

Mr. David A. Swanburg, Base Civil Engineer  
U.S. Air Force Reserve  
934 SPTG/CEV  
760 Military Highway  
Minneapolis-St. Paul LAP ARS, MN 55450-2000

Dear Mr. Swanburg:

This letter responds to your memorandum, dated August 14, 1998, in which you raised questions about the land disposal restrictions (LDR) regulations found at 40 CFR 268.7. I will answer your questions in the order they were presented in your memorandum.

#### **1. Constituents of concern.**

You request clarification of the term “constituents of concern” found in the § 268.7(a)(2) column of the Generator Paperwork Requirements Table. As you mention, the constituents of concern are those chemicals listed in the F001-F005 section of the Table of Treatment Standards at §268.40. Your question is: which of the thirty-or-so candidate constituents of concern should be included on the §268.7 notification? Several options were presented.

“Constituents of concern” as used in the Generator Paper Work Requirements Table refers to all constituents for which the waste is regulated, and may comprise both the “regulated hazardous constituents” associated with listed wastes and the “underlying hazardous constituents” of 40 CFR 268.48 when a waste also exhibits one or more 40 CFR 261.20 characteristics of hazardous waste. These are explained in more detail below.

As a generator you are responsible for determining whether some or all the constituents associated with each waste listed in 40 CFR 268.40 as “regulated hazardous constituents” require treatment (§ 268.7(a)(1)). If so, they are “constituents of concern”

to be included on the § 268.7 notification. This determination may be made by testing or using knowledge of the waste on a constituent by constituent basis. Where this determination is based on testing, any of the constituents not shown to be below UTS, and not otherwise known to be below UTS, should be listed as a “constituent of concern.” As the generator, you will be identifying that these are the only constituents for which treatment is required (§ 268.7(a)(2)) and must retain on file the basis of your determination (§ 268.7(a)(6)).

With respect to characteristically hazardous wastes, “underlying hazardous constituent” refers to the 40 CFR 268.48 constituents that can reasonably be expected to be present. (40 CFR 268.3(i)). For each of these constituents, the generator may use testing or knowledge to ascertain if they are present at levels above UTS. Where this determination is based on testing, any of the constituents not shown to be below UTS and not otherwise known to be below UTS should be listed as a “constituent of concern.”

## **2. Carbon disulfide, cyclohexanone, and methanol.**

You request clarification on whether carbon disulfide, cyclohexanone, and methanol are considered “constituents of concern” for a nonwastewater under any circumstances, and if so what are the circumstances? We read your question as referring to the special case of F001-F005 wastes and the entry in § 268.40 regarding these listed waste codes. For nonwastewater forms of these three constituents, if only one, two, or three of these constituents (and no other constituents) are present in the waste, they are considered “constituents of concern” and should be included on the notification. If these three constituents are present in the waste along with any other solvent constituents, they are not “constituents of concern” and should not be included on the notification.

## **3. Changes in treatment standards.**

You request clarification on whether a new notification would be necessary if a treatment standard changes, perhaps causing the waste to be subject to the requirements for underlying hazardous constituents that it did not have prior to the regulation change.

Yes, a new notification should be prepared and submitted with the next shipment of wastes following the effective date of the changed treatment standard.

## **4. Changes in manifest number.**

You request clarification on what manifest number should be associated with a

notification that is submitted because the waste or the receiving facility changed, or because the treatment standard changed. Would the manifest number be that of the original first shipment of waste, or would be the manifest number associated with the waste under changed circumstances?

The manifest number should be the one associated with the first shipment of "changed" waste or the one sent to the "changed" treatment facility. It should not be the manifest number associated with the original first shipment because that number is superseded.

I hope you find these responses helpful. If you have further questions, contact Rhonda Minnick of my staff on 703-308-8771.

Sincerely,

James R. Berlow  
Director  
Hazardous Waste Minimization and  
Management Division