

US EPA ARCHIVE DOCUMENT

Revision Checklist 185 Summary

Rule Title: Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities; Final Rule
Checklist Title: Vacatur of Organobromine Production Waste Listings
Reference: 65 FR 14472-14475
Promulgation Date: March 17, 2000
Effective Date: March 17, 2000
Cluster: RCRA Cluster X
Provision Type: HSWA
Linkage: 165 (withdrawn)
Optional: Yes

Summary: EPA is amending its regulations to conform with an order issued on April 9, 1999 by the United States Court of Appeals for the D.C. Circuit in *Great Lakes Chemical Corporation v. EPA* [Docket No. 98-1312] that vacated Agency regulations listing certain organobromine wastes as hazardous wastes under RCRA (63 FR 24596; withdrawn Revision Checklist 165). The land disposal restrictions treatment standards of 40 CFR part 268 are also modified by deleting these wastes and their associated treatment standards. The vacated Federal hazardous waste listings and regulatory requirements based on those listings are to be treated as though they were never in effect. State regulations, which may be more stringent than Federal rules, were not necessarily affected by the court's ruling. Due to the vacatur, EPA withdrew Revision Checklist 165. Therefore, this revision checklist is only relevant for States that have already adopted the final rule addressed by withdrawn Revision Checklist 165 and wish to amend their regulations to conform to the vacatur.

State Authorization: This rule is placed in RCRA Cluster X. The State modification deadline is July 1, 2001 (or July 1, 2002 if a State statutory change is necessary). This rule was promulgated under HSWA authorities. The rule contains revisions that are considered less stringent than the existing Federal regulations. A State is not required to modify its program when EPA promulgates Federal regulations that are less stringent than the authorized State regulations. As such, optional revisions are not effective under HSWA in an authorized State until the State adopts and receives authorization for the changes. Both interim and final authorization are available. Interim authorization expires January 1, 2003.

The State Revision Application must include applicable statutes and regulations, Revision Checklist 185, and other application materials, i.e., a supplemental AG statement, a program description, and/or an MOA, as determined by the Regional office. Note that under 271.21(b), the Regional office is allowed flexibility to determine what specific documents must be included in an application. Also, under 271.21(d), the Regional office may require the submission of any additional application materials it deems necessary.

Revision Checklist 185 Summary (cont'd)

Attorney General's Statement Entry: The following entry should be placed at Subsection I(A)(33) in the Model Revision Attorney General's Statement.

- (33) [OPTIONAL: This is a reduced requirement.] Removal of two vacated wastes (K140 and U408) from tables at 40 CFR 261.32, 261.33(f), and Part 261 Appendices VII and VIII, as amended March 17, 2000 [65 FR 14472], Revision Checklist 185.

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

MM. [OPTIONAL: This is a reduced requirement.] State statutes and regulations include the removal of a waste-specific prohibition and treatment standards for K140 and U408 wastes under the land disposal restrictions program as indicated in Revision Checklist 185.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR 268.33, 268.40, and 268.48(a)/Table as amended March 17, 2000 (65 FR 14472).

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 checklist.