

US EPA ARCHIVE DOCUMENT

Revision Checklist 190 Summary

Rule Title: Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil
Checklist Title: Land Disposal Restrictions Phase IV – Deferral for PCBs in Soil
Reference: 65 FR 81373-81381
Promulgation Date: December 26, 2000
Effective Date: December 26, 2000
Cluster: RCRA Cluster XI
Provision Type: HSWA
Linkage: Revision Checklist 167 B
Optional: Yes

Summary: This rule temporarily defers the requirement that polychlorinated biphenyls (PCBs) be treated as a constituent subject to treatment (CST) when present in soils that exhibit the Toxicity Characteristic for metals. This temporary deferral is in response to comments from the regulated community and gives the Agency more time to study the issue of appropriate treatment standards for metal-contaminated soils containing PCBs as CST. Only States that adopted the optional Revision Checklist 167 B will be eligible to consider adopting this rule.

State Authorization: This rule is placed in RCRA Cluster XI. The State modification deadline is July 1, 2002 (or July 1, 2003 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.

This rule has been designated as minor or routine; therefore, as indicated in the April 28, 1999 memorandum from the Acting Director of the Office of Solid Waste, States are not required to submit an Attorney General's (AG) statement, program description, and an MOA. The State Revision Application must include applicable regulations and Revision Checklist 190. Note that under 40 CFR 271.21(d), the Regional office retains the ability to request an AG statement addendum, other associated checklists, a program description and an MOA if necessary.

Attorney General's Statement Entry: The entry at Subsection XXI (OO) in the Model Revision Attorney General's Statement should be replaced with the following revised entry:

OO. [OPTIONAL: This is a reduced requirement.] State statutes and regulations include a temporary deferral from the requirement that PCBs be treated as a constituent subject to

Revision Checklist 190 Summary (cont'd)

treatment when present in soils that exhibit the toxicity characteristic for metals, as indicated in Revision Checklist 190.

Federal Authority: RCRA §§3004(g) and (m); 40 CFR 268.32, 268.48(a)/Table UTS, 268.49(d), and Part 268 Appendix III as amended December 26, 2000 (65 FR 81373).

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.

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