prohibition imposed by RCRA section 3004.

- (b) Combustion of hazardous waste is prohibited, unless the waste, at the point of generation, or after any bona fide treatment such as cyanide destruction prior to combustion, can be demonstrated to comply with one or more of the following criteria (unless otherwise specifically prohibited from combustion):
- (1) The waste contains hazardous organic constituents or cyanide at levels exceeding the constituent-specific treatment standard found in § 268.48;
- (2) The waste consists of organic, debris-like materials (e.g., wood, paper, plastic, or cloth) contaminated with an inorganic metal-bearing hazardous waste;
- (3) The waste, at point of generation, has reasonable heating value such as greater than or equal to 5000 BTU per pound;
- (4) The waste is co-generated with wastes for which combustion is a required method of treatment;
- (5) The waste is subject to Federal and/or State requirements necessitating reduction of organics (including biological agents); or
- (6) The waste contains greater than 1% Total Organic Carbon (TOC).
- 13. Section 268.7 is amended by adding paragraph (b)(5)(v) to read as follows:

### § 268.7 Waste analysis and recordkeeping.

(b) \* \* \*

(b) \* \* \* \* (5) \* \* \* \*

(v) For characteristic wastes D001, D002, D003 and D012–D043 that contain underlying hazardous constituents as defined in § 268.2(i) that are treated on-site to remove the hazardous characteristic and to treat underlying hazardous constituents to levels in § 268.48 Universal Treatment Standards, the certification must state the following:

I certify under penalty of law that the waste has been treated in accordance with the requirements of 40 CFR 268.40 to remove the hazardous characteristic. This decharacterized waste contained underlying hazardous constituents that have been treated on-site to meet § 268.48 Universal Treatment Standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

### § 268.8 [Removed and Reserved]

- 14. Section 268.8 is removed and reserved.
- 15. Section 268.9 is amended by revising paragraphs (a), (b), (d)(1)(i), (d)(1)(ii), (d)(2) introductory text; and by

adding paragraphs (d)(3), (e) and (f) to read as follows:

# § 268.9 Special rules regarding wastes that exhibit a characteristic.

- (a) The initial generator of a solid waste must determine each EPA Hazardous Waste Number (waste code) applicable to the waste in order to determine the applicable treatment standards under subpart D of this part. For purposes of part 268, the waste will carry the waste code for any applicable listing under 40 CFR part 261, subpart D. In addition, the waste will carry one or more of the waste codes under 40 CFR part 261, subpart C, where the waste exhibits a characteristic, except in the case when the treatment standard for the waste code listed in 40 CFR part 261, subpart D operates in lieu of the standard for the waste code under 40 CFR part 261, subpart C, as specified in paragraph (b) of this section. If the generator determines that his waste displays a hazardous characteristic (and the waste is not a D004—D011 waste, a High TOC D001, or is not treated by CMBST, or RORGS of § 268.42, Table 1), the generator must determine what underlying hazardous constituents (as defined in § 268.2 of this Part), are reasonably expected to be present above the universal treatment standards found in § 268.48 of this part.
- (b) Where a prohibited waste is both listed under 40 CFR part 261, subpart D and exhibits a characteristic under 40 CFR part 261, subpart C, the treatment standard for the waste code listed in 40 CFR part 261, subpart D will operate in lieu of the standard for the waste code under 40 CFR part 261, subpart C, provided that the treatment standard for the listed waste includes a treatment standard for the constituent that causes the waste to exhibit the characteristic and for any underlying hazardous constituents reasonably expected to be present in the waste. Otherwise, the waste must meet the treatment standards for all applicable listed and characteristic waste codes.

(d) \* \* \*

- (1) \* \* \*
- (i) For characteristic wastes other than those managed on-site in a wastewater treatment system subject to the Clean Water Act (CWA), zero-dischargers engaged in CWA-equivalent treatment, or Class I nonhazardous injection wells, the name and address of the Subtitle D facility receiving the waste shipment;
- (ii) For all characteristic wastes, a description of the waste as initially generated, including the applicable EPA Hazardous Waste Number(s), treatability

- group(s), and underlying hazardous constituents;
- (2) The certification must be signed by an authorized representative and must state the language found in § 268.7(b)(5).

  \* \* \* \* \* \*
- (3) For characteristic wastes whose ultimate disposal will be into a Class I nonhazardous injection well, and compliance with the treatment standards found in § 268.48 for underlying hazardous constituents is achieved through pollution prevention, the following information must also be included:
- (i) A description of the pollution prevention mechanism;
- (ii) The mass of each underlying hazardous constituent before pollution prevention;
- (iii) The mass of each underlying hazardous constituent that must be removed, normalized for production; and,
- (iv) The mass reduction of each underlying hazardous constituent that is achieved.
- (e) For decharacterized wastes managed on-site in a wastewater treatment system subject to the Clean Water Act (CWA), zero-dischargers engaged in CWA-equivalent treatment, or Class I nonhazardous injection wells, compliance with the treatment standards found at § 268.48 must be monitored quarterly. Monitoring results must be kept in on-site files for 5 years.
- (f) For characteristic wastes whose ultimate disposal will be into a Class I nonhazardous injection well which qualifies for the de minimis exclusion described in § 268.1, information supporting that qualification must be kept in on-site files.

## § 268.10—§ 268.12 [Removed and Reserved]

- 16. Sections 268.10 through 268.12 are removed and reserved.
- 17. In subpart C, § 268.39 is added to read as follows:

### § 268.39 Waste specific prohibitions spent aluminum potliners, carbamates and organobromine wastes.

(a) On [Insert date 90 days from date of publication of the final rule], the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K088, K140, K156–K161; and in 40 CFR 261.33 as EPA Hazardous Waste numbers P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U277–U280, U364–U367, U372, U373, U375–U379, U381–U387, U389–U396, U400–U404, and U407–U411 are prohibited from land disposal. In addition, soil and debris contaminated