

US EPA ARCHIVE DOCUMENT

RCRA REVISION CHECKLIST 117 A

Reissuance of the "Mixture" and "Derived-From" Rules
 57 FR 7628-7633
 March 3, 1992
 as amended on June 1, 1992 at 57 FR 23062-23063
 and on October 30, 1992 at 57 FR 49278-49279
 (RCRA Cluster III, HSWA/Non-HSWA provisions)

Note: 1) This optional checklist has been developed for those States who feel it necessary to adopt the reissued "mixture" and "derived-from" rule promulgated on March 3, 1992 (57 FR 7628), and subsequently amended on June 1, 1992 (57 FR 23062), and on October 30, 1992 (57 FR 49278). This checklist consolidates these rules into one checklist except for a change made to 261.3(a)(2)(i) by the June 1, 1992 rule. That change is addressed by a separate checklist (Revision Checklist 117 B) because it corrects an omission made by the Toxicity Characteristic rule by replacing "Extraction Procedure Toxicity Characteristics" with "Toxicity Characteristic" in 261.3(a)(2)(i). This change makes the code more stringent and is, therefore, required.

2) The "mixture" and "derived-from" rules were reissued because the U.S. Court of Appeals for the District of Columbia Circuit in *Shell Oil Company v. EPA*, 950 F.2d 741 DC Cir. 1991, determined that adequate notice and comment had not been provided at initial promulgation of the "mixture" and "derived-from" rules, remanded them to the agency, and suggested EPA reinstate the rules on an interim basis and solicit comment. The March 3, 1992 interim final rule simultaneously removed and reissued 40 CFR 261.3. The October 30, 1992 (57 FR 49278) final rule removes the April 28, 1993 expiration date of the March 3, 1992 (57 FR 7628) interim final rule. EPA intends to promulgate revisions to the "mixture" and "derived-from" rules within 12-24 months of the October 30, 1992 final rule.

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE						
SUBPART A - GENERAL						

† DEFINITION OF HAZARDOUS WASTE

a solid waste as defined in 261.2 is a hazardous waste if:	261.3(a)	20.4.1.200 NMAC	x			
it is not excluded under 261.4(b)	261.3(a)(1)	20.4.1.200 NMAC	x			
it meets any of the following criteria:	261.3(a)(2)	20.4.1.200 NMAC	x			

<p>it exhibits any of the 261 subpart C characteristics of hazardous waste with exceptions for specific mixtures; mixture is hazardous waste if it exceeds the maximum concentration for any 261.24 table 1 contaminant in specific circumstances</p>	<p>261.3(a)(2)(i)</p>	<p>20.4.1.200 NMAC</p>	<p>x</p>			
<p>it is listed in 261 subpart D and has not been excluded from those listings by use of the procedures of 260.20 and 260.22</p>	<p>261.3(a)(2)(ii)</p>	<p>20.4.1.200 NMAC</p>	<p>x</p>			
<p>it is a mixture of solid waste and a hazardous waste listed in 261 subpart D solely because it exhibits one or more 261 subpart C characteristics of hazardous waste; exceptions</p>	<p>261.3(a)(2)(iii)</p>	<p>20.4.1.200 NMAC</p>	<p>x</p>			

<p>it is a mixture of solid waste and one or more hazardous wastes listed in 261 subpart D and has not been excluded from listings by use of the procedures of 260.20 and 260.22; mixture is not hazardous waste if the generator can demonstrate mixture is wastewater regulated under § 402 or § 307(b) of the Clean Water Act and:</p>	<p>261.3(a)(2)(iv)</p>	<p>20.4.1.200 NMAC</p>	<p>x</p>			
<p>solvent carbon tetrachloride, tetrachloroethylene, and/or trichloroethylene if maximum total weekly usage divided by average weekly flow into the headworks of the facility's treatment or pretreatment system is ≤ 1 ppm; or</p>	<p>261.3(a)(2)(iv)(A)</p>	<p>20.4.1.200 NMAC</p>	<p>x</p>			
<p>one or more of specified spent solvents if maximum total weekly usage divided by average weekly flow into the headworks of the facility's treatment or pretreatment system is ≤ 25 ppm; or</p>	<p>261.3(a)(2)(iv)(B)</p>	<p>20.4.1.200 NMAC</p>	<p>x</p>			

heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste No. K050); or	261.3(a)(2)(iv)(C)	20.4.1.200 NMAC	x			
a discarded commercial chemical product or chemical intermediate listed in 261.33 arising from <i>de minimis</i> losses from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process; examples of <i>de minimis</i> losses; or	261.3(a)(2)(iv)(D)	20.4.1.200 NMAC	x			