	*	*
K108	Condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazide (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN.	CMBST.
	* * *	*	*	*	*
K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes.	Acetonitrile	75–05–8	5.6	1.8.
		Acetophenone	96–86–2	0.010	9.7.
		Aniline	62–53–3	0.81	14.
		Benomyl	17804–35–2	0.056	1.4.
		Benzene	71–43–2	0.14	10.
		Carbaryl	63–25–2	0.006	0.14.
		Carbenzadim	10605–21–7	0.056	1.4.
		Carbofuran	1563–66–2	0.006	0.14.
		Carbosulfan	55285–14–8	0.028	1.4.
		Chlorobenzene	108–90–7	0.057	6.0.
		Chloroform	67–66–3	0.046	6.0.
		o-Dichlorobenzene	95–50–1	0.088	6.0.
		Methomyl	16752–77–5	0.028	0.14.
		Methylene chloride	75–09–2	0.089	30.
		Methyl ethyl ketone	78–93–3	0.28	36.
		Naphthalene	91–20–3	0.059	5.6.
		Phenol	108–95–2	0.039	6.2.

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

[Note: NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters (Concentration in mg/l [3], or technology code [4])	Nonwastewaters (Concentration in mg/kg [5] unless noted as "mg/l TCLP"; or technology code)
		Common name	CAS [2] No.		
		Pyridine	110–86–1	0.014	16.
		Toluene	108–88–3	0.080	10.
		Triethylamine	121–44–8	0.081	1.5.
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes.	Carbon tetrachloride	56–23–5	0.057	6.0.
		Chloroform	67–66–3	0.046	6.0.
		Chloromethane	74–87–3	0.19	30.
		Methomyl	16752–77–5	0.028	0.14.
		Methylene chloride	75–09–2	0.089	30.
		Methyl ethyl ketone	78–93–3	0.28	36.
		o-Phenylenediamine	95–54–5	0.056	5.6.
		Pyridine	110–86–1	0.014	16.
		Triethylamine	121–44–8	0.081	1.5.
K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes.	Benomyl	17804–35–2	0.056	1.4.
		Benzene	71–43–2	0.14	10.
		Carbenzadim	10605–21–7	0.056	1.4.
		Carbofuran	1563–66–2	0.006	0.14.
		Carbosulfan	55285–14–8	0.028	1.4.
		Chloroform	67–66–3	0.046	6.0.
		Methylene chloride	75–09–2	0.089	30.
		Phenol	108–95–2	0.039	6.2.
K159	Organics from the treatment of thiocarbamate wastes.	Benzene	71–43–2	0.14	10.
		Butylate	2008–41–5	0.042	1.4.
		EPTC (Eptam)	759–94–4	0.042	1.4.
		Molinate	2212–67–1	0.042	1.4.
		Pebulate	1114–71–2	0.042	1.4.
		Vernolate	1929–77–7	0.042	1.4.
K160	Solids (including filter wastes, separation solids, and spent catalysts) from the production of thiocarabamates and solids from the treatment of thiocarbamate wastes.	Butylate	2008–41–5	0.042	1.4.
		EPTC (Eptam)	759–94–4	0.042	1.4.
		Molinate	2212–67–1	0.042	1.4.
		Pebulate	1114–71–2	0.042	1.4.
		Toluene	108–88–3	0.080	10.
		Vernolate	1929–77–7	0.042	1.4.
K161	Purifcation solids (including filtration, evaporation, and centrifugation solids), baghouse dust and floor sweepings, from the production of dithiocarbarmate acids and their salts.	Antimony	7440–36–0	1.9	2.1mg/l TCLP.
		Arsenic	7440–38–2	1.4	5.0 mg/l TCLP.
		Carbon disulfide	75–15–0	3.8	4.8 mg/l TCLP.
		Dithiocarbamates (total).	NA	0.028	28.
		Lead	7439–92–1	0.069	0.37 mg/l TCLP.
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP.
		Selenium	7782–49–2	0.82	0.16 mg/l TCLP.
*	* *	*	*	*	*
P093	Phenylthiourea	Phenylthiourea	103–85–5	(WETOX or CHOXD) fb CARBN; or CMBST.	CMBST.
*	* *	*	*	*	*
P196	Manganese dimethyldithiocarbamate	Dithiocarbamates (total).	NA	0.028	28.
*	* *	*	*	*	*
P202	M-Cumenyl methylcarbamate	m-Cumenyl methycarbamate.	64–00–6	0.056	1.4.

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

[Note: NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters (Concentration in mg/l [3], or technology code [4])	Nonwastewaters (Concentration in mg/kg [5] unless noted as "mg/l TCLP"; or technology code)
		Common name	CAS [2] No.		
	* * *	*	*	*	*
P205	Ziram	Dithiocarbamates (total).	NA	0.028	28.
	* * *	*	*	*	*
U277	Sulfallate	Dithiocarbamates (total).	NA	0.028	28.
U278	Bendiocarb	Bendiocarb	22781–23–3	0.056	1.4.
	* * *	*	*	*	*
U365	Molinate	Molinate	2212–67–1	0.042	1.4.
U366	Dazomet	Dithiocarbamates (total).	NA	0.028	28.
	* * *	*	*	*	*
U375	3-Iodo-2-propynyl n-butylcarbamate	3-Iodo-2-propynyl n-butylcarbamate.	55406–53–6	0.056	1.4.
U376	Selenium, tetrakis (dimethyldithio- carbamate)	Dithiocarbamates (total).	NA	0.028	28.
	Selenium	Selenium	7782–49–2	0.82	0.16 mg/l TCLP.
U377	Pottasium n-methyldithiocarbamate	Dithiocarbamates (total).	NA	0.028	28.
U378	Potassium n-hydroxymethyl-n-methyldithiocarbamate.	Dithiocarbamates (total).	NA	0.028	28.
U379	Sodium dibutyldithiocarbamate	Dithiocarbamates (total).	NA	0.028	28.
U381	Sodium diethyldithiocarbamate	Dithiocarbamates (total).	NA	0.028	28.
U382	Sodium dimethyldithiocarbamate	Dithiocarbamates (total).	NA	0.028	28.
U383	Potassium dimethyl dithiocarbamate	Dithiocarbamates (total).	NA	0.028	28.
U384	Metam Sodium	Dithiocarbamates (total).	NA	0.028	28.
U385	Vernolate	Vernolate	1929–77–7	0.042	1.4.
U386	Cycloate	Cycloate	1134–23–2	0.042	1.4.
U387	Prosulfocarb	Prosulfocarb	52888–80–9	0.042	1.4.
U389	Triallate	Triallate	2303–17–5	0.042	1.4.
U390	EPTC	EPTC	759–94–4	0.042	1.4.
U391	Pebulate	Pebulate	1114–71–2	0.042	1.4.
U392	Butylate	Butylate	2008–41–5	0.042	1.4.
U393	Copper dimethyldithiocarbamate	Dithiocarbamates (total).	NA	0.028	28.
U394	A2213	A2213	30558–43–1	0.042	1.4.
U395	Diethylene glycol, dicarbamate	Diethylene glycol, dicarbamate.	5952–26–1	0.056	1.4.
U396	Ferbam	Dithiocarbamates (total).	NA	0.028	28.
U400	Bis (pentamethylene) thiuram tetrasulfide	Dithiocarbamates (total).	NA	0.028	28.
U401	Tetramethyl thiuram monosulfide	Dithiocarbamates (total).	NA	0.028	28.
U402	Tetrabutylthiuram disulfide	Dithiocarbamates (total).	NA	0.028	28.
U403	Disulfiram	Dithiocarbamates (total).	NA	0.028	28.
U404	Triethylamine	Triethylamine	101–44–8	0.081	1.5.
U407	Ethyl Ziram	Dithiocarbamates (total).	NA	0.028	28.
U409	Thiophanate-methyl	Thiophanate-methyl	23564–05–8	0.056	1.4.
U410	Thiodicarb	Thiodicarb	59669–26–0	0.019	1.4.
U411	Propoxur	Propoxur	114–26–1	0.056	1.4.

[1] The waste descriptions provided in this table do not replace waste descriptions in 40 CFR 261. Descriptions of Treatment/Regulatory Subcategories are provided, as needed, to distinguish between applicability of different standards.

[2] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with it's salts and/or esters, the CAS number is given for the parent compound only.

[3] Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.

[4] All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in 40 CFR 268.42 Table 1—Technology Codes and Descriptions of Technology-Based Standards.

[5] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR Part 264 Subpart O or Part 265 Subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

* * * * * * *

[7] Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods'', EPA Publication SW–846, as incorporated by reference in 40 CFR 260.11, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

[8] These wastes, when rendered nonhazardous and then subsequently managed in CWA, CWA-equivalent, or Class I SDWA systems are not subject to treatment standards. (See § 148.1(d) and § 268.1(c) (3) and (4)).

[9] These wastes, when rendered nonhazardous and then subsequently injected in a Class I SDWA well are not subject to treatment standards. (See § 148.1(d)).

10. In subpart D, § 268.48 the table in paragraph (a) is revised to read as follows:

§ 268.48 Universal treatment standards.

(a) * * *

UNIVERSAL TREATMENT STANDARDS

[Note: NA means not applicable.]

Regulated constituent/common name	CAS [1] No.	Wastewater standard (Concentration in mg/l [2])	Nonwastewater Pstandard (Concentration in mg/kg [3] unless noted as ''mg/l TCLP'')
* * * *	*	*	*
A2213	30558–43–1	0.042	1.4
* * * *	*	*	*
Butylate	2008–41–5	0.042	1.4
* * * *	*	*	*
Cycloate	1134–23–2	0.042	1.4
* * * *	*	*	*
EPTC	759–94–4	0.042	1.4
* * * *	*	*	*
Molinate	2212–67–1	0.042	1.4
* * * *	*	*	*
Pebulate	1114–71–2	0.042	1.4
* * * *	*	*	*
Prosulfocarb	52888–80–9	0.042	1.4
* * * *	*	*	*
Triallate	2303–17–5	0.042	1.4
* * * *	*	*	*
Vernolate	1929–77–7	0.042	1.4
* * * *	*	*	*

[1] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with it's salts and/or esters, the CAS number is given for the parent compound only.

[2] Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.

[3] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR part 264, subpart O or 40 CFR part 265, subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

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[FR Doc. 96–16540 Filed 6–27–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 279

[FRL–5529–1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule, notice of judicial vacatur of administrative stay.

SUMMARY: On January 19, 1996, the United States Court of Appeals for the District of Columbia Circuit vacated the Environmental Protection Agency's (EPA) October 30, 1995, administrative stay of part of the regulatory provision, known as the ''used oil mixture rule', set forth in 40 CFR 279.10(b)(2). The provisions of the used oil mixture rule at issue relate to mixtures of used oil destined for recycling and characteristic hazardous waste (including waste listed as hazardous because it exhibits a hazardous waste characteristic). This action clarifies the regulatory status of mixtures of used oil and the hazardous wastes destined for recycling described above in light of the Court's vacatur of the administrative stay and eliminates the explanatory note to 40 CFR 279.10(b)(2) that was included in the notice of the administrative stay. In addition it notifies the public as to the provisions of a recent EPA proposal that may affect such mixtures.

EFFECTIVE DATE: June 28, 1996.

ADDRESSES: EPA does not seek comment on this notice, however any data the public wishes EPA to consider concerning mixtures of used oil and characteristic hazardous waste should be submitted to the public docket. Submissions should include the original and two copies, should reference docket No. F–96–U2SW–FFFFF, and should be addressed to: RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency Headquarters, 401 M Street, SW., Washington, DC 20460. Hand deliveries should be made to the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9:00 to 4:00, Monday through Friday, except federal holidays. To review docket materials at the RIC, it is recommended that the public make an appointment by calling 703 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at 800 424–9346 or TDD 800 553–7672 (hearing impaired). In the Washington D.C. metropolitan area at 703 412–9810 or TDD 703 412–3323. For more detailed information on specific aspects of this action, contact Tracy Bone, Office of Solid Waste (5304w), U.S. EPA, D.C., 20460 at 703 308–8826.

SUPPLEMENTARY INFORMATION:

Background Information

Legal Challenge to the Used Oil Mixture Rule. On September 10, 1992, EPA promulgated regulations pursuant to section 3014(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6935(a), governing the management of used oil destined for recycling. 57 FR 41566 (September 9, 1992). These regulations are codified at 40 CFR Part 279. As part of these regulations, EPA promulgated a used oil mixture rule, 40 CFR 279.10(b), that specifies when mixtures of used oil destined for recycling and hazardous waste are regulated as used oil and when they are regulated as hazardous waste. Among other things, the used oil mixture rule specifies that mixtures of used oil destined for recycling and characteristic hazardous waste are regulated as a hazardous waste under Subtitle C of RCRA only if the resultant mixture exhibits a hazardous waste characteristic. 40 CFR 279.10(b)(2)(I). If the mixture does not exhibit a hazardous waste characteristic, it is regulated under the used oil management standards, and the hazardous waste regulations (including those relating to land-disposal restrictions (LDRs)) are inapplicable to the mixture. Further, wastes which are hazardous solely because they exhibit the characteristic of ignitability may be mixed with used oil and the mixture regulated as used oil so long as the mixture does not exhibit the characteristic of ignitability (despite exhibiting any of the other characteristics). 40 CFR 279.10(b)(2)(ii)-(iii). The hazardous waste regulations and LDR requirements continue to apply to the hazardous waste prior to mixing with used oil.

Petitions for review challenging EPA's used oil mixture rule subsequently were filed in the United States Court of Appeals for the District of Columbia Circuit. Petitioners argued, in relevant part, that the provision of the management standards which governed mixtures of recycled used oil and characteristic hazardous waste was inconsistent with the Court's decision in *Chemical Waste Management, Inc.* v. *EPA,* 976 F.2d 2 (D.C. Cir. 1992), *cert. denied,* 113 S. Ct. 1961 (1993) (''Chem Waste''). *Chem Waste,* which was issued two weeks after the management standards were promulgated, held that EPA could not allow certain wastes exhibiting the hazardous characteristics of ignitability, reactivity, or corrosivity to be diluted to eliminate the characteristic and then be land-disposed unless the hazardous constituents in the waste were adequately treated to minimize threats to human health and the environment.

On September 12, 1994, petitioner, Safety-Kleen, and EPA filed a joint motion requesting the Court to vacate the mixture provision and remand the issue to EPA. Intervenors in the *Safety-Kleen* litigation opposed this motion. On September 15, 1994, the Court remanded the record in this matter to EPA, stating: ''If the EPA determines that its rule is invalid, [citation omitted], it can proceed accordingly.'' Order (Sept. 15, 1994) (citing *American Tele. & Telegraph Co.* v. *FCC,* 978 F.2d 727, 733 (D.C. Cir. 1992)). The Court did not vacate the mixture rule.

Administrative Stay of the Used Oil Mixture Rule. In 1995, EPA issued an order staying the used oil mixture rule. The Agency determined that a stay was necessary to the effective implementation of the recycled used oil management program, pending the Agency's completion of a rulemaking on the issue of whether the used oil mixture rule should be modified or repealed in light of the Court's decision in *Chem Waste.* See 60 FR 55202 (Oct. 30, 1995).

On January 19, 1996, the Court, in ruling on a motion filed by the intervenors, vacated the Administrative stay. The Court explained that EPA could not suspend a promulgated rule without notice and comment. The Court further noted that, if EPA determines that the used oil mixture rule is invalid, it may be able to rely on the good cause exception, 5 U.S.C. 553(b), to vacate the rule without notice and comment rulemaking.

Effect of the Court's Vacatur of the Administrative Stay. The vacatur of the administrative stay reinstates the used oil mixture rule found at 40 CFR 279.10(b)(2) as part of the federal used oil management standards. Accordingly, as a matter of federal RCRA law, the regulated community may mix certain characteristic hazardous wastes and used oil to be recycled (*e.g.*, mixtures of solvents compatible with the use of