

US EPA ARCHIVE DOCUMENT

Revision Checklist 151 Summary

Rule Title: Land Disposal Restrictions Phase III--Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners

Checklist Title: Land Disposal Restrictions Phase III--Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners

Reference: 61 FR 15566-15660; 61 FR 15660-15668; 61 FR 19117; 61 FR 33680-33691; 61 FR 36419-36421; 61 FR 43924-43931; and 62 FR 7502-7600

Promulgation Date: April 8, 1996 (61 FR 15566 and 61 FR 15660); April 30, 1996; June 28, 1996; July 10, 1996; August 26, 1996; and February 19, 1997

Effective Date: April 8, 1996 for the April 8 and April 30 rules; June 28, 1996 for June 28 and July 10 rules; August 26, 1996 for the August 26, 1996 rule; and February 19, 1997 for the February 19, 1997 rule

Cluster: RCRA Cluster VI

Provision Type: HSWA

Linkage: Revision Checklists 34, 39, 50, 66, 78, 83, 102, 109, 124, 137, 155, 157, 159, 160, 161, 162, 167A-C, 171 and 173

Optional: No

Summary: There are seven rules associated with this Revision Checklist. The rule published on April 8, 1996 at 61 FR 15566-15660 was partially withdrawn and amended in the same Federal Register at 61 FR 15660-15668. The first April 8, 1996, rule (61 FR 15566) established treatment standards for hazardous wastes from the production of carbamate pesticides and from primary aluminum production under the Land Disposal Restrictions (LDR) program. In addition, this rule amended the treatment standards for hazardous wastes that exhibit the characteristic of reactivity and began the process of amending existing treatment standards for wastewaters which are hazardous because they display the characteristic of ignitability, corrosivity, reactivity or toxicity. Finally, EPA codified as a rule its existing enforcement policy that combustion of inorganic wastes is an impermissible form of treatment because hazardous constituents are being diluted rather than effectively treated.

Portions of the first April 8, 1996, rule published at 61 FR 15566, amended existing treatment standards for decharacterized wastewaters that are managed in surface impoundments regulated under the Clean Water Act (CWA) or in CWA-equivalent systems, and in Class I nonhazardous waste injection wells regulated under the Safe Drinking Water Act (SDWA). EPA promulgated these provisions to partially implement the holding and reasoning of the D.C. Circuit Court's opinion in CWM v. EPA, 976 F.2d 2 (D.C. Cir. 1992), cert. denied, 507 U.S. 1057 (1993). However, Congress passed the Land Disposal Flexibility Act of 1996 that put back in place the approach for centrally-managed, decharacterized wastewater which EPA adopted as part of the "Third Third" rule promulgated on June 1, 1990 (55 FR 22520). The purpose of the second April 8, 1996 rule (61 FR 15660) was to withdraw those portions

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of the first April 8th rule which were inconsistent with the new law. This action put back into place, for certain wastewaters, the rules which existed prior to the LDR Phase III rule (i.e., only the characteristic property must be removed).

Three technical corrections were published on April 30, 1996 (61 FR 19117), June 28, 1996 (61 FR 33680-33691), and July 10, 1996 (61 FR 36419-36421). The sixth rule, published on August 26, 1996 (61 FR 43924-43931), was an emergency revision that addressed a serious analytic monitoring problem associated with the carbamate constituent treatment standards. The seventh rule, published on February 19, 1997 (62 FR 7502-7600), updated and corrected the 268.40 and 268.48 tables dealing with treatment standards, including the removal of treatment standards for the 25 waste codes whose listings were vacated by the November 1, 1996 D.C. Circuit Court of Appeals decision, Dithiocarbamate Task Force v. EPA, F.3d (D.C.Cir. 1996).

State Authorization: This rule is placed in RCRA Cluster VI. The State modification deadline is July 1, 1997 (or July 1, 1998 if a State statutory change is necessary). All changes go into effect immediately because this rule was promulgated under HSWA authorities. Both interim and final authorization are available. Interim authorization expires January 1, 2003.

The State Revision Application must include applicable regulations, AG statement addendum, Revision Checklist 151, 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 XXI S in the Model Revision Attorney General's Statement.

S. State statutes and regulations contain treatment standards for hazardous wastes from the production of carbamate pesticides and from primary aluminum production; contain the treatment standards for hazardous wastes that exhibit the characteristic of reactivity; and put back into place the LDR "Third Third" provisions for the treatment of certain wastewaters as indicated in Revision Checklist 151. These statutes and regulations also codify the Federal policy that combustion of inorganic waste is an impermissible form of treatment as also indicated in this checklist.

Federal Authority: RCRA § 3004(d) through (k), 3004(m); Public Law 104-119, 100 Stat. 830, 40 CFR part 268 as amended April 8, 1996 (61 FR 15566 and 61 FR 15660); April 30, 1996 (61 FR 19117); June 28, 1996 (61 FR 33680); July 10, 1996 (61 FR 36419); August 26, 1996 (61 FR 43924), and February 19, 1997 (62 FR 7502).

Citation of Laws and Regulations; Date of Enactment and Adoption

Revision Checklist 151 Summary (cont'd)Remarks of the Attorney General

Incorporation by Reference: Note that the CFR generally includes all rules published through July 1; however, the CFR revised as of July 1, 1996, includes the July 10, 1996 rule. Also, note that two rules were promulgated after July 10, 1996 (August 26, 1996 and the February 19, 1997 rules). States incorporating the 1996 CFR by reference should be aware of this and be sure to add the August 26, 1996 and February 19, 1997 rules to their incorporation by reference in order to completely adopt this revision checklist.