

US EPA ARCHIVE DOCUMENT

Revision Checklist 159 Summary

Rule Title: Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions

Checklist Title: Conformance With the Carbamate Vacatur

Reference: 62 FR 32974-32980

Promulgation Date: June 17, 1997

Effective Date: May 29, 1997

Cluster: RCRA Cluster VII

Provision Type: HSWA

Linkage: Revision Checklist 140 and 151

Optional: Yes

Summary: This rule amends 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. These regulations also pertain to certain hazardous waste management of carbamate industry wastes under RCRA. The vacated hazardous waste listings and associated regulatory requirements are to be treated as if they were never in effect. States regulations, which may be more stringent or broader in scope than federal rules, are not necessarily affected by the court ruling and can list these wastes. Note that Revision Checklist 140, which addressed the carbamate testing, did not include the vacated wastes.

State Authorization: This rule is placed in RCRA Cluster VII. The rule is promulgated under HSWA authorities; thus, all changes go into effect immediately in States unauthorized for the HSWA base program. Because the standards in this checklist narrow and reduce regulatory requirements which preceded it, states are not required to adopt the changes addressed by this rule. States may, however, impose requirements that are broader in scope or more stringent than those imposed under Federal regulations. As such, the checklist developed for this rule has been designated optional. For states that choose to adopt the checklist, the State modification deadline is July 1, 1998 (or July 1, 1999 if a State statutory change is necessary). 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 159, 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 (MM) in the Model Revision Attorney General's Statement.

MM. [OPTIONAL: This is a reduced requirement.] State statutes and regulations include revisions designed to conform with the Federal appeals court ruling (98 F.3d 1394 (D.C. Cir. 1996)) which invalidated, in part, certain EPA regulations listing certain carbamate wastes as hazardous as indicated in Revision Checklist 159.

Revision Checklist 159 Summary (cont'd)

Federal Authority: RCRA 3001 and 3004; 40 CFR 261.32, 261.33(f), 261 Appendix VII, 261 Appendix VIII as amended June 17, 1997 (62 FR 32974).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

The following entry should be placed at Subsection XXI (Z) in the Model Revision Attorney General's Statement.

Z. [OPTIONAL: This is a reduced requirement.] State statutes and regulations include revisions designed to conform with the Federal appeals court ruling (98 F.3d 1394 (D.C. Cir. 1996)) which invalidated, in part, certain EPA regulations including the land disposal prohibitions and treatment standards for the vacated carbamate wastes as indicated in Revision Checklist 159.

Federal Authority: RCRA 3004(d)-(k) and (m); 40 CFR 268.39(a), 268.39(d), and 268.40 as amended June 17, 1997 (62 FR 32974).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

Incorporation by Reference Guidance:

There is no special guidance for States that incorporate by reference with respect to this Revision Checklist.