

Tuesday
June 17, 1997

Part IV

**Environmental
Protection Agency**

**40 CFR Parts 261, 268, 271, and 302
Hazardous Waste Management System:
Carbamate Production, Identification and
Listing of Hazardous Waste; Land
Disposal Restrictions; Authorization of
State Hazardous Waste Programs; and
CERCLA Hazardous Substance
Designation and Reportable Quantities;
Final Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 261, 268, 271, and 302**

[EPA530-Z-97-FFF; FRL-5839-7]

RIN 2050-AD59

Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Authorization of State Hazardous Waste Programs; and CERCLA Hazardous Substance Designation and Reportable Quantities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending its regulations to conform with the federal appeals court ruling in *Dithiocarbamate Task Force v. EPA*, 98 F.3d 1394 (D.C.Cir. 1996), that invalidated, in part, Agency regulations listing certain carbamate wastes as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). These regulations pertain to hazardous waste management of carbamate industry wastes under RCRA, related rules affecting the list of hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and regulations issued under state programs approved by the Administrator. Under the court's decision, and amended in today's rule, the vacated federal hazardous waste listings and regulatory requirements based on those listings are to be treated as though they have never been in effect. State regulations, which may be more stringent than federal rules, were not necessarily affected by the court's ruling.

EFFECTIVE DATE: This final rule takes effect on May 29, 1997.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification Number is F-97-2CPF-FFFFF.

The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603-9230. The public may copy a maximum of 100 pages from the docket at no charge; additional copies are \$0.15 per page.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline between 9:00a.m.-6:00

p.m. EST, toll-free, at 800-424-9346; 703-412-9810 from Government phones or if in the Washington, DC local calling area; or 800-553-7672 for the hearing impaired. For more detailed information on specific aspects of the rulemaking, contact Caroline Gerwe by calling 703-308-3540 or by writing, to U.S. Environmental Protection Agency, Office of Solid Waste, Hazardous Waste Identification Division, 401 M St., SW., (Mailcode 5304W), Washington, DC 20460.

SUPPLEMENTARY INFORMATION: This rule is available on the Internet. Please follow these instructions to access the rule electronically: From the World Wide Web (WWW), type <http://www.epa.gov/epaoswer>, then select option for Rules and Regulations.

The official record for this action is kept in a paper format. Accordingly, EPA has transferred all comments received into paper form and placed them into the official record, with all the comments received in writing. The official record is maintained at the address in the **ADDRESSES** section at the beginning of this document.

Outline of Today's Rule

- I. Background
- II. Amended Regulations
- III. State Authority
- IV. Good Cause Exemption From Notice-and-Comment Rulemaking Procedures
- V. Analysis Under E.E. 12866, Unfunded Mandates Reform Act of 1995, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act of 1996 and Paperwork Reduction Act

I. Background

EPA lists wastes as hazardous wastes under section 3001 of RCRA, 42 U.S.C. 6921. Once a waste is listed as hazardous it becomes subject to federal requirements for persons who generate, transport, treat, store, or dispose of such waste. Facilities that must meet the hazardous waste management requirements, including the need to obtain permits to operate, are commonly referred to as "Subtitle C" facilities. Subtitle C is Congress' original statutory designation for that part of RCRA that directs EPA to issue regulations for hazardous wastes.

EPA standards and procedural regulations implementing Subtitle C are found generally at 40 CFR parts 260 through 272. Criteria and procedures for identifying and listing hazardous wastes are found at 40 CFR part 261.

General standards for generators of hazardous waste are found at 40 CFR part 262. General standards for transporters of hazardous waste are found at 40 CFR part 263. General

standards for owners and operators of hazardous waste treatment, storage and disposal facilities—including standards for obtaining permits—are found at 40 CFR part 264.

Hazardous wastes are also subject to land disposal restrictions under 40 CFR part 268. EPA's authorizations for state hazardous waste programs are found at 40 CFR part 272. The requirements for obtaining these authorizations are found at 40 CFR part 271.

In addition, hazardous wastes having the characteristics identified under, or listed pursuant to, RCRA section 3001 (except when suspended by Congress) become hazardous substances under section 101(14)(C) of CERCLA, 42 U.S.C. 9601(14)(C). A reportable quantity (RQ) of one pound for reporting environmental releases is established for each substance, as provided by section 102(b) of CERCLA, 42 U.S.C. 9602(b). The one-pound statutory RQ applies until adjusted by regulations.

On February 9, 1995, the EPA published in the **Federal Register** (60 FR 7824) a rule listing as hazardous wastes under RCRA various wastes from four groups of carbamate compounds—carbamates, carbamoyl oximes, thiocarbamates and dithiocarbamates. These compounds, generally, are used as pesticides, herbicides and fungicides and in the rubber, wood and textile industries. This rule became effective on August 9, 1995.

The rule added 58 specific carbamate compounds to the list of hazardous constituents upon which RCRA hazardous waste listing determinations are based. This list of constituents appears at Appendix VIII of 40 CFR part 261.

These same 58 compounds were added to the list of commercial chemical products that are hazardous wastes only when they are discarded. This list is found at 40 CFR 261.33 and is divided into acutely hazardous wastes ("P-wastes") and other toxic wastes ("U-wastes"). P-wastes are listed in subsection 261.33(e) and U-wastes are listed in subsection 261.33(f). Eighteen of the carbamates were P-wastes and 40 were U-wastes.

The rule, also, added six hazardous wastes generated from the industrial production of the carbamate chemicals to 40 CFR 261.32. These are hazardous wastes from specific sources, or "K-wastes." The carbamate wastes were given numbers K156, K157, K158, K159, K160, and K161. K159 and K160 applied to certain wastes from thiocarbamate production; K161 applied to a waste stream from dithiocarbamate production; K156, K157 and K158

applied to various waste streams from the production of carbamates, proper.

As part of the listing rule, in accordance with Agency regulations, EPA also listed in Appendix VII of 40 CFR Part 261 the hazardous constituents upon which the production waste listings were based.

The February 1995 rule also designated the carbamate wastes as CERCLA hazardous substances and added them to the hazardous substance list at 40 CFR 302.4 with statutory one-pound RQs, as required under CERCLA sections 101(14)(C) and 102.

Subsequent to the February 1995 listing rule, EPA issued land disposal restriction (LDR) regulations for the carbamate wastes. These were issued on April 8, 1996 (61 FR 15663), and corrected June 28, 1996 (61 FR 33683). The prohibition on land disposal of

carbamate wastes was effective July 8, 1996 and the prohibition on radioactive waste mixed with newly listed or identified wastes, including soil and debris, is effective April 8, 1998. In addition, EPA amended its requirements for approval of state hazardous waste programs by adding the carbamate listing and LDR regulations to Tables 1 and 2 of 40 CFR part 271.1. (See 61 FR 15659-15660, April 8, 1996.) These tables list the regulations that establish the requirements and prohibitions applicable to state hazardous waste programs.

On November 1, 1996, the United States Court of Appeals for the District of Columbia Circuit, in *Dithiocarbamate Task Force v. EPA*, ruled that EPA failed to follow proper rulemaking procedures in making some of the carbamate listing determinations and vacated them.

Accordingly, EPA is removing from the Code of Federal Regulations those listings vacated by the court and all references to those listings. EPA notes that substantial portions of the decisions made in the carbamate listing rule remain in effect and are not changed by the court's ruling.

The court vacated 24 U wastes, one K-waste (K160), and three of the K-wastes (K156, K157 and K158) only to the extent they apply to the chemical, 3-iodo-2-propynyl n-butylcarbamate (IPBC). Twenty-three of the vacated U wastes consisted of all the dithiocarbamates and thiocarbamates. The other vacated U waste was IPBC, a carbamate.

II. Amended Regulations

Table 1 lists the 24 vacated U wastes that are removed from 40 CFR 261.33(f).

TABLE 1.—VACATED U WASTES

Hazardous waste No.	Common name	Chemical abstracts name	Chemical abstracts No.
U277	Sulfallate	Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester	95-06-7
U365	Molinate	1H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester	2212-67-1
U366	Dazomet	2H-1,3,5-thiadiazine-2-thione, tetrahydro-3,5-dimethyl-	533-74-4
U375	3-Iodo-2-propynyl n-butylcarbamate ...	Carbamic acid, butyl-, 3-iodo-2-propynyl ester	55406-53-6
U376	Selenium tetrakis(dimethyl-dithiocarbamate).	Carbamodithioic acid, dimethyl-, tetraanhydro-sulfide with orthothio-selenious acid.	144-34-3
U377	Potassium n-methyl-dithiocarbamate	Carbamodithioic acid, methyl-, monopotassium salt	137-41-7
U378	Potassium n-hydroxymethyl -n-methyl-dithiocarbamate.	Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt	51026-28-9
U379	Sodium dibutyl-dithiocarbamate	Carbamodithioic acid, dibutyl, sodium salt	136-30-1
U381	Sodium diethyl-dithiocarbamate	Carbamodithioic acid, diethyl-, sodium salt	148-18-5
U382	Sodium dimethyl-dithiocarbamate	Carbamodithioic acid, dimethyl-, sodium salt	128-04-1
U383	Potassium dimethyl-dithiocarbamate ..	Carbamodithioic acid, dimethyl-, potassium salt	128-03-0
U384	Metam Sodium	Carbamodithioic acid, methyl-, monosodium salt	137-42-8
U385	Vernolate	Carbamothioic acid, dipropyl-,S-propyl ester	1929-77-7
U386	Cycloate	Carbamothioic acid, cyclohexylethyl-, S-ethyl ester	1134-23-2
U390	EPTC	Carbamothioic acid, dipropyl-, S-ethyl ester	759-94-4
U391	Pebulate	Carbamothioic acid, butylethyl-, S-propyl ester	1114-71-2
U392	Butylate	Carbamothioic acid, bis(2-methylpropyl)-, S-ethyl ester	2008-41-5
U393	Copper dimethyl-dithiocarbamate	Copper, bis(dimethylcarbamodithioato-S,S')	137-29-1
U396	Ferbam	Iron, tris(dimethylcarbamodithioato-S,S')	14484-64-1
U400	Bis(penta-methylene) -thiuram tetrasulfide.	Piperidine, 1,1'-(tetrathio-dicarbonothioyl)-bis-	120-54-7
U401	Tetramethylthiuram monosulfide	Bis(dimethylthiocarbamoyl) sulfide	97-74-5
U402	Tetrabutylthiuram disulfide	Thioperoxydicarbonic diamide, tetrabutyl-	1634-02-2
U403	Disulfiram	Thioperoxydicarbonic diamide, tetraethyl	97-77-8
U407	Ethyl Ziram	Zinc, bis(diethylcarbamodithioato-S,S')	14324-55-1

In 40 CFR 261.31, the following K-waste listing is deleted:

K160: Solids (including filter wastes, separation solids, and spent catalysts) from the production of thiocarbamates and solids from the treatment of thiocarbamate wastes.

In addition, the hazardous waste listings for K156, K157, and K158 are amended. Originally, they read as follows:

K156: Organic waste (including heavy ends, still bottoms, light ends, spent solvents,

filtrates, and decantates) from the production of carbamates and carbamoyl oximes.

K157: Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes.

K158: Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes.

EPA is modifying each of these three listing descriptions to include the following limitation: (This listing does not apply to wastes generated from the

manufacture of 3-iodo-2-propynyl n-butylcarbamate.)

EPA is not deleting any constituents in the Appendix VIII hazardous constituent list of 40 CFR part 261, since the Dithiocarbamate Task Force ruling did not affect those listings. The Agency is, however, deleting any mention of the associated vacated hazardous waste codes in Appendix VIII. While the regulations for waste management at 40 CFR parts 262 through 264 are not affected by the court's ruling, it is clear

that they are not applicable to any of the vacated hazardous waste listings (unless those wastes exhibit a hazardous waste characteristic described under 40 CFR 261.20 to 261.24). However, to the extent that the wastes described in the vacated listings were included in federal permits before the ruling, appropriate action may need to be taken by permittees and permitting authorities to amend the permits. Any need to revise state permits will depend on state law. Since state law may be more stringent than federal law (see RCRA section 3009) there may be circumstances in which carbamate listings would be required to remain in the permits.

The land disposal restriction (LDR) regulations for hazardous wastes are amended to remove the U and K wastes vacated by the court. Specifically the Agency is amending 40 CFR 268.39 to remove LDRs for K160, U277, U365, U366, U375, U376, U377, U378, U379, U381, U382, U383, U384, U385, U386, U390, U391, U392, U393, U396, U400, U401, U402, U403, and U407.

In addition, the description of the K156, K157 and K158 wastes in 40 CFR 268.40 are amended to reflect the fact that they do not apply to wastes from production of IPBC.

In a recent action to correct tables applicable to the LDR regulations (62 FR 7501, February 19, 1997), the Agency removed the vacated carbamate hazardous waste codes from the list of treatment standards contained in section 268.40 and removed Cycloate and IPBC from the Universal Treatment Standards (UTS) table in 40 CFR 268.48. The hazardous waste listings based on these two constituents were vacated by the Dithiocarbamate Task Force ruling and these constituents have not been cited as the basis for listing any other hazardous waste in Appendix VII of part 261. EPA notes these constituents are still listed in Appendix VIII of 40 CFR part 261 as hazardous constituents upon which EPA may base listings.

All other constituents on the Universal Treatment Standards table are being retained. This is because they remain the basis for listed hazardous wastes that have not been affected by the Dithiocarbamate Task Force ruling. Accordingly, the UTS standards for the following constituents which are part of the basis for K159 are retained: Butylate, EPTC, Molinate, Pebulate, and Vernolate. Also retained is Dithiocarbamates (total). The determination of total dithiocarbamates is part of the basis for listing of K161, which was not invalidated by the court ruling.

Today's final rule also removes the vacated U and K wastes from CERCLA

designation as hazardous substances. Accordingly, all these wastes are removed from the list of CERCLA hazardous substances at 40 CFR 302.4.

III. State Authority

The tables in 40 CFR 271.1 are amended to reflect the issuance of this notice so that States will understand they are not required by the federal Resource Conservation and Recovery Act to adopt the hazardous waste listings vacated by the Dithiocarbamate Task Force ruling. Since today's rule does not establish any new regulation, no additional requirements or obligations are imposed on the States by its promulgation. RCRA section 3009 provides that States may not issue regulations less stringent than those authorized under Subtitle C of RCRA. However, section 3009 of RCRA also provides that States may impose more stringent requirements than those regulations promulgated by EPA under Subtitle C. Thus, regulations vacated by the Dithiocarbamate Task Force ruling may be permissible under state law.

IV. Good Cause Exemption From Notice-and-Comment Rulemaking Procedures

The Administrative Procedure Act generally requires agencies to provide prior notice and opportunity for public comment before issuing a final rule. 5 U.S.C. 553(b). Rules are exempt from this requirement if the issuing agency finds for good cause that notice and comment are unnecessary. 5 U.S.C. 553(b)(3)(B).

EPA has determined that providing prior notice and opportunity for comment on the amending of these carbamate regulations is unnecessary. These regulations are no longer legally in effect by order of the federal appeals court. Thus, amending them has no legal impact and only states the current legal status of the rules.

For the same reasons, EPA believes there is good cause for making the amending of these regulations immediately effective. See 5 U.S.C. 553(d).

V. Analyses Under E.O. 12866, Unfunded Mandates Reform Act of 1995, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act of 1996 and Paperwork Reduction Act

The amending of the carbamate regulations only reflects their current legal status and has no regulatory impact, therefore, this action is not a "significant" regulatory action by E.O. 12866. This action is not a significant regulatory action and is therefore not

subject to review by the Office of Management and Budget. In addition, this action does not impose annual costs of \$100 million or more, will not significantly or uniquely affect small governments, and is not a significant federal intergovernmental mandate. The Agency thus has no obligations under sections 202, 203, 204 and 205 of the Unfunded Mandates Reform Act. Moreover, since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to sections 603 or 604 of the Regulatory Flexibility Act.

Under 5 U.S.C. 801(a)(1)(A), added 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 5 U.S.C. 804(2).

Lastly, the removal of these regulations from the Code of Federal Regulations does not affect requirements under the Paperwork Reduction Act since they are no longer legally in effect.

List of Subjects

40 CFR Part 261

Environmental protection, Hazardous materials, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 302

Environmental protection, Air pollution control, Chemicals, Emergency Planning and Community Right-to-Know Act, Extremely hazardous substances, Hazardous chemicals, Hazardous materials, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: May 29, 1997.

Timothy Fields, Jr.,
Acting Assistant Administrator.

For the reasons set out in the preamble, amend chapter I of title 40 of the Code of Federal Regulations as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. Section 261.32 is amended in the table under "Organic Chemicals" by removing the entry for K160, and revising the entries for K156, K157, and K158 to read as follows:

§ 261.32 Hazardous waste from specific sources.

* * * * *

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
* * * * *		
Organic chemicals:		
* * * * *		
K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)	(T)
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)	(T)
K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)	(T)
* * * * *		

§ 261.33 [Amended]

3. Section 261.33(f) is amended in the table by removing in their entirety the following entries:

- H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester, (U365)
- Bis(dimethylthiocarbamoyl) sulfide, (U401)
- Bis (pentamethylene)thiuram tetrasulfide, (U400)
- Butylate, (U392)
- Carbamic acid, butyl-,3-iodo-2-propynyl ester, (U375)
- Carbamodithioic acid, dibutyl, sodium salt, (U379)
- Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester, (U277)
- Carbamodithioic acid, diethyl-, sodium salt, (U381)
- Carbamodithioic acid, dimethyl-, potassium salt, (U383)
- Carbamodithioic acid, dimethyl-, sodium salt, (U382)
- Carbamodithioic acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid, (U376)
- Carbamodithioic acid, (hydroxymethyl) methyl-,monopotassium salt, (U378)
- Carbamodithioic acid, methyl-, monosodium salt, (U384)
- Carbamodithioic acid, methyl-, monopotassium salt, (U377)

- Carbamothioic acid, bis(2-methylpropyl)-, S-ethyl ester, (U392)
- Carbamothioic acid, butylethyl-,S-propyl ester, (U391)
- Carbamothioic acid, cyclohexylethyl-, S-ethyl ester, (U386)
- Carbamothioic acid, dipropyl-, S-ethyl ester, (U390)
- Carbamothioic acid, dipropyl-, S-propyl ester, (U385)
- Copper, bis(dimethylcarbamodithioato-S,S')-, (U393)
- Copper dimethyldithiocarbamate, (U393)
- Cycloate, (U386)
- Dazomet, (U366)
- Disulfiram, (U403)
- EPTC, (U390)
- Ethyl Ziram, (U407)
- Ferbam, (U396)
- 3-Iodo-2-propynyl n-butylcarbamate, (U375)
- Iron, tris(dimethylcarbamodithioato-S,S')-, (U396)
- Metam Sodium, (U384)
- Molinate, (U365)
- Pebulate, (U391)
- Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-, (U400)
- Potassium dimethyldithiocarbamate, (U383)
- Potassium n-hydroxymethyl-n-methyl-di-thiocarbamate, (U378)
- Potassium n-methyldithiocarbamate, (U377)

- Selenium, tetrakis(dimethyldithiocarbamate), (U376)
- Sodium dibutyldithiocarbamate, (U379)
- Sodium diethyldithiocarbamate, (U381)
- Sodium dimethyldithiocarbamate, (U382)
- Sulfallate, (U277)
- Tetrabutylthiuram disulfide, (U402)
- Tetramethylthiuram monosulfide, (U401)
- 2H-1,3,5-Tthiadiazine-2-thione, tetrahydro-3,5-dimethyl-, (U366)
- Thioperoxydicarbonic diamide, tetrabutyl, (U402)
- Thioperoxydicarbonic diamide, tetraethyl, (U403)
- Vernolate, (U385)
- Zinc, bis(diethylcarbamodithioato-S,S')-, (U407)

Appendix VII to Part 261 [Amended]

4. Appendix VII to Part 261 is amended by removing the entire entry for EPA hazardous waste number K160.

5. Appendix VIII to Part 261 is amended by removing entries "Potassium hydroxymethyl-n-methyldithiocarbamate" and "Tetrabutylthiuram monosulfide", and by revising and adding in appropriate alphabetical order the following entries to read as follows:

APPENDIX VIII TO PART 261—HAZARDOUS CONSTITUENTS

Common name	Chemical abstracts name	Chemical abstracts No.	Hazardous waste No.
Bis(pentamethylene)-thiuram tetrasulfide.	Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-	120-54-7	*
Butylate	Carbamothioic acid, bis(2-methylpropyl)-, S-ethyl ester	2008-41-5	*
Copper dimethyldithiocarbamate	Copper, bis(dimethylcarbamodithioato-S,S')-	137-29-1	*
Cycloate	Carbamothioic acid, cyclohexylethyl-, S-ethyl ester	1134-23-2	*
Dazomet	2H-1,3,5-thiadiazine-2-thione, tetrahydro-3,5-dimethyl	533-74-4	*
Disulfiram	Thioperoxydicarbonic diamide, tetraethyl	97-77-8	*
EPTC	Carbamothioic acid, dipropyl-, S-ethyl ester	759-94-4	*
Ethyl Ziram	Zinc, bis(diethylcarbamodithioato-S,S')-	14324-55-1	*
Ferbam	Iron, tris(dimethylcarbamodithioato-S,S')-	14484-64-1	*
3-Iodo-2-propynyl n-butylcarbamate	Carbamic acid, butyl-, 3-iodo-2-propynyl ester	55406-53-6	*
Metam Sodium	Carbamodithioic acid, methyl-, monosodium salt	137-42-8	*
Molinate	1H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester	2212-67-1	*
Pebulate	Carbamothioic acid, butylethyl-, S-propyl ester	1114-71-2	*
Potassium dimethyldithiocarbamate	Carbamodithioic acid, dimethyl, potassium salt	128-03-0	*
Potassium n-hydroxymethyl-n-methyldithiocarbamate.	Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt	51026-28-9	*
Potassium n-methyldithiocarbamate	Carbamodithioic acid, methyl-monopotassium salt	137-41-7	*
Selenium, tetrakis(dimethyldithiocarbamate).	Carbamodithioic acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid.	144-34-3	*
Sodium dibutyldithiocarbamate	Carbamodithioic acid, dibutyl, sodium salt	136-30-1	*
Sodium diethyldithiocarbamate	Carbamodithioic acid, diethyl-, sodium salt	148-18-5	*
Sodium dimethyldithiocarbamate	Carbamodithioic acid, dimethyl-, sodium salt	128-04-1	*
Sulfallate	Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester	95-06-7	*
Tetrabutylthiuram disulfide	Thioperoxydicarbonic diamide, tetrabutyl	1634-02-2	*
Tetramethylthiuram monosulfide	Bis(dimethylthiocarbamoyl) sulfide	97-74-5	*
Vernolate	Carbamothioic acid, dipropyl-,S-propyl ester	1929-77-7	*

PART 268—LAND DISPOSAL RESTRICTIONS

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

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

7. Section 268.39 is amended by revising paragraphs (a) and (d) to read as follows:

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

(a) On July 8, 1996, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K156–K159, and K161; and in 40 CFR 261.33 as EPA Hazardous Waste numbers P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U278–U280, U364, U367, U372, U373, U387, U389, U394, U395, U404, and U409–U411 are prohibited from land disposal. In

addition, soil and debris contaminated with these wastes are prohibited from land disposal.

* * * * *

(d) On April 8, 1998, radioactive wastes mixed with K088, K156–K159, K161, P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U278–U280, U364, U367, U372, U373, U387, U389, U394, U395, U404, and U409–U411 are prohibited from land disposal. In addition, soil and debris contaminated with these radioactive mixed wastes are prohibited from land disposal.

* * * * *

§ 268.40 [Amended]

8. In § 268.40, the table is amended in the entries for K156, K157, and K158 by adding the language “(This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-

butylcarbamate.)” at the end of the existing text in the second column.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

9. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

10. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication in the **Federal Register**, and by adding the following entry to Table 2 in chronological order by date of publication in the **Federal Register** to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
* * * * *	* * * * *	* * * * *	* * * * *
[insert date of publication]	Vacated Carbamate wastes	[insert FEDERAL REGISTER page numbers.]	August 9, 1995.
* * * * *	* * * * *	* * * * *	* * * * *

TABLE 2.—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	Federal Register reference
* * * * *	* * * * *	* * * * *	* * * * *
July 8, 1996	Prohibition on land disposal of carbamate wastes (Vacated wastes).	3004(m)	[insert FR publication date, insert FR page numbers]
* * * * *	* * * * *	* * * * *	* * * * *
April 8, 1998	Prohibition on disposal of radioactive waste mixed with newly listed or identified wastes, including soil and debris (Vacated carbamate wastes).	3304(g)(4)(c) and 3004(m)	[insert FR publication date, insert FR page numbers]
* * * * *	* * * * *	* * * * *	* * * * *

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PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

11. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

§ 302.4 [Amended]

12. Table 302.4 in § 302.4 is amended by removing the entries for “1H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester (Molinat)”, “Bis(dimethylthiocarbamoyl) sulfide (Tetramethylthiuram monosulfide)”, “Carbamic acid, butyl-, 3-iodo-2-

propynyl ester (3-iodo-2-propynyl n-butylcarbamate)”, “Carbamodithioic acid, dibutyl, sodium salt (Sodium dibutyldithiocarbamate)”, “Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester (Sulfallate)”, “Carbamodithioic acid, diethyl-, sodium salt (Sodium diethyldithiocarbamate)”, “Carbamodithioic acid, dimethyl, potassium salt (Potassium dimethyldithiocarbamate)”, “Carbamodithioic acid, dimethyl-, sodium salt (Sodium dimethyldithiocarbamate)”, “Carbamodithioic acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid (Selenium, tetrakis (dimethyldithiocarbamate))”,

“Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt (Potassium n-hydroxymethyl-n-methyldithiocarbamate)”, “Carbamodithioic acid, methyl-, monopotassium salt (Potassium n-methyldithiocarbamate)”, “Carbamodithioic acid, methyl-, monosodium salt (Metam Sodium)”, “Carbamothioic acid, bis(2-methylpropyl)-, S-ethyl ester (Butylate)”, “Carbamothioic acid, butylethyl-, S-propyl ester (Pebulate)”, “Carbamothioic acid, cyclohexylethyl-, S-ethyl ester (Cycloate)”, “Carbamothioic acid, dipropyl-, S-ethyl ester (EPTC)”, “Carbamothioic acid,

dipropyl-, S-propyl ester (Vernolate)", "Copper, bis(dimethylcarbamodithioato-S,S')-(Cooper dimethyldithiocarbamate)", "Iron, tris(dimethylcarbamodithioato-S,S')-(Ferbam)", "Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-(Bis(pentamethylene) thiuram

tetrasulfide)", "2H-1,3,5-Thiadiazine-2-thione, tetrahydro-3,5-dimethyl-(Dazomet)", "Thioperoxydicarbonic diamide, tetrabutyl (Tetrabutylthiuram disulfide)", "Thioperoxydicarbonic diamide, tetraethyl (Disulfiram)", "Zinc, bis(diethylcarbamodithioato-S,S')-(Ethyl Ziram)", and "K160".

13. Table 302.4 in § 302.4 also is amended by revising the following entries, (applicable footnotes have been republished without change), to read as follows:

§ 302.4 Designation of hazardous substances.

* * * * *

TABLE 302.4.—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

[NOTE: All Comments/Notes Are Located at the End of This Table]

Hazardous substance	CASRN	Regulatory synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA waste number	Category	Pounds (Kg)
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
K156 Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)	* 1	*	4 K156	##
K157 Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)	* 1	*	4 K157	##
K158 Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)	* 1	*	4 K158	##
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

† Indicates the statutory source as defined by 1, 2, 3, and 4 below.

* * * * *

4 Indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA section 3001.

*1 Indicates that the 1-pound RQ is a CERCLA statutory RQ.

* * * * *

The Agency may adjust the statutory RQ for this hazardous substance in a future rulemaking; until then the statutory RQ applies.

* * * * *

Appendix A to § 302.4 [Amended]

14. Appendix A to § 302.4-Sequential CAS Registry Number List of CERCLA Hazardous Substances is amended by removing the entries for the following

CAS Registry Numbers: 95067, 97745, 97778, 120547, 128030, 128041, 136301, 137291, 137417, 137428, 144343, 148185, 533744, 759944, 1114712, 1134232, 1634022, 1929777, 2008415,

2212671, 14324551, 14484641, 51026289, and 55406536.
[FR Doc. 97-15409 Filed 6-16-97; 8:45 am]
BILLING CODE 6560-50-P

volume weighted average NO_x emissions of imported conventional gasoline for a multi-year period (MYA_{NO_x}). This calculation:

(i) Shall use the Phase II Complex Model;

(ii) Shall include all conventional gasoline in the following categories:

(A) Imported conventional gasoline that is classified as conventional gasoline, and included in the conventional gasoline compliance calculations of importers for each year; and

(B) Imported conventional gasoline that is classified as certified FRGAS, and included in the conventional gasoline compliance calculations of foreign refiners for each year;

(iii)(A) In 2000 only, shall be for the 1998 and 1999 averaging periods and also shall include all conventional gasoline classified as FRGAS and included in the conventional gasoline compliance calculations of a foreign refiner for 1997, and all conventional gasoline batches not classified as FRGAS that are imported during 1997 beginning on the date the first batch of FRGAS arrives at a United States port of entry; and

(B) Starting in 2001, shall include imported conventional gasoline during the prior three calendar year averaging periods.

(2)(i) If the volume-weighted average NO_x emissions (MYA_{NO_x}), calculated in paragraph (p)(1) of this section, is greater than 1,465 mg/mile, the Administrator shall calculate an adjusted baseline for NO_x according to the following equation:

$$AB_{NO_x} = 1,465 \text{ mg/mile} - (MYA_{NO_x} - 1,465 \text{ mg/mile})$$

where:

AB_{NO_x} = Adjusted NO_x baseline, in mg/mile

MYA_{NO_x} = Multi-year average NO_x emissions, in mg/mile

(ii) For the 1998 and 1999 multi-year averaging period only the value of AB_{NO_x} shall not be larger than 1,480 mg/mile regardless of the calculation under paragraph (p)(2)(i) of this section.

(3)(i) Notwithstanding the provisions of § 80.91(b)(4)(iii), the baseline NO_x emissions values applicable to any United States importer who has not been assigned an individual importer baseline under § 80.91(b)(4) shall be the more stringent of the statutory baseline value for NO_x under § 80.91(c)(5), or the adjusted NO_x baseline calculated in paragraph (p)(2) of this section.

(ii) On or before June 1 of each calendar year, the Administrator shall announce the NO_x baseline that applies to importers under this paragraph (p). If

the baseline is an adjusted baseline, it shall be effective for any conventional gasoline imported beginning 60 days following the Administrator's announcement. If the baseline is the statutory baseline, it shall be effective upon announcement. A baseline shall remain in effect until the effective date of a subsequent change to the baseline pursuant to this paragraph (p).

(q) *Withdrawal or suspension of a foreign refinery's baseline.* EPA may withdraw or suspend a baseline that has been assigned to a foreign refinery where:

(1) A foreign refiner fails to meet any requirement of this section;

(2) A foreign government fails to allow EPA inspections as provided in paragraph (i)(1) of this section;

(3) A foreign refiner asserts a claim of, or a right to claim, sovereign immunity in an action to enforce the requirements in 40 CFR part 80, subparts D, E and F; or

(4) A foreign refiner fails to pay a civil or criminal penalty that is not satisfied using the foreign refiner bond specified in paragraph (k) of this section.

(r) *Early use of a foreign refinery baseline.* (1) A foreign refiner may begin using an individual refinery baseline before EPA has approved the baseline, provided that:

(i) A baseline petition has been submitted as required in paragraph (b) of this section;

(ii) EPA has made a provisional finding that the baseline petition is complete;

(iii) The foreign refiner has made the commitments required in paragraph (i) of this section;

(iv) The persons who will meet the independent third party and independent attest requirements for the foreign refinery have made the commitments required in paragraphs (f)(3)(iii) and (h)(7)(iii) of this section; and

(v) The foreign refiner has met the bond requirements of paragraph (k) of this section.

(2) In any case where a foreign refiner uses an individual refinery baseline before final approval under paragraph (r)(1) of this section, and the foreign refinery baseline values that ultimately are approved by EPA are more stringent than the early baseline values used by the foreign refiner, the foreign refiner shall recalculate its compliance, *ab initio*, using the baseline values approved by EPA, and the foreign refiner shall be liable for any resulting violation of the conventional gasoline requirements.

(s) *Additional requirements for petitions, reports and certificates.* Any

petition for a refinery baseline under paragraph (b) of this section, any report or other submission required by paragraphs (c), (f)(2), or (i) of this section, and any certification under paragraph (d)(3) or (g)(1)(ii) of this section shall be:

(1) Submitted in accordance with procedures specified by the Administrator, including use of any forms that may be specified by the Administrator.

(2) Be signed by the president or owner of the foreign refiner company, or in the case of (g)(1)(ii) the vessel owner, or by that person's immediate designee, and shall contain the following declaration:

I hereby certify: (1) that I have actual authority to sign on behalf of and to bind [insert name of foreign refiner or vessel owner] with regard to all statements contained herein; (2) that I am aware that the information contained herein is being certified, or submitted to the United States Environmental Protection Agency, under the requirements of 40 CFR part 80, subparts D, E and F and that the information is material for determining compliance under these regulations; and (3) that I have read and understand the information being certified or submitted, and this information is true, complete and correct to the best of my knowledge and belief after I have taken reasonable and appropriate steps to verify the accuracy thereof.

I affirm that I have read and understand that the provisions of 40 CFR part 80, subparts D, E and F, including 40 CFR 80.94 (i), (j) and (k), apply to [insert name of foreign refiner or vessel owner]. Pursuant to Clean Air Act section 113(c) and Title 18, United States Code, section 1001, the penalty for furnishing false, incomplete or misleading information in this certification or submission is a fine of up to \$10,000, and/or imprisonment for up to five years.

[FR Doc. 97-22803 Filed 8-27-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268 and 271

[FRL-5884-2]

RIN 2050-AD38

Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes From Carbamate Production

AGENCY: Environmental Protection Agency (EPA, the Agency).

ACTION: Immediate final rule.

SUMMARY: This second emergency revision extends the time that the alternative carbamate treatment

standards are in place by one additional year. The Agency is taking this action because analytical problems associated with the measurement of constituent levels in carbamate waste residues have not yet been resolved.

EFFECTIVE DATES: This action becomes effective on August 21, 1997.

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-P32F-FFFFF. The RIC 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 703-412-9810 locally. For technical information on the carbamate treatment standards, contact Shaun McGarvey, phone 703-308-8603. For information on analytic problems associated with carbamate wastes, contact John Austin on 703-308-0436. For information on State Authorization, contact Wayne Roepe on 703-308-8630. For specific information about this rule, contact Rhonda Minnick on 703-308-8771.

SUPPLEMENTARY INFORMATION:

Availability of rule on Internet

This **Federal Register** notice is available on the Internet System through the EPA Public Web Page at: <http://www.epa.gov/EPA-WASTE/>. For the text of the notice, choose: Year/Month/Day.

I. Background

The Phase III final rule established treatment standards for hazardous wastes associated with carbamate pesticide production (61 FR 15583; see appendix for a list of regulated constituents). The treatment standards were expressed as concentration levels that had to be monitored in the treatment residue. All constituents were placed on the Universal Treatment Standard (UTS) list. These regulations were issued on April 8, 1996 (61 FR 15663), and corrected June 28, 1996 (61 FR 33683). The prohibition on land disposal of carbamate wastes was effective July 8, 1996 and the prohibition on radioactive waste mixed with newly listed or identified wastes, including soil and debris, was effective April 8, 1998.

On November 1, 1996, the United States Court of Appeals for the District of Columbia Circuit, in *Dithiocarbamate Task Force v. EPA* (98 F.3d 1394), vacated certain of the listings of carbamate wastes. Accordingly, EPA removed from the Code of Federal Regulations those listings vacated by the court and all references to those listings. EPA notes that substantial portions of the decisions made in the carbamate listing rule remain in effect and are not changed by the court's ruling. See 62 FR 32973, June 17, 1997.

The court vacated the listings of 24 U wastes, one K-waste (K160), and three of the K-wastes (K156, K157 and K158) only to the extent they apply to the chemical, 3-iodo-2-propynyl n-butylcarbamate (IPBC). Twenty-three of the vacated U wastes consisted of all the dithiocarbamates and thiocarbamates. The other vacated U waste was IPBC, a carbamate.

This notice applies only to the carbamate wastes that remain listed as hazardous wastes. Carbamates that were regulated as UHCs were unaffected by the courts decision, because the decision didn't deal with adding carbamates as underlying hazardous constituents.

After promulgation of the Phase III rule on April 8, 1996, but shortly before the treatment standards took effect on July 8, 1996, several companies in the waste management industry contacted EPA, reporting that laboratory standards were not available for some of the carbamate waste constituents. The Agency confirmed this assertion, and realized that the waste management industry was unintentionally left in a quandary: they were required to certify compliance with the carbamate waste treatment standards, but commercial laboratories were only able to perform the necessary analyses for some of the newly regulated constituents. Thus, it was impossible to document whether the treatment standards were or were not achieved for those constituents which could not be analyzed.

The problem was complicated by the LDR rules that pertain to regulation of underlying hazardous constituents (UHCs) in characteristic (or formerly characteristic) hazardous wastes. Because new constituents were added to the UTS list, they thus became potential UHCs. Whenever a generator sends a characteristic (or formerly-characteristic) waste to a treatment facility, they must identify for treatment not only the hazardous characteristic, but also all UHCs reasonably expected to be present in the waste at the point of generation. (See 40 CFR 268.2(i).) Because of the lack of laboratory

standards for all carbamate constituents, generators could not in all cases identify the UHCs reasonably expected to be present in their wastes, and treatment facilities and EPA could not monitor compliance with the standards for the carbamate UHCs. Generators also reported that commercial laboratories were unable to provide the recommended methods.

II. The Revised Carbamate Treatment Standards

In an emergency final rule promulgated on August 26, 1996 (61 FR 43924), EPA established temporary alternative treatment standards for carbamate wastes for a one-year period. EPA believed that one year was sufficient time for laboratory standards to be developed and for laboratories to take appropriate steps to do the necessary analyses for these wastes.

The Phase III rule required treatment of carbamate wastes to UTS levels. The temporary alternative standards promulgated in the August 26, 1996 rule provided waste handlers a choice of meeting the Phase III treatment levels, or of using a specified treatment technology, the specified standard being the technology upon whose performance the numerical treatment standard was based. (See 61 FR 43925, August 26, 1996.) Combustion was the specified technology for nonwastewaters; combustion, biodegradation, chemical oxidation, and carbon adsorption are the specified technologies for wastewaters. If the wastes were treated by a specified technology, there was no requirement to measure compliance with treatment levels, thus avoiding the analytical problems.

III. Today's Extension of the Alternative Treatment Standard Provision

EPA is extending the alternative treatment standards for carbamate wastes for one additional year. EPA and the regulated community initially expected that laboratory standards would be developed during the past year, but that appears not to be the case for all carbamate constituents. Furthermore, there appears to be confusion as to which analytical methods can be used to measure carbamate constituents. (See memorandum from Kevin Igli, Waste Management, Inc., to James Berlow, EPA, dated July 16, 1997, in the docket for this rule.)

The waste treatment industry has begun a testing project that will determine whether existing analytical methods can be extended to apply to all carbamate constituents. (See August 8,

1997 letter from Kevin Igli, Waste Management, Inc., to Michael Petruska, EPA.) The Agency believes that much can be learned from this study. EPA estimates it will take four to six months to conduct this study, and then additional time to review the results. If the study verifies that analytical problems remain, EPA may issue an appropriate notice seeking comment, and then a final rule modifying the standard. This would all take approximately 1 year. If EPA finds there are no serious analytical difficulties, however, the Agency may consider reinstating the numeric standard sooner than 1 year.

Since the analytical problems which necessitated the 1996 emergency rule remain, however, EPA is allowing the alternative treatment standards to remain in place until the study is completed and the results factored into a final decision on whether to retain the alternative treatment standards permanently or to revert to the exclusive numerical standards promulgated in the Phase III rule. (The Agency's general preference is to establish numerical treatment standards for hazardous wastes whenever possible because they provide maximum flexibility in selecting treatment technologies, while ensuring that the technologies are optimally operated to achieve full waste treatment.)

Under the alternative treatment standards, combustion is the specified technology for nonwastewaters; combustion, biodegradation, chemical oxidation, and carbon adsorption are the specified technologies for wastewaters. (Descriptions of these treatment technologies can be found in 40 CFR 268.42, Table 1.) If the wastes are treated by a specified technology, there is no requirement to measure compliance with treatment levels.

Because the performance of these Best Demonstrated Available Technologies (BDATs) were the basis of the originally promulgated treatment levels, EPA believes that temporarily allowing the use of these BDATs for an additional year—without a requirement to monitor the treatment residues—fully satisfies the core requirement of the LDR program: Hazardous wastes must be treated to minimize threats to human health and the environment before they are land disposed.

The Agency is also suspending for an additional year inclusion of carbamate waste constituents on the UTS list at 40 CFR 268.48. Not including these constituents on the UTS list eliminates the need to identify and treat them, and monitor compliance with their UTS levels, when they are present as UHCs

in characteristic hazardous wastes. The Agency believes that suspending the carbamate constituents from the UTS list will not have adverse environmental consequences because it will be in effect for only one additional year. Furthermore, EPA found in the Phase III rulemaking that these constituents are unlikely to occur in wastes generated outside the carbamate production industry (61 FR 15584, April 8, 1996), so today's rule may not cause an adverse environmental impact because carbamate constituents simply are not present in most characteristic hazardous wastes.

IV. Good Cause for Foregoing Notice and Comment Requirements

This final rule is being issued without notice and opportunity for public comment. Under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), an agency may forgo notice and comment in promulgating a rule when, according to the APA, the agency for good cause finds (and incorporates the finding and a brief statement of the reasons for that finding into the rules issues) that notice and public comments procedures are impracticable, unnecessary, or contrary to the public interest. For the reasons set forth below, EPA believes it has good cause to find that notice and comment would be unnecessary and contrary to the public interest, and therefore is not required by the APA.

First, although both industry and EPA have endeavored to resolve the problem during the past year, analytic laboratory standards will continue to be unavailable for a number of the carbamate waste constituents covered by the Phase III rule. Members of the regulated community thus cannot fully document compliance with the requirements of the treatment standard through no fault of their own. For the same reason, EPA cannot ascertain compliance for these constituents.

In addition, this unavailability of analytic standards is likely to create a serious disruption in the production of at least some carbamate pesticides. Although the treatment of the restricted carbamate wastes through biodegradation, carbon adsorption, chemical oxidation (for wastewaters), and combustion is both possible and highly effective, certification that the treatment actually meets the treatment standard levels may not be possible in many instances. Without the certification, disposal of the residuals left after treatment cannot legally occur. The Agency believes this situation will quickly impede production of certain pesticides, since legal disposal of some

carbamate wastes will no longer be available. See *Steel Manufacturers Ass'n v. EPA*, 27 F.3d 642, 646-47 (D.C. Cir. 1994) (absence of a treatment standard providing a legal means of disposing of wastes from a process is equivalent to shutting down that process). With regard to the suspension of certain carbamates as underlying hazardous constituents in characteristic (and formerly-characteristic) prohibited wastes, the Agency believes that the same practical difficulties described for listed carbamate wastes would be created.

Furthermore, the Agency believes it is necessary for industry to complete a study project that will provide answers to the questions raised about the availability of analytical standards and which analytical methods are appropriate for carbamate wastes. This study will require a number of months to be completed, and then the Agency must make a decision about whether or not to retain the alternative treatment standards.

This extension of the emergency rule preserves the core of the promulgated Phase III rule by ensuring that the restricted carbamate wastes are treated by a BDAT before they are land disposed. At the same time, EPA is eliminating the situation which could halt production of carbamate pesticides, and allowing time for a study project to be completed. For these reasons, EPA believes there is good cause to issue the rule immediately without prior notice and opportunity for comment.

V. Rationale for Immediate Effective Date

The Agency believes that the regulated community is in the untenable position of having to comply with treatment standards but lacks analytical methods to measure compliance. To avoid this result, therefore, this extension needs to take effect essentially immediately. In addition, today's rule does not create additional regulatory requirements; rather, it provides greater flexibility for compliance with treatment standards. For these reasons, EPA finds that good cause exists under section 3010(b)(3) of RCRA, 42 U.S.C. 6903(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 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 final rule does not create new regulatory requirements; rather, it provides a temporary alternative means to comply with the treatment standards already promulgated. Therefore, this final rule is not a "significant" regulatory action within the meaning of Executive Order 12866.

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector, 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. This final rule does not create new regulatory requirements; rather, it provides a temporary alternative means to comply with the treatment standards already promulgated. EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. For the same reasons, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities. EPA recognizes that small entities may own and/or operate carbamate pesticide manufacturing operations or TSDFs that will become subject to the requirements of the land disposal restrictions program. However, since such small entities are already subject to the requirements in 40 CFR part 268, this rule does not impose any additional burdens on these small entities, because this rule does not create new regulatory requirements. Rather, it provides a temporary alternative means to comply with the treatment standards already promulgated.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Today's rule does not contain any new information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Because there are no new information collection requirements in today's rule, an Information Collection Request has not been prepared.

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.

VIII. State Authority

A. Applicability of Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR part 271.

Prior to HSWA, a State with final authorization administered its hazardous waste program in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in unauthorized States. EPA is directed to carry out these requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so.

Today's rule is being promulgated pursuant to section 3004(m), of RCRA (42 U.S.C. 6924(m)). Therefore, the Agency is adding today's rule to Table 1 in 40 CFR 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to HSWA. States may apply for final authorization for the HSWA provisions in Table 1, as discussed in the following section of this preamble.

B. Effect on State Authorization

As noted above, EPA will implement today's rule in authorized States until they modify their programs to adopt these rules and the modification is approved by EPA. Because today's rule is promulgated pursuant to HSWA, a State submitting a program modification may apply to receive interim or final

authorization under RCRA section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's. The procedures and schedule for State program modifications for final authorization are described in 40 CFR 271.21. All HSWA interim authorizations will expire January 1, 2003. (See section 271.24 and 57 FR 60132, December 18, 1992.)

In general, EPA recommends that States pay close attention to the sunset date for today's rule. If States are adopting the Phase III rule before the sunset date of today's rule, and applying for authorization, EPA strongly encourages these States to adopt today's rule when they adopt the April 8, 1996, Phase III rule. States should note that after the sunset date, the provisions of this rule may be considered less stringent if the Agency decides to disallow use of the alternative treatment standards. If so, States would be barred under section 3009 of RCRA from adopting this rule after August 26, 1998, and would not be able to receive authorization for it. States that are planning to adopt and become authorized for today's rule and the Phase III rule should factor the sunset date into their rulemaking activities.

Appendix to the Preamble—List of Regulated Constituents

- K156—Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate)
- K157—Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)
- K158—Bag house dust, and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)

- K159—Organics from the treatment of thiocarbamate wastes.
- K161—Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust, and floor sweepings from the production of dithiocarbamate acids and their salts. (This listing does not include K125 or K126.)
- P203 Aldicarb sulfone
- P127 Carbofuran
- P189 Carbosulfan
- P202 m-Cumenyl methylcarbamate
- P191 Dimetilan
- P198 Formetanate hydrochloride
- P197 Formparanate
- P192 Isolan
- P196 Manganese dimethyldithiocarbamate
- P199 Methiocarb
- P066 Methomyl
- P190 Metolcarb
- P128 Mexacarbate
- P194 Oxamyl
- P204 Physostigmine
- P188 Physostigmine salicylate
- P201 Promecarb
- P185 Tirpate
- P205 Ziram
- U394 A2213
- U280 Barban
- U278 Bendiocarb
- U364 Bendiocarb phenol
- U271 Benomyl
- U279 Carbaryl
- U372 Carbendazim
- U367 Carbofuran phenol
- U395 Diethylene glycol, dicarbamate
- U373 Proptham
- U411 Propoxur
- U387 Prosulfocarb
- U410 Thiodicarb
- U409 Thiophanate-methyl
- U389 Triallate
- U404 Triethylamine

Additional chemicals from carbamate production regulated in 40 CFR 268.48
 Butylate
 EPTC
 Dithiocarbamates, total
 Molinate
 Pebulate
 o-Phenylenediamine
 Vernolate

List of Subjects

40 CFR part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR part 271

Environmental protection, Administrative practice and procedure, Hazardous materials transportation, Hazardous waste, Penalties, Reporting and recordkeeping requirements.

Dated: August 21, 1997.

Carol M. Browner,
Administrator.

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

PART 268—LAND DISPOSAL RESTRICTIONS

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

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

SUBPART D—TREATMENT STANDARDS

2. Section 268.40 is amended by revising the dates in paragraph (g) to read "Between August 26, 1997 and August 26, 1998".

3. Section 268.48(a) is amended by revising the dates in footnote 6 to the table—Universal Treatment Standards to read "Between August 26, 1997 and August 26, 1998".

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

4. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 9602; 33 U.S.C. 1321 and 1361.

SUBPART A—REQUIREMENTS FOR FINAL AUTHORIZATION

5. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication in the **Federal Register** to read as follows:

§ 271.1 Purpose and scope.

* * * * *
 (j) * * * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of Regulation	Federal Register reference	Effective date
August 28, 1997	Second Emergency Revision of the Land Disposal Restrictions (LDR) Phase III Treatment Standards for Listed Hazardous Wastes from Carbamate Production.	62 FR [Insert page numbers].	August 26, 1997 until August 26, 1998.

* * * * *

[FR Doc. 97-22949 Filed 8-27-97; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-7224]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2796.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

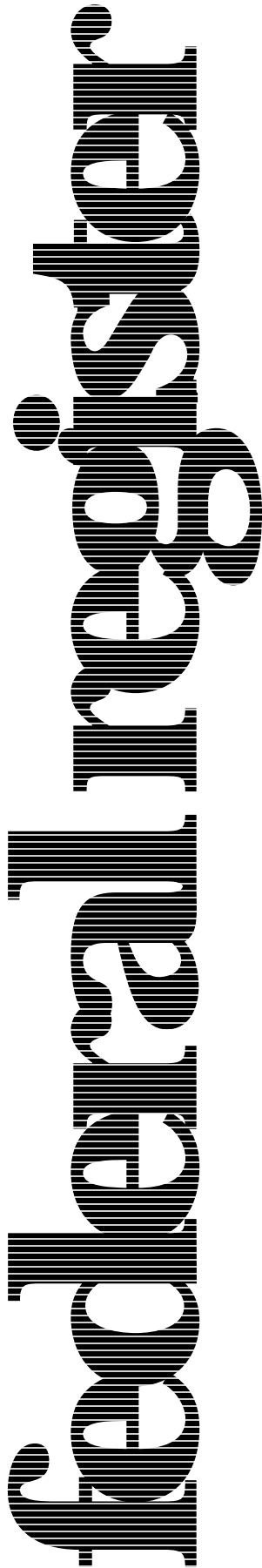
1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona: Mohave ..	City of Bullhead City.	June 17, 1997, June 24, 1997, <i>Mohave Valley Daily News</i> .	The Honorable Norm Hicks, Mayor, City of Bullhead City, 1255 Marina Boulevard, Bullhead City, Arizona 86442.	June 5, 1997	040125
California: Riverside	City of Banning	June 20, 1997, June 27, 1997, <i>The Record-Gazette</i> .	The Honorable Gary Reynolds, Mayor, City of Banning, P.O. Box 998, Banning, California 92220.	June 5, 1997	060246
Marin	City of Novato	July 1, 1997, July 8, 1997, <i>Marin Independent Journal</i> .	The Honorable Pat Eklund, Mayor, City of Novato, 900 Sherman Avenue, Novato, California 94945.	June 13, 1997	060178



Friday
September 4, 1998

Part IV

**Environmental
Protection Agency**

**40 CFR Parts 268 and 271
Emergency Revision of the Land
Disposal Restrictions (LDR) Treatment
Standards for Listed Hazardous Wastes
From Carbamate Production; Final Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 268 and 271**

[EPA #F-96-P32F-FFFFF; FRL-6154-5]

RIN 2050-ZA00

Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Today's final rule revises the waste treatment standards applicable to 40 waste constituents associated with the production of carbamate wastes. The rule sets final alternative treatment standards for seven specific carbamate waste constituents for which there are no available analytical standards. This action, effective immediately, extends indefinitely the alternative treatment standards for the seven hazardous waste constituents and deletes the treatment standard for one additional constituent for which available analytical methods have not been shown to achieve reliable measurements. This rule also deletes these eight waste constituents as underlying hazardous constituents. In addition, because the temporary alternative standards for 40 carbamate waste constituents expire automatically on August 26, 1998, today's rule also amends the Code of Federal Regulations to clarify that numerical treatment standards for these 32 carbamate waste constituents will once again be effective.

Today's rule is necessary to allow generators the ability to identify all underlying hazardous constituents reasonably expected to be present in their wastes at the point of generation, and to allow waste treaters to certify that wastes have been treated in compliance with applicable land disposal restrictions. Faced with the inability to demonstrate waste and treatment residual content through analytical testing, these facilities face potential curtailment of operations.

Given the need for the regulated community to adjust its testing and compliance programs for the 32 constituents for which numerical treatment standards are being reinstated, the Agency is extending the current set of alternative treatment standards for these 32 constituents (and concomitantly delaying the effectiveness of the corresponding portion of today's final rule) for six months from the date of publication.

EFFECTIVE DATE: This rule is effective on August 26, 1998. Compliance dates:

- Treatment standards for the wastes specified in 40 CFR 261.33 as P185, P191, P192, P197, U364, U394, and U395: August 26, 1998;
- The existing alternative standards of 40 CFR 268.40 (g) continue to apply until March 4, 1999; and
- The numerical standards specified in 40 CFR 268.40 for the wastes specified in 40 CFR 261.32 as K156–K159, and K161, and in 40 CFR 261.33 as P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U278–U280, U364, U367, U372, U373, U387, U389, U394–U395, U404, and U409–U411 and the numerical standards associated with the waste constituents in 40 CFR 268.48: March 4, 1999.

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-P32F-FFFFF. The RIC 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 703-412-9810 locally. For specific information about this rule, contact Rhonda Minnick, phone 703-308-8771 or John Austin, phone 703-308-0436.

SUPPLEMENTARY INFORMATION:
Availability of Rule on the Internet:
Please follow these instructions to access the rule:

From the World Wide Web (WWW), type <http://www.epa.gov/fedrgstr>. For the text of the notice, choose: Year/Month/Day.

I. Background

The Phase III final rule established treatment standards for 64 listed hazardous wastes associated with carbamate waste production (61 FR 15583, April 8, 1996). The treatment standards were expressed as concentration limits that had to be met before land disposal could occur. All constituents were placed on the Universal Treatment Standard (UTS) list, found at 40 CFR 268.48. These regulations were corrected June 28, 1996 (61 FR 33683) in ways that are not germane to the subject of this rule. The prohibition on land disposal of

carbamate wastes and the requirement to meet the treatment limits were effective July 8, 1996.

On November 1, 1996, the United States Court of Appeals for the District of Columbia Circuit, in *Dithiocarbamate Task Force v. EPA* (98 F.3d 1394), vacated certain of the listings of carbamate wastes. Accordingly, EPA removed from the Code of Federal Regulations those listings vacated by the court and all references to those listings. A substantial portion of carbamate listing rule was unaffected by the court's opinion¹ and remained in effect. See 62 FR 32973, June 17, 1997.

Today's final rule applies only to 40 of the waste constituents that are the components of the carbamate wastes that remain listed as hazardous wastes.

After promulgation of the Phase III rule on April 8, 1996, but shortly before the treatment standards took effect on July 8, 1996, several companies in the waste management industry contacted EPA, reporting that laboratory standards were not available for some of the carbamate waste constituents. The Agency confirmed this assertion, and realized that the waste management industry was unintentionally left in an unacceptable compliance situation: they were required to certify compliance with the carbamate waste treatment standards, but commercial laboratories were able to perform the necessary analyses only for some of the newly regulated constituents. Thus, it was impossible to document whether the treatment standards were or were not achieved for those 40 constituents that could not be analyzed.

The problem was complicated by the LDR rules that pertain to meeting treatment limits for underlying hazardous constituents (UHCs) in characteristic (or formerly characteristic) hazardous wastes. Whenever a generator sends a characteristic (or formerly characteristic) waste to a treatment facility, they must identify for treatment not only the hazardous characteristic, but also all UHCs reasonably expected to be present in the waste at the point of generation. (See 40 CFR 268.2(l).) Because new carbamate constituents were added to the UTS list by the Phase

¹ The court vacated the listings of 24 U wastes, one K-waste (K160), and three of the K-wastes (K156, K157 and K158) only to the extent that they apply to the chemical, 3-iodo-2-propynyl n-butylcarbamate (IPBC). Twenty-three of the vacated U wastes consisted of all the dithiocarbamates and thiocarbamates. The other vacated U waste was IPBC, a carbamate. Carbamates that were regulated as UHCs were unaffected by the court's decision, because the decision did not deal with carbamate or carbamate constituents as underlying hazardous constituents.

III rule, they became potential UHCs. Because of the lack of laboratory standards for some of the carbamate constituents, generators could not in all cases identify all of the UHCs reasonably expected to be present in their wastes, nor could treatment facilities or regulatory agencies monitor compliance with the standards for the carbamate UHCs. Thus, it would have been impossible to document that the treatment standards were or were not achieved for those 40 carbamate constituents that appear in the list of UHCs in 40 CFR 268.48.

In an emergency final rule promulgated on August 26, 1996 (61 FR 43924), EPA established temporary alternative treatment standards for 40 carbamate waste constituents for a one-year period. EPA believed that one year was sufficient time for laboratory standards to be developed and for laboratories to take appropriate steps to do the necessary analyses for these wastes. The temporary alternative standards promulgated in the August 26, 1996, rule provided waste handlers a choice of meeting the original Phase III numerical concentration limits or of using a specified treatment technology (the technology upon whose performance the numerical treatment standard was based) (See 61 FR 43925). Combustion was the specified technology for nonwastewaters; combustion, biodegradation, chemical oxidation, or carbon adsorption were the specified technologies for

wastewaters. If the wastes are treated by a specified technology, the LDR rules do not require a generator or treater to measure compliance with treatment levels, thus avoiding the analytical problems for the 40 carbamate waste constituents at issue.

However, the problem was not resolved in one year and, on August 21, 1997, EPA promulgated a second emergency rule, which extended the alternative treatment standards by one additional year until August 26, 1998 (62 FR 45568, August 28, 1998). Today's rule makes a final disposition for all 40 of the carbamate waste constituents at issue.

II. Today's Carbamate Treatment Standards

This final rule: (1) Establishes revised treatment standards for seven problem carbamate waste constituents; (2) removes the treatment standard for one additional waste constituent; (3) reinstates numerical treatment standards for 32 other carbamate waste constituents; and (4) provides six months for the regulated community to arrange for testing and analysis of the 32 carbamate constituents for which numerical standards are being reinstated.

Treatment Standards for 8 Problem Waste Constituents

Since 1996, EPA and Waste Management Inc. have conducted studies to determine for which of the 40

carbamate constituents at issue there are neither analytical standards nor reliable analytical test methods. These studies have shown that seven constituents lack analytical reference standards. These constituents are A2213, Bendiocarb phenol, Diethylene glycol dicarbamate, Dimetilan, Formparanate, Isolan, and Tirpate. Therefore, EPA is promulgating alternative treatment standards for these seven constituents, and is reinstating the numerical standards for the remainder of the carbamate wastes as per the Phase III Rule. Further, these studies have shown that o-phenylenediamine was not able to be analyzed reliably by available analytical methods. For o-phenylenediamine, the constituent is being deleted as a 40 CFR 268.40 constituent of concern in K157. The Agency believes that regulation of the other carbamate waste constituents of concern should also provide adequate treatment of this constituent.

The Agency is also deleting the eight carbamate waste constituents listed below in Table 1 from the 40 CFR 268.48 Universal Treatment Standards (UTS) table. By removing these constituents from the UTS list, the need to identify and treat them is eliminated for the listed carbamate wastes. Furthermore, this removal from the UTS list eliminates the requirement to monitor compliance and to meet UTS levels when any of the eight constituents are present as UHCs in characteristic hazardous wastes.

TABLE 1.—PROBLEM ANALYTES

	Compound	CAS No.	Reason deleted
U394	A2213	30558-43-1	No Standard.
U364	Bendiocarb phenol	22961-82-6	No Standard.
U395	Diethylene glycol, dicarbamate	5952-26-1	No Standard.
P191	Dimetilan	644-64-4	No Standard.
P197	Formparanate	17702-57-7	No Standard.
P192	Isolan	119-38-0	No Standard.
P185	Tirpate	26419-73-8	No Standard.
	o-Phenylenediamine	95-54-5	Poor method performance.

The Phase III rule required that all carbamate wastes must meet specific numerical UTS limits prior to land disposal. The standards being promulgated today for the eight problem constituents are expressed both as numerical limits as well as specified technologies. These are alternative standards, and provide waste handlers with a choice of whether to satisfy LDR treatment standards either by meeting the Phase III numerical limits, or by using a specified treatment technology

for these constituents. EPA is choosing to express the LDR treatment standards as alternative standards because this allows for maximum flexibility for generators and treaters as future circumstances develop (e.g., where analytical standards for one or more of the problem constituents might be developed and numerical treatment standards could therefore be shown to be achieved).

In terms of the specified technologies, these are the same as were contained in the Agency's two emergency rules in

1996 and 1997. Combustion is the specified technology for nonwastewaters. Combustion, biodegradation, chemical oxidation, or carbon adsorption are the specified technologies for wastewaters. These technologies are defined at 40 CFR 268.42, Table 1 (see technology codes: BIODG, CARBN, CHOXD, and CMBST). If the wastes are treated by a specified technology, there is no requirement to measure compliance with treatment levels (thus the analytical problems are

avoided). Because the performance of these Best Demonstrated Available Technologies (BDATs) was the basis of the originally promulgated treatment levels, EPA believes that allowing the use of these BDATs—without a requirement to monitor the treatment residues—fully satisfies the core requirement of the LDR program: unless treatment levels are already met, hazardous wastes must be effectively treated to minimize threats to human health and the environment before they are land disposed.

EPA considered completely replacing the numerical LDR treatment standards for the other 32 carbamate constituents with specified treatment methods, rather than providing the alternative approach being promulgated in this rule for only the eight problem analytes. This would have departed from the long-standing architecture of the LDR treatment standards, which are always expressed as numerical performance standards unless special circumstances exist (such as the lack of analytical standards or methods). Our traditional approach of using numerical performance standards, rather than dictating a specific technology, has the advantage of maximizing the flexibility of generators and treaters to meet the LDR standards by whatever technology they might choose. It also addresses an Agency concern that it may be necessary to provide more comprehensive design and operating parameters to assure continuous effective treatment of wastes by a specified technology. In order to assure the effectiveness of treatment, we determined to follow our traditional numerical approach for all the carbamate constituents (excepting of course the seven analytes lacking standards and the one with poor method performance) and to continue to provide industry with the option of selecting an appropriate treatment technology based on site-specific and company-specific factors. However, EPA has received a number of suggestions that establishing comprehensive design and operating parameters for specific technologies is a useful alternative and technically feasible. EPA is considering the possibility of pursuing such a project for many LDR-regulated wastes, including carbamates.

Although we have some reservations about departing from our established approach for the problem analytes, we believe that the specific circumstances

of this rule justify deferring solely to the requirement of a specified technology without first evaluating the need for design and operating parameters for the technology. If EPA determines in the future that such parameters are needed, it will modify the treatment standard.

The Agency understands that, since 1996, generators and treaters have been using specified technologies to meet the LDR treatment standards for all 40 waste constituents that were the subject of both emergency rules. Today's rule will necessitate a change in approach for 32 of those 40 waste constituents, which will involve procuring the necessary sampling and analytical services so that compliance can be assured. To allow the regulated community adequate time to make arrangements to procure the necessary analytical capabilities, the Agency will extend the current emergency standards until six months after the publication of this final rule in the Federal Register. After that time, the alternative treatment standards will apply only to the eight problem carbamate constituents from wastes specified in 40 CFR 261.33 as EPA Hazardous Waste numbers P185, P191, P192, P197, U364, U394, and U395; and soil contaminated with these wastes.

Method Studies

For the analysis of the 32 carbamate waste constituents for which numerical standards are being reinstated by today's rule, six determinative methods have been evaluated. They are listed below. Except where noted, all of the methods are from the Third Edition of *SW-846 Test Methods for Evaluating Solid Wastes Physical/Chemical Methods*.

- Method 630 (EPA Office of Water) Total Dithiocarbamates
- Method 8260 Volatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS)
- Method 8141 Organophosphorus Compounds by Gas Chromatography
- Method 8270 Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS)
- Method 8318 N-Methylcarbamates by High Performance Liquid Chromatography (HPLC)
- Method 8321 Solvent Extractable Non-Volatile Compounds by High Performance Liquid Chromatography (HPLC)/Thermospray/ Mass Spectrometry (HPLC/TSP/MS) or Ultraviolet (UV) Detection.

Method 630 determines total dithiocarbamates after conversion of the dithiocarbamates to carbon disulfide and measurement of the carbon disulfide. The method does not distinguish individual dithiocarbamate compounds and was not further evaluated in the recent studies.

The only analyte evaluated by method 8260 was triethylamine. Analysis by purge and trap failed to have adequate sensitivity to detect triethylamine at the levels of the treatment standards. Analysis by direct injection to a flame ionization detector found that levels as low 0.001 mg/L or less could be measured.

Method studies centered on the remaining carbamate waste constituents and their amenability to analysis by Methods 8141, 8270, 8318, and 8321. Because of thermal lability, carbamates and carbamoyl oximes are generally not amenable to analysis by gas chromatography except where quantitative decomposition occurs. However, thiocarbamates as a class are amenable to analysis by gas chromatographic Methods 8141 using the nitrogen/phosphorous detector and 8270 GC/MS. Method 8318 was shown to be limited to only the analysis of n-methylcarbamates. Other than dithiocarbamates and triethylamine, all other carbamate waste constituents were found to be amenable to analysis via High Performance Liquid Chromatography (HPLC)/Thermospray/Mass Spectrometry (HPLC/TSP/MS) or Ultraviolet (UV) detection using method 8321. For more detailed method performance results, the reader is directed to the study reports, "Carbamate Analysis Feasibility Study," Waste Management, 1998 and "Carbamate Method Evaluation Report," SAIC, 1998, available in the docket for today's rule. To aid laboratories conducting analysis of these constituents, Table 2 presents a summary of the analytes amenable to methods 8141, 8270, 8318, and 8321. The Agency plans in future revisions of the SW-846 methods to incorporate the additional analytes for which methods 8141, 8270, 8318, and 8321 have been demonstrated to be amenable. Furthermore, any analytical methods capable of demonstrating compliance with the new standards can be used in addition to the ones noted above which are part of SW-846.

TABLE 2.—SUMMARY OF APPLICABLE METHODS

Compound	8141	8270	8318	8321 Thermospray	8321 254nm	8321 280nm
Butylate	Y	Y		Y		
EPTC	Y	Y		Y		
Molinate	Y	Y		Y		
Pebulate	Y	Y		Y		
Propham	Y	Y		Y	Y	Y
Prosulfocarb	Y	Y		Y	Y	
Triallate	Y	Y		Y	Y	
Vernolate	Y	Y		Y		
Carbofuran phenol		Y, a			Y	Y
Aldicarb			L	L		
Aldicarb sulfone			Y, L	Y		
Bendiocarb			Y	Y, L		Y
Carbaryl			Y, L	Y, L	Y	Y
Carbofuran		a	Y, L	Y, L		Y
Carbosulfan		a	C	Y	Y	Y
m-Cumenyl methyl carbamate			Y	Y	Y	
Formetanate hydrochloride			Y	Y	Y	Y
Methiocarb			Y, L	Y	Y	Y
Methomyl			Y, L	Y, L		
Metolcarb			Y	Y		
Mexacarbate			Y	Y	Y	Y
Oxamyl			Y, L	Y, L	Y	
Promecarb			Y, L	Y	Y	
Propoxur			Y, L	Y		Y
Thiodicarb			Y	Y	Y	
Barbam				Y	Y	Y
Benomyl				Y	Y	Y
Carbendazim				Y, L	Y	Y
Physostigmine				Y	Y	Y
Physostigmine salicylate				Y		Y
Thiophanate-methyl				Y	Y	Y

a—Compounds carbofuran phenol, carbofuran, & carbosulfan can not be distinguished.
 Y—Compound amenable to analysis.
 L—Compound listed as a method analyte.

III. Good Cause for Immediate Final Rule

This final rule is being issued without notice and opportunity for public comment. Under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), an agency may forego notice and comment in promulgating a rule when the agency for good cause finds (and incorporates the finding and a brief statement of the reasons for that finding into the rule) that notice and public comments procedures are impracticable, unnecessary, or contrary to the public interest. For the reasons set forth below, EPA finds good cause to conclude that notice and comment would be unnecessary and contrary to the public interest, and therefore is not required by the APA.

First, the Agency has discovered an unanticipated and continued unavailability of analytical laboratory standards or adequate analytical method for eight of the carbamate waste constituents covered by the Phase III rule. As a practical matter, therefore, members of the regulated community cannot fully document compliance with the requirements of the treatment

standard. For the same reason, EPA cannot ascertain compliance for these constituents. The same problem exists for certifying compliance and ascertaining compliance when these carbamate constituents are underlying hazardous constituents in characteristic (and formerly characteristic) prohibited wastes.

In addition, this unavailability of analytical standards has a significant potential to create a serious disruption in the production of at least some carbamate pesticides. Although the treatment of the restricted carbamate wastes through biodegradation, carbon adsorption, chemical oxidation (for wastewaters), or combustion is both possible and highly effective, certification that the treatment actually meets the treatment standard levels may not be possible in many instances given the lack of analytical standards for eight waste constituents of concern. Without the certification, disposal of the residuals left after treatment cannot legally occur. The Agency believes that this situation may impede production of certain pesticides, since legal disposal of some carbamate wastes would no longer be available. *See Steel*

Manufacturers Ass'n v. EPA, 27 F.3d 642, 646-47 (D.C. Cir. 1994) (absence of a treatment standard providing a legal means of disposing of wastes from a process is equivalent to shutting down that process).

Today's rule removes an administrative hurdle that would impede sound management of these carbamate hazardous wastes. By altering the treatment standard to allow certification of compliance based on the use of specified treatment technologies without constituent-specific testing for the eight problem analytes, the Agency can ensure that effective treatment actually occurs without delay and can also assure that threats to human health and the environment are minimized.

Consequently, EPA today is preserving the core of the promulgated Phase III rule by ensuring that the restricted carbamate wastes are treated by a BDAT before they are land disposed. At the same time, EPA is eliminating the situation which could halt production of certain carbamate pesticides. The Agency concludes that this action must be taken immediately and that notice and comment would be contrary to the public interest in these

special circumstances. In addition, notice and comment are unnecessary because this emergency rule makes only conforming changes (for the 32 carbamate constituents that retain numerical standards) to the CFR needed to reflect expiration of the 1997 second emergency rule. For the seven carbamate constituents for which EPA is making permanent the technology standards, and the one constituent being deleted, EPA has had direct contact with the affected parties, and no objections were raised to these actions. For these reasons, EPA believes that there is good cause to issue this final rule immediately without prior notice and opportunity for comment.

IV. Good Cause Finding for Immediate Effective Date for Eight Carbamate Constituents and 6-Month Effective Date for the Remaining 32 Carbamate Constituents

For the eight problem analytes for which alternative treatment standards are being promulgated today, the Agency believes that the regulated community is in the untenable position of having to comply with treatment standards for which there is not an analytical way to measure compliance. Therefore, it is imperative that relief be immediately provided from the otherwise applicable treatment standards that would come into effect automatically on August 26, 1998, when the second emergency rule would expire by its own terms. In addition, today's rule does not create additional regulatory requirements; rather, it provides greater flexibility for compliance with treatment standards. For these reasons, EPA finds that good cause exists under section 3010(b)(3) of RCRA, 42 U.S.C. 6903(b)(3), to provide for an immediate effective date for the alternative standards being promulgated for the eight problem carbamate constituents. 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 waive the requirement that regulations be published at least 30 days before they become effective.

For the other 32 waste constituents covered by the two emergency rules and for which the temporary alternative treatment standards expire on August 26, 1998, the Agency recognizes that today's rule will necessitate a change in approach for these 32 waste constituents. Compliance for these 32 waste constituents, as of August 27, 1998, would be based on numerical concentration limits for which sampling and analytical services will be necessary. As noted earlier, to allow the regulated community an adequate and

reasonable time to make arrangements to procure the necessary analytical capabilities, the Agency will extend the current emergency standards until six months after the publication of this final rule in the **Federal Register**. After that time, the alternative treatment standards will apply only to the eight problem carbamate constituents, and the other 32 carbamate constituents will be subject to the numerical standards set forth in 40 CFR 268.40 and 268.48.

V. State Authority

A. Applicability of Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR Part 271.

Prior to HSWA, a State with final authorization administered its hazardous waste program in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in unauthorized States. EPA is directed to carry out these requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so.

Today's rule is being promulgated pursuant to section 3004(m) of RCRA (42 U.S.C. 6924(m)). Therefore, the Agency is adding today's rule to Table 1 in 40 CFR 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to HSWA. This rule is therefore effective in all states immediately pursuant to RCRA section 3006(g). States may apply for final authorization for the HSWA provisions in Table 1, as discussed in the following section of this preamble.

B. Effect on State Authorization

As noted above, EPA will implement today's rule in authorized States until they modify their programs to adopt these rules and the modification is approved by EPA. Because today's rule is promulgated pursuant to HSWA, a State submitting a program modification may apply to receive interim or final authorization under RCRA section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's. The procedures and schedule for State program modifications for final authorization are described in 40 CFR 271.21. All HSWA interim authorizations will expire January 1, 2003. (See § 271.24 and 57 FR 60132, December 18, 1992.)

VI. Regulatory Requirements

Analysis Under Executive Order 12866, Executive Order 12875, the Regulatory Flexibility Act, the Unfunded Mandates Reform Act, the Paperwork Reduction Act, National Technology Transfer and Advancement Act of 1995, Executive Order 13045, and Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Today's rule reinstates the regulatory text that existed prior to the August 26, 1996, emergency final rule (61 FR 43924), and extends indefinitely the alternative standards applicable to the seven constituents identified as lacking analytical standards. Today's action has been deemed by the Agency as being a "significant regulatory action" for the purposes of Executive Order 12866, and has been reviewed by the Office of Management and Budget. This is not an economically significant regulatory action. Today's rule does not, however, impose obligations on State, local or tribal governments for the purposes of Executive Order 12875. In addition, this action does not impose annual costs of \$100 million or more, will not significantly or uniquely affect small governments, and is not a significant federal intergovernmental mandate. The Agency thus has no obligations under sections 202, 203, 204 and 205 of the Unfunded Mandates Reform Act. Furthermore, this action is not subject to the Regulatory Flexibility Act since this rule is exempt from notice and comment rulemaking requirements for good cause which is explained in Section IV. The Administrator is, therefore, not required to certify under the RFA.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub L. No. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus

standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking involves environmental monitoring or measurement. Consistent with the Agency's Performance Based Measurement System (PBMS), EPA has decided not to require the use of specific, prescribed analytic methods. Rather, the rule will allow the use of any method that meets the prescribed performance criteria. The PBMS approach is intended to be more flexible and cost-effective for the regulated community; it is also intended to encourage innovation in analytical technology and improved data quality. EPA is not precluding the use of any method, whether it constitutes a voluntary consensus standard or not, as long as it meets the performance criteria specified.

Today's rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because this action is not an economically significant rule, and it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children. Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, EPA must consider the paperwork burden imposed by any information collection request in a proposed or final rule. This rule will not impose any new information collection requirements.

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the

regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This rule revises waste treatment standards applicable to 40 waste constituents associated with the production of carbamate wastes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. § 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

VII. Immediate Effective Date

The final alternative treatment standards for the seven carbamate waste constituents are effective upon publication of this final rule. Also effective upon publication is the deletion of the one constituent for which the method performance is poor. Because the regulated community does not need 6 months to come into compliance with these portions of the rule, EPA finds, pursuant to RCRA section 3010(b)(1), that these actions can be made effective in less than six months.

The reinstatement of treatment standards for the 32 carbamate waste constituents are effective 6 months after publication of this final rule. Also, EPA finds that good cause exists under 5

U.S.C. 553(d)(3) to waive the requirement that regulations be published at least 30 days before they become effective, for the reasons discussed earlier in section IV of this preamble.

List of Subjects

40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 271

Administrative practice and procedure, Hazardous materials transportation, Hazardous waste, Penalties, Reporting and recordkeeping requirements.

Dated: August 26, 1998.

Carol M. Browner,
Administrator.

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

PART 268—LAND DISPOSAL RESTRICTIONS

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

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

Subpart D—Treatment Standards

2. Section 268.40 is amended in paragraph (g) by revising "August 26, 1997 and August 26, 1998" to read "August 26, 1996 and March 4, 1999"; by adding paragraph (i); by revising in the table "Treatment Standards for Hazardous Wastes" the entries for K156–K159, K161, P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U278–U280, U364, U367, U372, U373, U387, U389, U394–U395, U404, and U409–U411; and by revising footnote 10 to read as follows:

§ 268.40 Applicability of treatment standards.

* * * * *

(i) Effective September 4, 1998, the treatment standards for the wastes specified in 40 CFR 261.33 as EPA Hazardous Waste numbers P185, P191, P192, P197, U364, U394, and U395 may be satisfied by either meeting the constituent concentrations presented in the table "Treatment Standards for Hazardous Wastes" in this section, or by treating the waste by the following technologies: combustion, as defined by the technology code CMBST at § 268.42 Table 1 of this Part, for nonwastewaters; and, biodegradation as defined by the

technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at § 268.42 Table 1 of this Part, for wastewaters.
* * * * *

TREATMENT STANDARDS FOR HAZARDOUS WASTES

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.		
* 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
		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
		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	0.003	1.5
		EPTC (Eptam)	759-94-4	0.003	1.4
		Molinate	2212-67-1	0.003	1.4
		Pebulate	1114-71-2	0.003	1.4
		Vernolate	1929-77-7	0.003	1.4
* K161	* Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust and floor sweepings from the production of dithiocarbamate acids and their salts.	* Antimony	* 7440-36-0	* 1.9	* 11 1.15
		Arsenic	7440-38-2	1.4	115.0
		Carbon disulfide	75-15-0	3.8	11 4.8
		Dithiocarbamates (total)	137-30-4	0.028	28
		Lead	7439-92-1	0.69	11 0.75
		Nickel	7440-02-0	3.98	11 11.0
		Selenium	7782-49-2	0.82	11 5.7
* P127	* Carbofuran	* Carbofuran	* 1563-66-2	* 0.006	* 0.14
* P128	* Mexacarbate	* Mexacarbate	* 315-18-4	* 0.056	* 1.4
* P185	* Tirpate ¹⁰	* Tirpate	* 26419-73-8	* 0.056	* 0.28
* P188	* Physostigmine salicylate	* Physostigmine salicylate	* 57-64-7	* 0.056	* 1.4
* P189	* Carbosulfan	* Carbosulfan	* 55285-14-8	* 0.028	* 1.4
* P190	* Metolcarb	* Metolcarb	* 1129-41-5	* 0.056	* 1.4
* P191	* Dimetilan ¹⁰	* Dimetilan	* 644-64-4	* 0.056	* 1.4
* P192	* Isolan ¹⁰	* Isolan	* 119-38-0	* 0.056	* 1.4
* P194	* Oxamyl	* Oxamyl	* 23135-22-0	* 0.056	* 0.028

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

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.		
P196	Manganese dimethyldithiocarbamate.	Dithiocarbamates (total)	NA	0.028	28
P197	Formparanate ¹⁰	Formparanate	17702-57-7	0.056	1.4
P198	Formetanate hydrochloride	Formetanate hydrochloride	23422-53-9	0.056	1.4
P199	Methiocarb	Methiocarb	2032-65-7	0.056	1.4
P201	Promecarb	Promecarb	2631-37-0	0.056	1.4
P202	m-Cumenyl methylcarbamate	m-Cumenyl methylcarbamate	64-00-6	0.056	1.4
P203	Aldicarb sulfone	Aldicarb sulfone	1646-88-4	0.056	0.28
P204	Physostigmine	Physostigmine	57-47-6	0.056	1.4
P205	Ziram	Dithiocarbamates (total)	NA	0.028	28
	*	*	*	*	*
U271	Benomyl	Benomyl	17804-35-2	0.056	1.4
U278	Bendiocarb	Bendiocarb	22781-23-3	0.056	1.4
U279	Carbaryl	Carbaryl	63-25-2	0.006	0.14
U280	Barban	Barban	101-27-9	0.056	1.4
	*	*	*	*	*
U364	Bendiocarb phenol ¹⁰	Bendiocarb phenol	22961-82-6	0.056	1.4
U367	Carbofuran phenol	Carbofuran phenol	1563-38-8	0.056	1.4
U372	Carbendazim	Carbendazim	10605-21-7	0.056	1.4
U373	Propham	Propham	122-42-9	0.056	1.4
U387	Prosulfocarb	Prosulfocarb	52888-80-9	0.042	1.4
U389	Triallate	Triallate	2303-17-5	0.042	1.4
U394	A2213 ¹⁰	A2213	30558-43-1	0.042	1.4
U395	Diethylene glycol, dicarbamate ¹⁰	Diethylene glycol, dicarbamate	5952-26-1	0.056	1.4
U404	Triethylamine	Triethylamine	101-44-8	0.081	1.5
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
	*	*	*	*	*

Notes to the table:

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 its 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.

⁶ Where an alternate treatment standard or set of alternate standards has been indicated, a facility may comply with this alternate standard, but only for the Treatment/Regulatory Subcategory or physical form (i.e., wastewater and/or nonwastewater) specified for that alternate standard.

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 The treatment standard for this waste may be satisfied by either meeting the constituent concentrations in this table or by treating the waste by the specified technologies: combustion, as defined by the technology code CMBST at § 268.42 Table 1 of this Part, for nonwastewaters; and, biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at § 268.42 Table 1 of this Part, for wastewaters.

¹¹ "mg/L TCLP".

4. In § 268.48, the table in paragraph (a) is revised by deleting the entries for: "A2213," "Bendiocarb phenol," "Diethylene glycol, dicarbamate," "Dimetilan," "Formparanate," "Isolan," "o-Phenylenediamine," and "Tirpate;" ;

by removing footnote number "6" in column one, under the heading *Regulated Constituents/Common Name*, after the following chemical names: "Aldicarb sulfone," "Barban," "Bendiocarb," "Benomyl," "Butylate,"

"Carbaryl," "Carbenzadim," "Carbofuran," "Carbofuran phenol," "Carbosulfan," "m-Cumenyl methylcarbamate," "Dithiocarbamates (total)," "EPTC," "Formetanate hydrochloride," "Methiocarb,"

“Methomyl,” “Metolcarb,”
 “Mexacarb,” “Molinate,” “Oxamyl,”
 “Pebulate,” “o-Phenylenediamine,”
 “Physostigmine,” “Physostigmine
 salicylate,” “Promecarb,” “Propham,”
 “Propoxur,” “Prosulfocarb,”
 “Thiodicarb,” “Thiophanate-methyl,”
 “Triallate,” “Triethylamine,” and
 “Vernolate,” and by removing footnote
 6.

**PART 271—REQUIREMENTS FOR
 AUTHORIZATION OF STATE
 HAZARDOUS WASTE PROGRAMS**

5. The authority citation for part 271
 continues to read as follows:

Authority: 42 U.S.C. 9602; 33 U.S.C. 1321
 and 1361.

**Subpart A—Requirements for Final
 Authorization**

6. Section 271.1(j) is amended by
 adding the following entry to Table 1 in

chronological order by promulgation
 date in the **Federal Register**, and by
 adding the following entries to Table 2
 in chronological order by effective date
 in the **Federal Register**, to read as
 follows:

§ 271.1 Purpose and scope.

* * * * *
 (j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
* * * * *	* * * * *	* * * * *	* * * * *
September 4, 1998	Emergency Revision of the Land Disposal Restrictions (LDR) Phase III Treatment Standards for Listed Hazardous Wastes from Carbamate Production.	63 FR [Insert page numbers]	September 4, 1998.
* * * * *	* * * * *	* * * * *	* * * * *

* * * * *

TABLE 2.—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	Federal Register reference
* * * * *	* * * * *	* * * * *	* * * * *
September 4, 1998	Emergency Revision of the Land Disposal Restrictions (LDR) Phase III Treatment Standards for Listed Hazardous Wastes from Carbamate Production.	3004(m)	63 FR [Insert page numbers].
* * * * *	* * * * *	* * * * *	* * * * *