

US EPA ARCHIVE DOCUMENT

Revision Checklist 195 Summary

Rule Title:	Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities
Checklist Title:	Inorganic Chemical Manufacturing Wastes Identification and Listing
Reference:	66 <u>FR</u> 58258-58300; 67 <u>FR</u> 17119-17120
Promulgation Date:	November 20, 2001; April 9, 2002
Effective Date:	May 20, 2002
Cluster:	RCRA Cluster XII
Provision Type:	HSWA/Non-HSWA
Linkage:	None
Optional:	No. However, some provisions are optional

Summary: EPA has added to its list of hazardous wastes, three inorganic chemical manufacturing wastes. This listing subjects the wastes to RCRA Subtitle C management and treatment standards and CERCLA emergency notification requirements for releases to the environment. Additionally, the toxic constituents found in the newly listed wastes have been added to the list of constituents which forms the basis for classifying wastes as hazardous and establishes treatments standards for the wastes. This rule also subjects the three inorganic chemical manufacturing wastes to the universal treatments standards under the LDRs program.

With this rule, EPA has also made final determinations not to list the remainder of wastes generated by inorganic chemical manufacturing processes which were described in the proposed regulations. Finally, the Agency is deferring final action on all elements of the proposed rule related to manganese.

This checklist also includes the April 9, 2002 (67 FR 17119) amendment which corrects several errors made to the Treatment Standards for Hazardous Waste table at 268.40.

State Authorization: This rule is placed in RCRA Cluster XII. The State modification deadline is July 1, 2003 (or July 1, 2004 if a State statutory change is necessary).

This rule is promulgated under both HSWA and non-HSWA authorities. The listings of K176 and K177 are promulgated under HSWA authorities. The land disposal restrictions promulgated in this rule are also issued under HSWA authorities. These requirements, with the exception of the application of the land disposal restrictions to K178, will go into effect in all States, including authorized States, on the effective date of this rule. The listing of K178 is promulgated under non-HSWA authorities and will only become effective in an authorized State when the State amends its regulations to include this listing and receives authorization. For States without authorization, the listing of K178 goes into effect on the effective date of this rule. While all

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land disposal restrictions are adopted under HSWA authorities regardless of the statutory authority for the corresponding waste listing, the treatment standards and prohibitions for K178 will not have immediate regulatory effect. This is consistent with prior rules establishing LDR requirements for new, non-HSWA lists. The treatment standards and prohibitions for K178 only take effect when EPA authorizes State regulations listing K178 wastes.

All of the provisions of today's final rule are considered to be more stringent or broader in scope than the base RCRA program, except for the revisions to 261.4(b)(15) which address broaden the exclusion for leachate or gas condensate collected from landfills. Thus, the revisions to 261.4(b)(15) have been designated as optional on Revision Checklist 195.

In May 2001, EPA promulgated an amendment (66 FR 27266; Revision Checklists 192A and 192B) to the mixture rules (57 FR 7628, Revision Checklist 117A and 57 FR 23062, Revision Checklist 117 B) that revised a previously available exemption for wastes listed because they exhibited the toxicity characteristic (TC). As a result, a mixture of K176 and non-hazardous waste will be regulated as hazardous waste even if the mixture does not exhibit the TC. The K176 listing was promulgated under HSWA authority while the mixture rule was not. Therefore, revisions to the mixture rule will not take effect relative to K176, until authorized states revise their program to adopt the mixture rule revisions and EPA approves them.

At the time the May 2001 revision to the mixture rule was promulgated, there were no wastes listed because they exhibited the TC. Thus, the narrowing of the mixture rule exemption for TC listed wastes had no impact on the scope of the Federal program. However, with the adoption of the K176 listing, that narrowing will impact mixtures containing K176 waste because these mixtures would be exempt from regulation without the May 2001 changes. Thus, the portion of the May 2001 mixture rule that eliminated the exemption for TC listed wastes is more stringent as it applies to future listings like K176. Thus, State's must adopt the May 2001 revisions to the mixture rule to the extent that the revisions impact the K176 listing. (These changes are codified at 40 CFR 261.3(g) and include the removal of 40 CFR 261.3(a)(2)(iii).) Revision Checklists 192A and 192B have been revised to reflect the non-optional 40 CFR 261.3(g) changes made by the May 2001 rule.

Attorney General (AG) Certification Guidance: AG certification of statutory authority may not be required for this checklist as long as the AG has previously demonstrated authority for identification and listing of hazardous waste.

Program Description (PD) Guidance: A State seeking authorization for this checklist should determine whether the revisions impact the program described in the Program Description. Specifically, the State should determine the extent that the new waste listings will impact the size of the regulated community. If the impact is felt to be insignificant the State should submit a statement that the Program Description is not affected because either (1) the listed waste is not handled in the State, or (2) the amount of waste handled is small enough that no additional resources are needed to regulate the new handlers brought into regulation. If the impact is

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significant, the State should submit a Program Description revision that describes changes in the size of the regulated community. When describing changes to the scope of the program, the State should describe strategies and methods for identifying new members of the regulated community. When applicable, the State should provide an estimate of generators, transporters, and TSD facilities handling the newly listed wastes and an estimate of the quantity of newly regulated hazardous waste. The State should also describe any additional resources required to implement compliance monitoring and enforcement of newly regulated entities and activities associated with the newly listed hazardous wastes.

Incorporation by Reference Guidance: There is no special guidance for States that incorporate by reference.