

US EPA ARCHIVE DOCUMENT

Revision Checklist 135 Summary

Rule Title:	Identification and Listing of Hazardous Waste; Amendments to Definition of Solid Waste
Checklist Title:	Recovered Oil Exclusion
Reference:	59 <u>FR</u> 38536-38545
Promulgation Date:	July 28, 1994
Effective Date:	July 28, 1994
Cluster:	RCRA Cluster V
Provision Type:	Non-HSWA
Linkage:	None
Optional:	Optional

Summary: This rule excludes from the definition of solid waste oil recovered from petroleum refinery wastewaters and from other sources, both on-site and off-site, if the oil is subsequently inserted (along with normal process streams) into the petroleum refining process prior to crude distillation or catalytic cracking. This exclusion does not apply to recovered oil generated from petroleum operations downstream from the refinery, such as marketing or retail sales, or from non-petroleum industry operations. This rule also does not exclude hazardous sludges (e.g., K048, K051 or F037) or similar wastes from regulation. Distinguishing between these wastes and recovered oil can be difficult. EPA will base such a distinction on water content, solids content and, possibly, metals content (see 50 FR 49170; November 29, 1985; Revision Checklist 19). The salient characteristic of recovered oil is that it consists primarily of oil, (used oil is not a type of recovered oil) and it will remain subject to applicable used oil regulations (see 40 CFR 279). The exception is when *de minimis* quantities of used oil are incidentally captured by refinery wastewater treatment systems (see 57 FR 41566; September 10, 1992; Revision Checklist 112).

This rule also corrects an internal reference error made in the rule addressed by Revision Checklist 112 (57 FR 41566; September 10, 1992). That rule removed 261.3(a)(3)(iii), but the internal references at 261.6(c)(2)(ii)(B) and 266.100(b)(3) were not changed to reflect this removal. The present rule makes this change.

State Authorization: This rule is placed in RCRA Cluster V. The State modification deadline is July 1, 1996 (or July 1, 1997 if a State statutory change is necessary). These changes do not go into effect until States become authorized for them because this rule was promulgated under pre-HSWA authorities. Only final authorization is available.

The State Revision Application must include applicable regulations, AG statement addendum, Revision Checklist 135, other associated checklists and other application materials, i.e. a program description and an MOA, as determined by the Regional office.

Attorney General's Statement Entry: The following entry should be placed at Subsection I EE in the Model Revision Attorney General's Statement.

EE. [OPTIONAL]: This is a reduced requirement.] State statutes and regulations exempt, from the definition of hazardous waste, recovered oil meeting the 40 CFR 261.4(a)(12) criteria as indicated in Revision Checklist 135.

Revision Checklist 135 Summary (cont'd)

Federal Authority: RCRA §§ 2002 and 3001; 40 CFR 261.3(c)(2)(ii)(B), 261.4(a)(12), 261.6(a)(3)(iv) through (vi) as amended July 28, 1994 (59 FR 38536).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General