

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 268
[FRL-5129-2]
**Land Disposal Restrictions Phase II—
Universal Treatment Standards, and
Treatment Standards for Organic
Toxicity Characteristic Wastes and
Newly Listed Wastes**
AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendments.

SUMMARY: On September 19, 1994, EPA published regulations promulgating congressionally-mandated prohibitions on land disposal of certain hazardous wastes. This notice corrects errors and clarifies the language in the preamble and regulation of the September 19, 1994 final rule.

EFFECTIVE DATE: This rule is effective on December 19, 1994.

ADDRESSES: Copies of the rule can be obtained from the RCRA Docket (5305), U.S. Environmental Protection Agency, Room 2616, 401 M Street, S.W., Washington, D.C. 20460. The RCRA Docket is open from 9:00 am to 4:00 pm Monday through Friday, except for federal holidays. The public must make an appointment to review docket materials by calling (202) 260-9327. 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 technical information contact Doug Heimlich (5302W), Office of Solid Waste, 401 M Street, S.W., Washington, DC 20460, (703) 308-8489.

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**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 September 19, 1994 Phase II final rule (59 FR 47982). Today's amendment responds to these comments.

**II. Amendments to the Phase II Final
Rule**
A. Section 268.2

Like zinc, vanadium is not considered to be an "underlying hazardous constituent" in characteristic wastes. In the definition of underlying hazardous constituent at 268.2(i), vanadium was inadvertently left out as an exception to the definition. It is being placed as an exception in the definition at 268.2(i) in today's amendment.

B. Section 268.7

In the preamble of the Phase II final rule, EPA stated that, as a simplifying measure, it was amending the LDR notification requirements to minimize the amount of information that must be placed on the LDR notification in certain circumstances (see 59 FR 48004). Prior to promulgation of the Phase II rule, the hazardous constituents in F001-F005 spent solvents, F039, wastes subject to the California list provisions of § 268.32 or RCRA section 3004(d), and underlying hazardous constituents in certain characteristic wastes had to be listed on the LDR notification. In Phase II, this language was changed so that if the generator/treater monitors for all the hazardous constituents in F001-F005 spent solvents, F039, and underlying hazardous constituents in certain characteristic wastes, then there would be no need to list any of the constituents on the LDR notification. If, however, the generator/treater is monitoring for a subset of these constituents, the subset of constituents in the waste (or, in the case of underlying hazardous constituents in certain characteristic wastes, the ones reasonably expected to be present at point of generation) would be required to be listed on the LDR notification. In making this change, EPA inadvertently left out language in §§ 268.7(a)(1)(ii), 268.7(a)(2)(i)(B), and 268.7(b)(4)(ii) applying this provision to California list wastes prohibited pursuant to § 268.32 or RCRA section 3004(d). A reference to these California list wastes is therefore being added to the sections mentioned above in today's amendment.

An error was also found in § 268.7(a)(1). In this section, EPA explained that before the Phase II final

rule a generator managing a restricted waste that did not meet the applicable treatment standards set forth in Subpart D of Part 268, or exceeds the prohibition levels set forth in § 268.32 or RCRA section 3004(d), was required, with each shipment of waste, to notify the treatment or storage facility in writing of the appropriate treatment standards set forth in Subpart D of this part and any applicable prohibition levels set forth in § 268.32 or RCRA section 3004(d).

As explained on page 48004 of the Phase II preamble, EPA dropped the requirement to include the treatment standard or the reference to the treatment standard on the LDR notification. EPA overlooked the regulatory language above (in italics) when modifications were made in the Phase II rule. Thus it is being removed in this technical amendment. The statement is changed to read, "* * * notify the treatment or storage facility in writing."

Another error was made in § 268.7(a)(1). Paragraph (v) should have been redesignated as paragraph (vi), and a new paragraph (v) added. Although paragraph (v) was revised with the new language, the existing language that should have been included in paragraph (vi) was inadvertently deleted. Paragraph (vi), with the language that appeared as paragraph (v) before the Phase II rule, is being added in today's amendments. Also, in order for the new paragraph to read properly, paragraph (iv) was changed to delete the final word "and," and paragraph (v) was changed to add the word "and" at the end.

The same error described in the previous paragraph was also made in § 268.7(a)(3): paragraph (vi) should have been redesignated as paragraph (vii), and a new paragraph (vi) added. Paragraph (vii), with the language that appeared as paragraph (vi) before the Phase II rule, is being reinserted today. Also, paragraph (a)(3)(vi) is being revised today because it had been merely reproduced (incorrectly) from paragraph (a)(1)(v).

In addition, in § 268.7(a)(8), EPA modified the alternative treatment standards for lab packs from identifying the wastes that can be included in lab packs to specifying those wastes that are prohibited from being placed in lab packs. EPA made this change in order to simplify and clarify this provision. The certification language required under this section is being changed in this technical amendment to say that the lab pack "contains only wastes which have not been excluded under appendix IV to 40 CFR part 268." The certification language that reads "or solid wastes not