

SPECIAL CONSOLIDATED CHECKLIST
for the
Toxicity Characteristics Revisions as of **December 31, 2002**

Notes: 1) This checklist consolidates the changes to the Federal code addressed by the Toxicity Characteristic (TC) Rule [55 FR 11798; March 29, 1990; Revision Checklist 74] and subsequent revisions which have occurred through **December 31, 2002**, as follows:

- Revision Checklist 74 [55 FR 11798 (March 29, 1990), 55 FR 26986 (June 29, 1990)];
- Revision Checklist 80 [55 FR 40834 (October 5, 1990), 56 FR 3978 (February 1, 1991), 56 FR 13406 (April 2, 1991)];
- Revision Checklist 84 [56 FR 5910 (February 13, 1991)];
- Revision Checklist 108 [57 FR 30657 (July 10, 1992)];
- Revision Checklist 117 B [57 FR 23062 (June 1, 1992)]; and
- Revision Checklist 119 [57 FR 55114 (November 24, 1992)].

This checklist also includes applicable changes made to the Federal code addressed by the following checklists that are not TC checklists, but which contain revisions to provisions included in the TC program, through **December 31, 2002**:

- Revision Checklist 126 [58 FR 46040 (August 31, 1993)];
- Revision Checklist 157 [62 FR 25998 (May 12, 1997)];
- Revision Checklist 192 A [66 FR 27266 (May 16, 2001)].

No final rules were promulgated between June 30, 2001 and December 31, 2002 that affected the Toxicity Characteristics revisions. Therefore, this consolidated checklist is identical to that of June 30, 2001.

Note that there have been several technical corrections to the TC Rule preamble. An August 2, 1990 (55 FR 31387) notice corrected a typographical error in an implementation timetable found in the TC Rule's preamble. This error created confusion among small quantity generators regarding their notification responsibilities for TC wastes. This rule also extended the period of time within which affected small quantity generators must comply with the new modification requirements. An August 10, 1990 (55 FR 32377) 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. This clarification also only affected the TC Rule preamble.

Note, Revision Checklist 126 (56 FR 46040; August 31, 1993), however, replaced all references to the TCLP in Part 261, Appendix II with a reference to the TCLP in SW-846. This rule also replaced the TCLP in Part 261, Appendix II with a note referencing this publication that is incorporated by reference at 260.11(a). This rule is not indicated in the checklist reference column of this consolidated checklist, but it is referenced in the footnote. This approach was taken because this rule is not a correction to the TC rule per se; but rather it introduced a new method of referencing the TCLP.

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 TC Rule for certain hydrocarbon recovery and remediation operations. This extension is addressed by Revision Checklist 80 and included in this Consolidated Checklist. Because a less stringent requirement than that imposed by the TC Rule was in effect until January 25, 1993, the incorporation by States of this extension 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 TC 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.

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4) Note that double lines are used on the checklist to indicate the beginning and ending of optional provisions with subparagraphs or requirements that must all be adopted if the optional provision is adopted.

FEDERAL REQUIREMENTS	CHECKLIST REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE							
SUBPART A - GENERAL							
DEFINITION OF HAZARDOUS WASTE							
	change "Extraction Procedure Toxicity characteristic" to "Toxicity Characteristic"	117 B	261.3(a)(2)(i)				
1	remove and reserve	I A, 65, 109, †117A, †192A	261.3(a)(2)(iii)				
	replace "§§" with "40 CFR"; replace "of this chapter" with " paragraph (g) of this section, or paragraph (h) of this section"; replace ending colon with semicolon	I A, †117A, †192A	261.3(a)(2)(iv)				
2	insert ", (g) or (h)" after "(c)(2)(ii)"	I A, †8, †13, †117A, †192A	261.3(c)(2)(i)				
†	add new subparagraph; listed hazardous waste solely because it exhibits one or more characteristic, is not a hazardous waste, if characteristics are no longer exhibited	192A	261.3(g)(1)				
†	261.3(g)(1) exclusion also pertains to:	192A	261.3(g)(2)				
†	wastes excluded	192A	261.3(g)(2)(i)				

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FEDERAL REQUIREMENTS	CHECKLIST REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV-ALENT	LESS STRIN-GENT	MORE STRIN-GENT	BROADER IN SCOPE
		261.3(g)(2)(ii)					
† wastes excluded are subject to 268, even if no longer exhibit characteristic at point of land disposal	192A	261.3(g)(3)					
† add new subparagraph; hazardous waste containing radioactive waste is no longer a hazardous waste	192A	261.3(h)(1)					
† exemption also pertains to:	192A	261.3(h)(2)					
† wastes excluded	192A	261.3(h)(2)(i)					
		261.3(h)(2)(ii)					
† waste exempted must meet storage and transportation criteria; waste that fails is regulated as hazardous	192A	261.3(h)(3)					
replace "characteristic of EP toxicity, and do not fail the test for" with "toxicity characteristic for any other constituent, and do not exhibit"	108	261.4(b)(6)(ii)					
insert "arsenical-treated" after "discarded"; replace "characteristic of EP toxicity" with "Toxicity Characteristic for Hazardous Waste Codes D004 through D017"; delete "or reasons," after "reason"	74,108	261.4(b)(9)					

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FEDERAL REQUIREMENTS	CHECKLIST REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
3 add new paragraph regarding petroleum-contaminated media and debris that fail the 261.24 Toxicity Characteristic test (D018 through D043 only) and are subject to Part 280 corrective action	74	261.4(b)(10)					

†,4 Extension for Specified Hydrocarbon Recovery Operations

add new paragraph; until January 25, 1993, exclusion for injected groundwater exhibiting the 261.24 Toxicity Characteristic that is infiltrated or reinjected pursuant to specified hydrocarbon recovery operations existing on or before March 25, 1991; extension only until six months after final rule publication for groundwater returned through infiltration galleries; conditions for new operations involving injection to qualify for date extension	80	261.4(b)(11)					
operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed	80	261.4(b)(11)(i)					

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FEDERAL REQUIREMENTS	CHECKLIST REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV-ALENT	LESS STRIN-GENT	MORE STRIN-GENT	BROADER IN SCOPE
5 copy of written agreement has been submitted to the Characteristics Section, U.S. Environmental Protection Agency	80	261.4(b)(11)(ii)					
†,6 add new paragraph; used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, provided the refrigerant is reclaimed for further use	84	261.4(b)(12)					
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 Characteristic test (D018 through D043 only)	74	261.8					
SUBPART C - CHARACTERISTICS OF HAZARDOUS WASTE							
TOXICITY CHARACTERISTIC							
7 remove "EP" before "toxicity"; insert "using the methodology outlined in Appendix II" after "after filtering"; change "purposes" to "purpose"	74	261.24(a)					

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FEDERAL REQUIREMENTS	CHECKLIST REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
7 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	74	261.24(b)					

TABLE 1. - MAXIMUM CONCENTRATION OF CONTAMINANTS FOR THE TOXICITY CHARACTERISTIC

EPA HW No. ¹	Contaminant	CAS No. ²	Regulatory Level (mg/L)
D004	Arsenic	7440-38-2	5.0
D005	Barium	7440-39-3	100.0
D018	Benzene	71-43-2	0.5
D006	Cadmium	7440-43-9	1.0
D019	Carbon tetrachloride	56-23-5	0.5
D020	Chlordane	57-74-9	0.03
D021	Chlorobenzene	108-90-7	100.0
D022	Chloroform	67-66-3	6.0
D007	Chromium	7440-47-3	5.0
D023	o-Cresol	95-48-7	⁴ 200.0
D024	m-Cresol	108-39-4	⁴ 200.0
D025	p-Cresol	106-44-5	⁴ 200.0
D026	Cresol	--	⁴ 200.0
D016	2,4-D	94-75-7	10.0
D027	1,4-Dichlorobenzene	106-46-7	7.5
D028	1,2-Dichloroethane	107-06-2	0.5
D029	1,1-Dichloroethylene	75-35-4	0.7
D030	2,4-Dinitrotoluene	121-14-2	³ 0.13
D012	Endrin	72-20-8	0.02
D031	Heptachlor (and its epoxide)	76-44-8	0.008
D032	Hexachlorobenzene	118-74-1	³ 0.13
D033	Hexachlorobutadiene	87-68-3	0.5
D034	Hexachloroethane	67-72-1	3.0

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				EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
D008	Lead		7439-92-1		5.0		
D013	Lindane		58-89-9		0.4		
D009	Mercury		7439-97-6		0.2		
D014	Methoxychlor		72-43-5		10.0		
D035	Methyl ethyl ketone		78-93-3		200.0		
D036	Nitrobenzene		98-95-3		2.0		
D037	Pentachlorophenol		87-86-5		100.0		
D038	Pyridine		110-86-1		³ 5.0		
D010	Selenium		7782-49-2		1.0		
D011	Silver		7440-22-4		5.0		
D039	Tetrachloroethylene		127-18-4		0.7		
D015	Toxaphene		8001-35-2		0.5		
D040	Trichloroethylene		79-01-6		0.5		
D041	2,4,5-Trichlorophenol		95-95-4		400.0		
D042	2,4,6-Trichlorophenol		88-06-2		2.0		
D017	2,4,5-TP (Silvex)		93-72-1		1.0		
D043	Vinyl chloride		75-01-4		0.2		

1 Hazardous waste number.

2 Chemical abstracts service number.

3 Quantitation limit is greater than the calculated regulatory level. The quantitation limit therefore becomes the regulatory level.

4 If o-, m-, and p-Cresol concentrations cannot be differentiated, the total cresol (D026) concentration is used. The regulatory level of total cresol is 200 mg/l.

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"	74	261.30(b)					
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APPENDIX II TO PART 261

METHOD 1311 TOXICITY CHARACTERISTIC LEACHING PROCEDURE (TCLP)

SPECIAL CONSOLIDATED CHECKLIST :
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FEDERAL REQUIREMENTS	CHECKLIST REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
7, 8 EP toxicity test procedures are replaced by Method 1311 Toxicity Characteristic Leaching Procedures (TCLP)	74	Appendix II					

†,9 Withdrawal of Spike Recovery Correction Requirement From Method 1311 TCLP

remove	119	Appendix II					
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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 Characteristic"; insert "with EPA Hazardous Waste Numbers D004 through D017" after "chapter"	74	264.301(e)(1)					
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PART 265 - INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART K - SURFACE IMPOUNDMENTS

DESIGN AND OPERATING REQUIREMENTS

replace "EP toxicity characteristics" with "Toxicity Characteristic"; insert "with EPA Hazardous Waste Numbers D004 through D017" after "chapter"	74	265.221(d)(1)					
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SUBPART M - LAND TREATMENT

WASTE ANALYSIS

SPECIAL CONSOLIDATED CHECKLIST :
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FEDERAL REQUIREMENTS	CHECKLIST REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV-ALENT	LESS STRIN-GENT	MORE STRIN-GENT	BROADER IN SCOPE
replace "exceed" with "equal or exceed"; replace "EP toxicity characteristic" with "Toxicity Characteristic"	74	265.273(a)					

SUBPART N - LANDFILLS

DESIGN AND OPERATING REQUIREMENTS

10	replace "EP toxicity characteristics" with "Toxicity Characteristic"; insert ", with EPA Hazardous Waste Numbers D004 through D017" after "chapter"	108	265.301(d)(1)				
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PART 268 - LAND DISPOSAL RESTRICTIONS

APPENDIX I TO PART 268

TOXICITY CHARACTERISTIC LEACHING PROCEDURE (TCLP)

remove and reserve	74,126, 157	Appendix I					
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† Optional

†† Conditionally Optional

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- 1 Subparagraph 261.3(a)(2)(iii) was introduced into the Federal code by the Base program, and subsequently revised by Revision Checklists 65, 109, 117A, and 192A.
- 2 There is a typographical error in the May 16, 2001 rule (66 FR 27266; May 16, 2001). States should not remove the comma following "ash". The phrase should continue to read "...spill residue, ash, emission control dust, ...".
- 3 Also see technical corrections to the rule at 55 FR 26986 (June 29, 1990).
- 4 The October 5, 1990 interim final rule extended the compliance date to January 25, 1991 (see 55 FR 40834). The compliance date was further extended to March 25, 1991 by the February 1, 1991 interim final rule (see 56 FR 3978) and then to January 25, 1993 by the April 2, 1991 final rule (see 56 FR 13406).
- 5 A copy of the agreement should be sent to EPA's Characteristics Section; thus, this reference should remain in a State's code. A copy of the written agreement may also be sent to the State, if the State chooses to include this requirement.
- 6 The final rule (56 FR 5910, February 13, 1991) which introduced this paragraph into the Federal code is considered "narrower in scope" because it narrows the wastes which are regulated, by excluding from regulation certain chlorofluorocarbon refrigerants as specified at 261.4(b)(12).
- 7 Revision Checklist 74 added the TCLP at Part 261, Appendix II. Note, however, that Revision Checklist 126 (58 FR 46040; August 31, 1993), a non-TC checklist, replaced the TCLP (method 1311) in Appendix II to Part 261 with a note referencing the TCLP "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" as incorporated by reference at 260.11(a). All references to Part 261, Appendix II and Part 268, Appendix IX were revised to reflect these changes. Revision Checklist 126 did not revise the content nor the intended use of the TCLP or the EP toxicity methods.
- 8 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.
- 9 On June 29, 1990 (55 FR 26986; Revision Checklist 74), EPA promulgated a final rule which made technical corrections to the March 29, 1990 final rule, including the regulatory language in 40 CFR Part 261, Appendix II. Those corrections reorganized the TCLP in 40 CFR Part 261, Appendix II and included adding a requirement for the spike recovery correction. The November 24, 1992 rule (57 FR 55114; Revision Checklist 119) deleted the requirements for spike recovery correction of analytical data. Because such deletions provide for a standard less restrictive than was imposed on June 29, 1990, States are not required to include spike recovery correction when modifying their programs to incorporate the final TCLP.
- 10 There are several errors in the Federal Register for this citation. First, "such waste does not" should read "such wastes do not" and "261.4 of this chapter" should read "261.24 of this chapter" as they are found in the July 15, 1985, Federal Register at 50 FR 28750 (Revision Checklist 17(H)). Second, "Waste Number" should be "Waste Numbers." These errors have been reflected in the CFR since July 1, 1993.