

RCRA REVISION CHECKLIST 74

Toxicity Characteristic Revisions
 55 FR 11798-11877
 March 29, 1990
 as amended on June 29, 1990, at 55 FR 26986-26998
 (RCRA Cluster II)

Note: 1) A correction to the preamble of the March 29, 1990 rule was published on August 2, 1990 (55 FR 31387). This notice corrected an implementation timetable and extended the period of time within which affected small quantity generators must comply with the new modification requirements. An August 10, 1990 (55 FR 32733) notice corrected the August 2, 1990 notice. On September 27, 1990, a clarification to the March 29 final rule was published in the Federal Register (55 FR 39409) regarding four implementation issues. The clarification did not affect the Federal code addressed by this checklist. An interim final rule promulgated on October 5, 1990 (55 FR 40834) did affect the Federal code relevant to the Toxicity Characteristic. A separate revision checklist (Revision Checklist 80) was developed to address those changes effected by the interim final rule.

2) Two interim final rules (55 FR 40834; October 5, 1990 and 56 FR 3978; February 1, 1991) and a final rule (56 FR 13406; April 2, 1991) extended the compliance date of the Toxicity Characteristic (TC) rule for certain hydrocarbon recovery and remediation operations. This extension is addressed by Revision Checklist 80. Because a less stringent requirement than that imposed by the TC rule is in effect until January 23, 1993, that Revision Checklist is optional.

3) States are strongly encouraged to adopt the Permit Modifications rule (53 FR 37912; September 28, 1988; Revision Checklist 54) and the "Christmas Tree Rule" (54 FR 9596; March 7, 1989; Revision Checklist 61) to ease implementation of the Toxicity Characteristic Rule and future waste listings. While both of these rules are optional, they will greatly reduce the immediate permit burden resulting from the TC rule.

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
			EQUIV- ALENT	MORE STRINGENT	BROADER IN SCOPE

PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A - GENERAL

EXCLUSIONS

replace "characteristic of EP toxicity" with "Toxicity Characteristic"	261.4(b)(6)(i)
replace "characteristic of EP toxicity" with "Toxicity Characteristic solely for arsenic"	261.4(b)(9)

RCRA REVISION CHECKLIST 74: Toxicity Characteristic Revisions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
			EQUIV- ALENT	MORE STRINGENT	BROADER IN SCOPE
1 add new paragraph regulating petroleum- contaminated media and debris that fail the 261.24 Toxicity Char- acteristic test and are subject to Part 280 corrective action	261.4(b)(10)				

PCB WASTES REGULATED UNDER TOXIC SUBSTANCE CONTROL ACT

exemption for PCB- containing wastes, already regulated under Part 761 (TSCA), that fail the 261.24 Toxicity Char- acteristic test (D018 through D043 only)	261.8				
--	-------	--	--	--	--

SUBPART C - CHARACTERISTICS OF HAZARDOUS WASTE

TOXICITY CHARACTERISTIC

remove "EP" before "toxicity"; insert "using the methodology outlined in Appendix II" after "after filtering"; change "purposes" to "purpose"	261.24(a)				
1 remove "EP" before "toxicity"; add D018 through D043 to Table 1; as per technical correction, change the word "hydroxide" in the contaminant for D031 to "epoxide"; add new column with CAS numbers	261.24(b)				

RCRA REVISION CHECKLIST 74: Toxicity Characteristic Revisions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
			EQUIV- ALENT	MORE STRINGENT	BROADER IN SCOPE

SUBPART D - LISTS OF HAZARDOUS WASTES

GENERAL

replace "EP Toxic Waste" in the hazard codes and in the text following the hazard codes with "Toxicity Characteristic Waste"	261.30(b)
--	-----------

RCRA REVISION CHECKLIST 74: Toxicity Characteristic Revisions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
			EQUIV- ALENT	MORE STRINGENT	BROADER IN SCOPE

APPENDIX II TO PART 261

METHOD 1311 TOXICITY CHARACTERISTIC LEACHING PROCEDURE (TCLP)

2 EP toxicity test PRO-
cedures are replaced
by Method 1311
Toxicity Character-
istic Leaching
Procedures (TCLP)

Appendix II

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

SUBPART N - LANDFILLS

DESIGN AND OPERATING REQUIREMENTS

replace "EP Toxicity
Characteristics" with
"Toxicity Character-
istics"; insert "with
EPA Hazardous
Waste Numbers D004
through D017"
after "chapter"

264.301(e)(1)

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

SUBPART K - SURFACE IMPOUNDMENTS

DESIGN REQUIREMENTS

replace "EP Toxicity
Characteristics" with
"Toxicity Character-
istics"; insert "with EPA
Hazardous Waste
Numbers D004 through
D017" after "chapter"

265.221(d)(1)

RCRA REVISION CHECKLIST 74: Toxicity Characteristic Revisions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
			EQUIV- ALENT	MORE STRINGENT	BROADER IN SCOPE

SUBPART M - LAND TREATMENT

WASTE ANALYSIS

replace "exceed" with
"equal or exceed";
replace "EP Toxicity
Characteristic"
with "Toxicity
Characteristic"

265.273(a)

PART 268 - LAND DISPOSAL RESTRICTIONS

APPENDIX I TO PART 268

TOXICITY CHARACTERISTIC LEACHING PROCEDURE (TCLP)

3 replace Appendix with
note stating the TCLP
is located in
Appendix II of
Part 261

Appendix I

- 1 Also see technical corrections to the rule at 55 FR 26986 (June 29, 1990).
- 2 Because the June 29, 1990 (55 FR 26986) notice made extensive corrections to Appendix II, Part 261, the Appendix in that notice should be used instead of the one in the March 29, 1990 (55 FR 11798) notice.
- 3 As background, the TCLP was originally promulgated in 268, Appendix I, on November 7, 1986 (51 FR 40572; Revision Checklist 34) for use in the Land Disposal Restrictions (LDR) program to determine whether certain wastes require treatment prior to land disposal and to determine whether certain treated wastes meet the applicable treatment standards. The TC rule and its June 29, 1990 modification promulgated a revised TCLP at 261, Appendix II, with modifications based on the Agency's own research and public comment. This TCLP is to be used in both the TC and the LDR programs. The objective of the above footnoted revision to 268, Appendix I, is to assure that the TCLP entered into the code by the November 7, 1986 notice (51 FR 40572; Revision Checklist 34) is removed and replaced by the TCLP entered into the code and amended by the final rules (55 FR 11798 and 55 FR 26986) addressed by Revision Checklist 74. The actual placement of the TCLP within a State's code is not that important, per se; what is important is that a State's code contains only the Revision Checklist 74 TCLP. States that have not yet adopted Revision Checklist 34 (the first of the LDR restrictions) need not make this particular revision to 268, Appendix I, as they would not yet have entered the original Part 268 TCLP into their code. Also, the change on page 2 of this checklist for 261, Appendix II, assures that they add the Revision Checklist 74 TCLP to their code.

RCRA REVISION CHECKLIST 74: Toxicity Characteristic Revisions (cont'd)

FEDERAL REQUIREMENT	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:		
			EQUIV- ALENT	MORE STRINGENT	BROADER IN SCOPE

However, such States must be careful when adding the LDR restrictions to their code, i.e., the Revision Checklist 34 TCLP should not be added at that time--rather, the Revision Checklist 74 TCLP should remain the only TCLP in their code. States using the Consolidated LDR Checklist should be sure to read Footnote 40 on that checklist regarding this issue.