

US EPA ARCHIVE DOCUMENT

(RCRA REVISION CHECKLIST 113

Consolidated Liability Requirements

53 FR 33938-33960

September 1, 1988

56 FR 30200

July 1, 1991

57 FR 42832-42844

September 16, 1992

(RCRA Cluster III, Non-HSWA provisions)

Notes: 1) This special consolidated checklist addresses changes made to the Federal code by the September 1, 1988 final rule (53 FR 33938, withheld Revision Checklist 51) as well as amendments made by the July 1, 1991 (56 FR 30200, withheld Revision Checklist 93) and the September 16, 1992 (57 FR 42832) final rules. The September 1, 1988 rule was the subject of litigation and its checklist, Revision Checklist 51, was withheld by EPA to encourage States not to adopt those changes until a final settlement agreement could be reached and implemented. The July 1, 1991 and September 16, 1992 rules were promulgated to make the revisions mandated by the settlement agreement. Now that all requirements of the settlement agreement have been met, EPA is issuing this Consolidated Liability Requirements Checklist to aid States in correctly adopting the changes made by these three rules.

Revision Checklists 51 and 93 will not be issued individually. Rather, States should use this Consolidated Liability Requirements Checklist to adopt the provisions of the three final rules. States that have already adopted changes based on the September 1, 1988 final rule are strongly encouraged to complete this consolidated checklist to ensure that all revisions pursuant to the two amendments are correctly made in the State's code. Note that the deadline for this consolidated checklist is July 1, 1994, based on the promulgation date of the most recent of the amendments.

2) In the September 1, 1988 final rule, all changes were classified as less stringent and, therefore, optional with regard to State adoption. Note that, as part of the settlement agreement with Chemical Waste Management, Inc., the claims reporting requirements were reclassified as more stringent and, therefore, required for State adoption. Only those changes marked as optional (†) in this consolidated checklist should be considered less stringent provisions. The September 16, 1992 rule modified the claims reporting requirements (264.147(a)(7)&(b)(7) and 265.147(a)(7)&(b)(7)) and they are less stringent than the claim reporting requirements promulgated in the September 1, 1988 rule. Thus, States which have already adopted the September 1, 1988 provisions are not required to adopt the "clarified" reporting requirements of the September 16, 1992 rule, although EPA strongly encourages them to do so. States that did not adopt the September 1, 1988 claims reporting requirements should not do so but should, instead, adopt the clarified September 16, 1992 version included in this consolidated checklist.

3) This checklist includes a "rule" reference column. To simplify references to the three rules addressed by this checklist, "51" will signify the September 1, 1988 rule, "93" will signify the July 1, 1991 rule, and "113" will indicate the September 16, 1992 rule.

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

4) There were several typographical errors in the September 1, 1988 Federal Register article. These are explained in endnotes in this consolidated checklist.

5) The optional designation (†) is placed in the margin of the consolidated checklist if a checklist introduced a new optional paragraph into the Federal code. If a checklist addresses optional changes to an existing paragraph, the optional designation is placed beside the corresponding checklist number.

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

PART 264 - STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART H - FINANCIAL REQUIREMENTS

DEFINITIONS OF TERMS AS USED IN THIS SUBPART

add new paragraph defining "substantial business relationship"	51	264.141(h)	30 TAC §335.152 (a)(6)	X			
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RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
FINANCIAL ASSURANCE FOR CLOSURE							
remove "hereafter referred to as 'corporate guarantee'" from first sentence; insert "direct or higher-tier" before "parent corporation"; add phrase regarding sibling firms and firms with substantial business relationships to end of second sentence; remove "corporate" before "guarantee" in three places; insert "certified copy of the" before "guarantee must accompany"; add text regarding letter from guarantor's chief financial officer and what the letter must describe	†113	264.143(f)(10)	30 TAC §335.152 (a)(6)			X	

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
FINANCIAL ASSURANCE FOR POST-CLOSURE CARE							
replace "of" with "for" in the first sentence; remove "hereafter referred to as 'corporate guarantee'"; insert "direct or higher-tier" before "parent corporation"; add phrase regarding sibling firms and firms with substantial business relationships to end of second sentence; remove "corporate" before "guarantee" in three places; insert "A certified copy of" after "§ 264.151(h)."; change "The corporate" to "the corporate"; add text regarding letter from guarantor's chief financial officer and what the letter must describe	†113	264.145(f)(11)	30 TAC §335.152 (a)(6)			X	
LIABILITY REQUIREMENTS							
delete "in one of three ways"; replace "and (3)" with "(3), (4), (5), or (6)"	†51	264.147(a)	30 TAC §335.152 (a)(6)			X	

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
insert "or" after "owner"; delete "corporate" before "guarantee"; change "paragraph (g)" to "paragraphs (f) and (g)"	†51,93	264.147(a)(2)	30 TAC §335.152 (a)(6)	X			
replace existing paragraph; requirements may be met by obtaining letter of credit for liability coverage	†51	264.147(a)(3)	30 TAC §335.152 (a)(6)	X			
† add new paragraph; requirements may be met by obtaining surety bond for liability coverage	51	264.147(a)(4)	30 TAC §335.152 (a)(6)	X			
† add new paragraph; requirements may be met by obtaining trust fund for liability coverage	51	264.147(a)(5)	30 TAC §335.152 (a)(6)	X			
† add new paragraph; liability coverage may be demonstrated by combination of financial mechanisms; amount of coverage must total at least the minimum amounts required by 264.147; specification of "primary" and "excess" coverage	51	264.147(a)(6)	30 TAC §335.152 (a)(6)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
2 add and amend new paragraph; notify Regional Administrator in writing whenever:	51,113	264.147(a)(7)	30 TAC §335.152 (a)(6)	X			
2 add and amend new subparagraph; claims reduce amount of financial assurance for liability coverage	51,113	264.147(a)(7)(i)	30 TAC §335.152 (a)(6)	X			
2 Certification of Valid Claim for bodily injury or property damages caused by sudden or non-sudden accidental occurrence is entered between the owner or operator and a third- party claimant	51,113	264.147(a)(7)(ii)	30 TAC §335.152 (a)(6)	X			
2 final court order establishing judgment for bodily injury or property damage caused by sudden or non-sudden accidental occurrence is issued against the owner or operator or an instrument providing financial assurance	113	264.147(a)(7)(iii)	30 TAC §335.152 (a)(6)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
3 change "miscellaneous disposal unit" to "disposal miscellaneous unit"; after "legal defense costs" insert text regarding combination of per- occurrence coverage levels for sudden and non-sudden accidental occurrences, single annual aggregate level, and requirements for combining coverage; delete "in one of three ways,"; replace "and (3)" with "(3), (4), (5), or (6)."	†51,93	264.147(b)	30 TAC §335.152 (a)(6)	X			
delete "corporate" before "guarantee"	†51	264.147(b)(2)	30 TAC §335.152 (a)(6)	X			
replace existing paragraph; requirements may be met by obtaining letter of credit for liability coverage	†51	264.147(b)(3)	30 TAC §335.152 (a)(6)	X			
replace existing paragraph; requirements may be met by obtaining surety bond for liability coverage	†51	264.147(b)(4)	30 TAC §335.152 (a)(6)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
† add new paragraph; requirements may be met by obtaining trust fund for liability coverage	51	264.147(b)(5)	30 TAC §335.152 (a)(6)	X			
† add new paragraph; liability coverage may be demonstrated by combination of mechanisms; amount of coverage must total at least the minimum amount required by 264.147; specification of "primary" and "excess" coverage	51	264.147(b)(6)	30 TAC §335.152 (a)(6)	X			
2 add and amend new paragraph; notify Regional Administrator in writing whenever:	51,113	264.147(b)(7)	30 TAC §335.152 (a)(6)	X			
2 add and amend new subparagraph; claims reduce amount of financial assurance for liability coverage	51,113	264.147(b)(7)(i)	30 TAC §335.152 (a)(6)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
2 add and amend new subparagraph; Certification of Valid Claim for bodily injury or property damages caused by sudden or non-sudden accidental occurrence is entered between the owner or operator and a third- party claimant	51,113	264.147(b)(7)(ii)	30 TAC §335.152 (a)(6)	X			
2 add new subparagraph; final court order establishing judgment for bodily injury or property damage caused by sudden or non-sudden accidental occurrence is issued against the owner or operator or an instrument providing financial assurance	113	264.147(b)(7)(iii)	30 TAC §335.152 (a)(6)	X			
insert ", a letter of credit, a surety bond, a trust fund, or a guarantee" after "obtain insurance"; replace "Evidence of insurance" with "Evidence of liability coverage"	†113	264.147(f)(6)	30 TAC §335.152 (a)(6)	X			
remove "corporate" before "guarantee"	†51	264.147(g)	30 TAC §335.152 (a)(6)			X	

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
remove "corporate" before "guarantee" in three places; insert "direct or higher-tier" before "parent"; after "parent corporation of the owner or operator" insert ", a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a 'substantial business relationship' with the owner or operator."; change "The guarantee must meet" to "The guarantor must meet"; change "(f)(7)" to "(f)(6)"; add "of this part" after "§ 264.151(h)(2)"; replace "The terms of the corporate guarantee must provide that:" with text regarding letter from the guarantor's chief financial officer	†51	264.147(g)(1)	30 TAC §335.152 (a)(6)			X	
4 remove and reserve	†51	264.147(g)(1)(ii)	30 TAC §335.152 (a)(6)	X			
remove "corporate" before "guarantee"	†51	264.147(g)(2)(i)	30 TAC §335.152 (a)(6)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
remove "corporate" before "guarantee"	†51	264.147(g)(2)(ii)	30 TAC §335.152 (a)(6)	X			
redesignate old paragraph (h) as (k); add new paragraph titled "Letter of credit for liability coverage"	†51	264.147(h)	30 TAC §335.152 (a)(6)	X			
†,5 requirements may be satisfied by obtaining irrevocable standby letter of credit that conforms to 264.147(h) requirements and submitting copy to Regional Administrator	51	264.147(h)(1)	30 TAC §335.152 (a)(6)	X			
† criteria for financial institution issuing letter of credit	51	264.147(h)(2)	30 TAC §335.152 (a)(6)	X			
† wording of letter of credit must be identical to wording specified in 264.151(k)	51	264.147(h)(3)	30 TAC §335.152 (a)(6)	X			
† establishment and use of standby trust fund by owner or operator using letter of credit	113	264.147(h)(4)	30 TAC §335.152 (a)(6)	X			
† wording of standby trust fund must be identical to wording specified in 264.151(n)	113	264.147(h)(5)	30 TAC §335.152 (a)(6)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
† add new paragraph titled "Surety bond for liability coverage"	51	264.147(i)	30 TAC §335.152 (a)(6)	X			
† requirements may be satisfied by obtaining surety bond conforming to 264.147(i) requirements and submitting copy to Regional Administrator	51	264.147(i)(1)	30 TAC §335.152 (a)(6)	X			
† criterion for surety company issuing bond	51	264.147(i)(2)	30 TAC §335.152 (a)(6)	X			
† wording of surety bond must be identical to wording specified in 264.151(l)	51	264.147(i)(3)	30 TAC §335.152 (a)(6)	X			
† conditions under which surety bond may be used	51	264.147(i)(4)	30 TAC §335.152 (a)(6)	X			
		264.147(i)(4)(i)	30 TAC §335.152 (a)(6)	X			
		264.147(i)(4)(ii)	30 TAC §335.152 (a)(6)	X			
† add new paragraph titled "Trust fund for liability coverage"	51	264.147(j)	30 TAC §335.152 (a)(6)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
† requirements may be satisfied by establishing trust fund and submitting an originally signed duplicate of trust agreement to Regional Administrator	51	264.147(j)(1)	30 TAC §335.152 (a)(6)	X			
† criteria for trustee	51	264.147(j)(2)	30 TAC §335.152 (a)(6)	X			
† trust fund must be funded for full amount of liability coverage it is to provide; requirements if fund is reduced below full amount; definition of "full amount"	51	264.147(j)(3)	30 TAC §335.152 (a)(6)	X			
† wording of trust fund must be identical to wording specified in 264.151(m)	51	264.147(j)(4)	30 TAC §335.152 (a)(6)	X			
old paragraph 264.147(h) becomes 264.147(k)	†51	264.147(k)	30 TAC §335.152 (a)(6)	X			
WORDING OF THE INSTRUMENTS							
add text given at 53 FR 33952 to end of "Financial Guarantee Bond"	†51	264.151(b)	30 TAC §335.152 (a)(6)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
5 replace wording of letter from chief financial officer for closure and/or post-closure care with that shown at 57 FR 42836 & 42837	†113	264.151(f)	30 TAC §335.112 (a)(7), 335.152 (a)(6)(ii) (c)			X	
3 replace wording of letter from chief financial officer for liability coverage with that shown at 57 FR 42837 & 42838	51,†113	264.151(g)	30 TAC §335.112 (a)(7), 335.152 (a)(6)	X			
3 replace wording of corporate guarantee for closure and/or post-closure care with that shown at 57 FR 42838 & 42839	†113	264.151(h)(1)	30 TAC §335.112 (a)(7), 335.152 (a)(6)	X			
3 replace wording of guarantee for liability coverage with that shown at FR 42839 & 42840	†51,113	264.151(h)(2)	30 TAC §335.112 (a)(7), 335.152 (a)(6)(ii) (c)			X	
after "insured" add other entities that may cancel endorsement; delete "sixty" before "60"	†51	264.151(i)(2)(d)	30 TAC §335.112 (a)(7), 335.152 (a)(6)	X			
1 after "insured" add other entities that may cancel endorsement; delete "sixty" before "60"	†51	264.151(j)(2)(d)	30 TAC §335.112 (a)(7), 335.152 (a)(6)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
12 add new introductory subparagraph and wording for letter of credit for liability coverage as shown at 57 <u>FR</u> 42840 & 42841	†51,113	264.151(k)	30 TAC §335.112 (a)(7), 335.152 (a)(6)	X			
13 add new introductory subparagraph and wording for surety bond as shown at 53 <u>FR</u> 33955 & 33956	†51	264.151(l)	30 TAC §335.112 (a)(7), 335.152 (a)(6)	X			
add new introductory subparagraph and wording for trust agreement as shown at 53 <u>FR</u> 33956-33958	†51	264.151(m)(1)	30 TAC §335.112 (a)(7), 335.152 (a)(6)	X			
†,14 add new introductory subparagraph and example of certification of acknowledgement as shown at 53 <u>FR</u> 33958, third column	51	264.151(m)(2)	30 TAC §335.112 (a)(7), 335.152 (a)(6)	X			
†,15 add new introductory subparagraph and wording for standby trust agreement as shown at 57 <u>FR</u> 42841-42843	113	264.151(n)(1)	30 TAC §335.112 (a)(7), 335.152 (a)(6)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
t add new introductory subparagraph and wording for certification of acknowledgement to accompany trust agreement, as shown at 57 FR 42843, first and second columns	113	264.151(n)(2)	30 TAC §335.112 (a)(7), 335.152 (a)(6)	X			

PART 265 - INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART H - FINANCIAL REQUIREMENTS

DEFINITIONS OF TERMS AS USED IN THIS SUBPART

b add new paragraph defining "substantial business relationship"	51	265.141(h)	30 TAC §335.112 (a)(7)	X			
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RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
FINANCIAL ASSURANCE FOR CLOSURE							
remove "hereafter referred to as 'corporate guarantee'" from first sentence; insert "direct or higher-tier" before "parent corporation"; add phrase regarding sibling firms and firms with substantial business relationships to end of second sentence; remove "corporate" before "guarantee" in three places; insert "A certified copy of" after "§ 264.151(h)."; change "The" to "the"; add text regarding letter from guarantor's chief financial officer and what the letter must describe	†113	265.143(e)(10)	30 TAC §335.112 (a)(7)			X	

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

FINANCIAL ASSURANCE FOR POST-CLOSURE CARE

remove "hereafter referred to as 'corporate guarantee'" from first sentence; insert "direct or higher tier" before "parent corporation"; add phrase regarding sibling firms and firms with substantial business relationships to end of second sentence; remove "corporate" before "guarantee" in three places; insert "A certified copy of" after "§ 264.151(h)."; change "The" to "the"; add text regarding letter from guarantor's chief financial officer and what the letter must describe	†113	265.145(e)(11)	30 TAC §335.112 (a)(7)			X	
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LIABILITY REQUIREMENTS

delete "By the effective date of these regulations"; change "an" to "An"; delete "in one of three ways,"; replace "and (3)" with "(3), (4), (5), or (6)"	†51	265.147(a)	30 TAC §335.112 (a)(7)	X			
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RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
delete "corporate" before "guarantee"; change "paragraph (g)" to "paragraphs (f) and (g)"	†51,93	265.147(a)(2)	30 TAC §335.112 (a)(7)	X			
replace existing paragraph; requirements may be met by obtaining letter of credit for liability coverage	†51	265.147(a)(3)	30 TAC §335.112 (a)(7)	X			
† add new paragraph; requirements may be met by obtaining surety bond for liability coverage	51	265.147(a)(4)	30 TAC §335.112 (a)(7)	X			
† add new paragraph; requirements may be met by obtaining trust fund for liability coverage	51	265.147(a)(5)	30 TAC §335.112 (a)(7)	X			
† add new paragraph; liability coverage may be demonstrated by combination of mechanisms; amount of coverage must total at least the minimum amounts required by 265.147; specification of "primary" and "excess" coverage	51	265.147(a)(6)	30 TAC §335.112 (a)(7)	X			
19 add new paragraph; notify Regional Administrator in writing whenever:	51,113	265.147(a)(7)	30 TAC §335.112 (a)(7)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
add new subparagraph; claims reduce amount of financial assurance for liability coverage	51,113	265.147(a)(7)(i)	30 TAC §335.112 (a)(7)	X			
Certification of Valid Claim for bodily injury or property damages caused by sudden or non-sudden accidental occurrence is entered between the owner or operator and a third- party claimant	51,113	265.147(a)(7)(ii)	30 TAC §335.112 (a)(7)	X			
final court order establishing judgment for bodily injury or property damage caused by sudden or non-sudden accidental occurrence is issued against the owner or operator or an instrument providing financial assurance	113	265.147(a)(7)(iii)	30 TAC §335.112 (a)(7)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
change "bodily damage" to "bodily injury"; after "legal defense costs." insert text regarding combination of per-occurrence coverage levels for sudden and non-sudden accidental occurrences, single annual aggregate level, and requirements for combining coverage; delete "in one of three ways,"; replace "and (3)" with "(3), (4), (5), or (6)"	†51	265.147(b)	30 TAC §335.112 (a)(7)	X			
delete "corporate" before "guarantee"	†51	265.147(b)(2)	30 TAC §335.112 (a)(7)	X			
replace existing paragraph; requirements may be met by obtaining letter of credit for liability coverage	†51	265.147(b)(3)	30 TAC §335.112 (a)(7)	X			
replace existing paragraph and subparagraphs; requirements may be met by obtaining surety bond for liability coverage	†51	265.147(b)(4)	30 TAC §335.112 (a)(7)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
0 replace existing paragraph; requirements may be met by obtaining trust fund for liability coverage	†51	265.147(b)(5)	30 TAC §335.112 (a)(7)	X			
† add new paragraph; liability coverage may be demonstrated by combination of mechanisms; amount of coverage must total at least the minimum amount required by 265.147; specifying "primary" and "excess" coverage	51	265.147(b)(6)	30 TAC §335.112 (a)(7)	X			
9 add and amend new paragraph; notify Regional Administrator in writing whenever:	51,113	265.147(b)(7)	30 TAC §335.112 (a)(7)	X			
9 claims reduce amount of financial assurance for liability coverage	51,113	265.147(b)(7)(i)	30 TAC §335.112 (a)(7)	X			
9 Certification of Valid Claim for bodily injury or property damages caused by sudden or non-sudden accidental occurrence is entered between the owner or operator and a third- party claimant	51,113	265.147(b)(7)(ii)	30 TAC §335.112 (a)(7)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
† requirements may be satisfied by obtaining surety bond conforming to 265.147(i) requirements and submitting copy to Regional Administrator	51	265.147(i)(1)	30 TAC §335.112 (a)(7)	X			
† criterion for surety company issuing bond	51	265.147(i)(2)	30 TAC §335.112 (a)(7)	X			
†,21 wording of surety bond must be identical to wording specified in 264.151(l)	51	265.147(i)(3)	30 TAC §335.112 (a)(7)	X			
† conditions under which surety bond may be used	51	265.147(i)(4)	30 TAC §335.112 (a)(7)	X			
		265.147(i)(4)(i)	30 TAC §335.112 (a)(7)	X			
		265.147(i)(4)(ii)	30 TAC §335.112 (a)(7)	X			
† add new paragraph titled "Trust fund for liability coverage"	51	265.147(j)	30 TAC §335.112 (a)(7)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
† requirements may be satisfied by establishing trust fund conforming to 265.147(j) requirements and submitting signed duplicate of trust agreement to Regional Administrator	51	265.147(j)(1)	30 TAC §335.112 (a)(7)	X			
† criteria for trustee		265.147(j)(2)	30 TAC §335.112 (a)(7)	X			
† trust fund must be funded for full amount of liability coverage it is to provide; requirements if fund is reduced below full amount; definition of "full amount"	51	265.147(j)(3)	30 TAC §335.112 (a)(7)	X			
† wording of trust fund must be identical to wording specified in 264.151(m)	51	265.147(j)(4)51	30 TAC §335.112 (a)(7)	X			
former 265.147(h) becomes 265.147(k)	†51	265.147(k)	30 TAC §335.112 (a)(7)	X			

¹ Note that there is an error in the Federal Register; "direct of higher tier" should be "direct or higher tier."

² The September 1, 1988 (53 FR 33938) rule added 264.147(a)(7) and (b)(7) to the code, and the September 16, 1992 rule (57 FR 42832) revised them (including adding 264.147(a)(7)(iii) and (b)(7)(iii)). Note that the preamble of the September 1, 1988 Federal Register incorrectly characterized these paragraphs as less stringent. The September 16, 1992 Federal Register

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
19 add new subparagraph; final court order establishing judgment for bodily injury or property damage caused by sudden or non-sudden accidental occurrence is issued against the owner or operator or an instrument providing financial assurance	113	265.147(b)(7)(iii)	30 TAC §335.112 (a)(7)	X			
insert ", a letter of credit, a surety bond, a trust fund, or a guarantee" after "obtain insurance"; replace "Evidence of insurance" with "Evidence of liability coverage"	†113	265.147(f)(6)	30 TAC §335.112 (a)(7)	X			
remove "corporate" before "guarantee"	†51	265.147(g)	30 TAC §335.112 (a)(7)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
remove "corporate" before "guarantee" in three places; insert "direct or higher-tier" before "parent"; after "parent corporation of the owner or operator" insert ", a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a 'substantial business relationship' with the owner or operator"; change "(f)(7)" to "(f)(6)"; add "of this chapter" after "§ 264.151(h)(2)"; replace "The terms of the corporate guarantee must provide that:" with text regarding letter from the guarantor's chief financial officer	†51	265.147(g)(1)	30 TAC §335.112 (a)(7)	X			
4 remove and reserve	†51	265.147(g)(1)(ii)	30 TAC §335.112 (a)(7)	X			
remove "corporate" before "guarantee"	†51	265.147(g)(2)(i)	30 TAC §335.112 (a)(7)	X			
remove "corporate" before "guarantee"	†51	265.147(g)(2)(ii)	30 TAC §335.112 (a)(7)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

FEDERAL REQUIREMENTS	RULE REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
redesignate old 265.147(h) as 265.147(k); add new paragraph titled "Letter of credit for liability coverage"	†51	265.147(h)	30 TAC §335.112 (a)(7)	X			
† requirements may be satisfied by obtaining irrevocable standby letter of credit that conforms to 265.147(h) requirements and submitting copy to Regional Administrator	51	265.147(h)(1)	30 TAC §335.112 (a)(7)	X			
† criteria for financial institution issuing letter of credit	51	265.147(h)(2)	30 TAC §335.112 (a)(7)	X			
† wording of letter of credit must be identical to wording specified in 264.151(k)	51	265.147(h)(3)	30 TAC §335.112 (a)(7)	X			
† establishment and use of standby trust fund by owner or operator using letter of credit	113	265.147(h)(4)	30 TAC §335.112 (a)(7)	X			
† wording of standby trust fund must be identical to wording specified in 264.151(n)	113	265.147(h)(5)	30 TAC §335.112 (a)(7)	X			
† add new paragraph titled "Surety bond for liability coverage"	51	265.147(i)	30 TAC §335.112 (a)(7)	X			

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

clarified this issue by stating that, in fact, these paragraphs are more stringent because they address an additional reporting requirement. The amendment made by the September 16, 1992 rule made these requirements less stringent than those introduced by the September 1, 1988 rule. Thus, those States that adopted the more stringent September 1, 1988 provisions are not required to adopt the amendments made by the September 16, 1992 rule, although EPA urges them to do so. States that did not adopt the September 1, 1988 requirements at 264.147(a)(7) and (b)(7) should not do so but should adopt the clarified version promulgated by the September 16, 1992 rule.

- 3 Revision Checklist 45 added the reference to miscellaneous units to the first sentence of this paragraph. When the September 1, 1988 rule revised this paragraph, the Revision Checklist 45 change was inadvertently omitted. The July 1, 1991 rule restored the Revision Checklist 45 reference to miscellaneous units.
- 4 Note that only (g)(1)(ii) is removed and reserved; (g)(1)(i) remains as it was prior to the September 1, 1988 final rule.
- 5 Note that there is an error in the Federal Register; "letter or credit" should be "letter of credit".
- 6 The changes addressed by Revision Checklist 113 at this citation are "conditionally optional" because they are linked to whether a State chooses to adopt the Revision Checklist 113 optional changes at 264.143(f)(10), 264.143(f)(11), 265.143(e)(10) and 265.143(e)(11). If a State chooses to adopt the optional changes at 264.143(f)(10), 264.143(f)(11), 265.143(e)(10) and 265.143(e)(11), it must also adopt the changes at this citation. If the State does not adopt those changes, it should not adopt the Revision Checklist 113 changes at 264.151(f).
- 7 The changes addressed by Revision Checklist 113 at this citation are "conditionally optional" because they are linked to whether a State chooses to adopt the Revision Checklist 113 optional changes at 264.147(f)(6) and 265.147(f)(6). If a State chooses to adopt the optional changes at 264.147(f)(6) and 265.147(f)(6), it must also adopt the changes at this citation. If the State does not adopt those changes, it should not adopt the Revision Checklist 113 changes at 264.151(g).
- 8 Note that there are several typographical errors in the Federal Register at 264.151(g) as indicated below:

Federal citation	<u>Federal Register</u> location	Error/Corrections
264.151(g) paragraph 4, line 5	57 <u>FR</u> 42837, column 3	"..'nonsudden' of 'both sudden..' should read "..'nonsudden' <u>or</u> 'both sudden.."
264.151(g), item 3., line 8	57 <u>FR</u> 42838, column 1	"subpart H or 40 CFR parts" should read "subpart H <u>of</u> 40 CFR parts"

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

264.151(g), Part A, Alternative I.3	57 <u>FR</u> 42838, column 1	"Current \$" should read "Current <u>liabilities</u> \$"
264.151(g), Part B, Alternative II.7., line 5	57 <u>FR</u> 42838, column 3	") _____ \$ _____ " should be ") \$ _____

- 9 The changes addressed by Revision Checklist 113 at this citation are "conditionally optional" because they are linked to whether a State chooses to adopt the Revision Checklist 113 optional changes at 264.147(h)(4), 264.147(h)(5), 265.147(h)(4) and 265.147(h)(5). If a State chooses to adopt the optional changes at 264.147(h)(4), 264.147(h)(5), 265.147(h)(4) and 265.147(h)(5), it must also adopt the changes at this citation. If the State does not adopt those changes, it should not adopt the Revision Checklist 113 changes at 264.151(h)(1).
- 10 Note that there are several typographical errors in the Federal Register at 264.151(h)(2) as indicated below:

Federal citation	<u>Federal Register</u> location	Error/Corrections
264.151(h)(2), Guarantee for Liability Coverage, line 15	57 <u>FR</u> 42839, column 3	"or which guarantor is" should read " <u>of</u> which guarantor is"
264.151(h)(2), Guarantee for Liability Coverage, line 19	57 <u>FR</u> 42839, column 3	"264.141(h)]" should read "264.141(h) <u>or</u> 265.141(h)]"
264.151(h)(2), Certification of Valid Claim, line 8	57 <u>FR</u> 42840, column 2	insert "]" after "facility"

- 11 Note that there is a typographical error in the Federal Register; in line three of the revised text of (j)(2)(d) shown at 53 FR 33955, "corportation" should be "corporation".
- 12 Note that there are several typographical errors in the Federal Register at 264.151(k) as indicated below:

Federal citation	<u>Federal Register</u> location	Error/Corrections
264.151(k), Irrevocable Standby Letter of Credit, line 26	57 <u>FR</u> 42840, column 3	insert "]" after "trust fund:"

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

264.151(k), (2), 2nd paragraph, lines 2 & 5	57 <u>FR</u> 42841, column 1	delete "]" in "[date]" in line 2 add "]" after "[date]" in line 5
264.151(k), (2), 4th paragraph, line 7	57 <u>FR</u> 42841, column 1	end paragraph with "]"

- 13 Note that there are several errors in the September 1, 1988 Federal Register. Explanatory paragraph 10, as well as the actual text of the revised code, should read "(l)" rather than "(1)" (letter rather than number one). Also, the first sentence of the introductory text for the surety bond should reference "§ 264.147(i) or § 265.147(i)" rather than "§ 264.147(h) or § 265.147(h)".
- 14 Note that the introductory paragraph for 264.151(m)(2) is not clearly distinguished from the preceding and following certifications. In the middle of the third column at 53 FR 33958, the paragraph numbered (2) and ending with "of this acknowledgement." is the introductory paragraph and should have been printed in the larger type size used for such paragraphs. The example of the certification begins "State of".
- 15 Note that there are several typographical errors in the Federal Register at 264.151(n)(1) as indicated below:

Federal citation	<u>Federal Register</u> location	Error/Corrections
264.151(n)(1) Standby Trust Agreement (e)(3)	57 <u>FR</u> 42841, column 3	insert "to" after "Property loaned"

- 16 Note that the September 1, 1988 Federal Register incorrectly labels this paragraph "264.141" rather than "265.141".
- 17 Note that there is an error in the September 16, 1992 Federal Register. In the preamble text at the bottom of the second column at 57 FR 42834, "265.143(e)(11)" should be "265.143(e)(10)".
- 18 Note that an error which appears in the July 1, 1989, 1990 and 1991 CFRs has only been partially corrected in the July 1, 1992 CFR. The July 1, 1989, 1990 and 1991 CFRs incorrectly omit 265.147(a)(1)(i)&(ii) and 265.147(b)(1)(i)&(ii). The September 23, 1991 Federal Register (56 FR 47912) reinstated 265.147(a)(1)(i)&(ii) but erroneously did not reinstate 265.147(b)(1)(i)&(ii). Thus, the July 1, 1992 CFR omits 265.147(b)(1)(i)&(ii). A technical correction will be published in the near future to correct this error. In the meantime, States should include analogous requirements in their regulations.

RCRA REVISION CHECKLIST 113: Consolidated Liability Requirements (cont'd)

- 19 The September 1, 1988 rule added 265.147(a)(7) and (b)(7) to the code, and the September 16, 1992 rule revised them (including adding 265.147(a)(7)(iii) and (b)(7)(iii)). Note that the preamble of the September 1, 1988 Federal Register incorrectly characterized these paragraphs as less stringent. The September 16, 1992 Federal Register clarified this issue by stating that, in fact, these paragraphs are more stringent because they address an additional reporting requirement. The amendment made by the September 16, 1992 rule made these requirements less stringent than those introduced by the September 1, 1988 rule. Thus, those States that adopted the more stringent September 1, 1988 provisions are not required to adopt the amendments made by the September 16, 1992 rule, although EPA urges them to do so. States that did not adopt the September 1, 1988 requirements at 265.147(a)(7) and (b)(7) should not do so but should adopt the clarified, less stringent version promulgated by the September 16, 1992 rule.
- 20 The Federal Register for Revision Checklist 51, in Item 3. in the first column at 53 FR 33959, erroneously indicates that 265.147(b)(5) is a new paragraph to be added. In fact, this final rule replaces the old 265.147(b)(5) with a new paragraph (b)(5).
- 21 Note that there is a typographical error in the Federal Register: "264.151(1)" [number 1], should be "264.151(l)" [letter l].

RCRA REVISION CHECKLIST 114

Burning of Hazardous Waste in
Boilers and Industrial Furnaces; Technical Amendment IV
57 FR 44999-45001
September 30, 1992
(RCRA Cluster III, HSWA provisions)

Notes: 1) The notice addressed by this checklist makes several technical amendments to the final rules addressed by Revision Checklist 85 (56 FR 7134; February 21, 1991), Revision Checklist 94 (56 FR 32688; July 17, 1991), Revision Checklist 96 (56 FR 42504; August 27, 1991), and Revision Checklist 111 (57 FR 38558; August 25, 1992). These revisions provide clarification and correct unintended consequences of the Boilers and Industrial Furnaces (BIF) rule and its previous corrections.

2) Due to an administrative error, the amendatory instructions in the August 27, 1991 final rule (56 FR 42504; Revision Checklist 96) resulted in the removal of 266.103(c)(1)(i) through (xiii) and 266.103(c)(3)(ii) and (iii) from the 1992 edition of 40 CFR. This present rule clarifies that these paragraphs remain in effect and are regarded by EPA to have been in effect continuously in the form published in the 1991 CFR and as subsequently amended by the August 25, 1992 final rule (57 FR 38558; Revision Checklist 111). Note that Revision Checklist 96 did not include the erroneous removal of these paragraphs; therefore this checklist includes only the technical corrections that were made in reprinting the reinstated text.

3) In reprinting the text that was erroneously removed, several changes were inadvertently made. States need not make these changes in their code. Such changes include:

- At 266.103(c)(1)(ii)(B) and numerous other citations, "adjusted" was changed to "Adjusted"; States may make this change if desired;
- At 266.103(c)(1)(ix), "the" was deleted before "Tier I"; States may make this change if desired;
- At 266.103(c)(1)(ix)(A), "ratio" was incorrectly changed to "ration"; States should not make this change;
- At 266.103(c)(1)(xiii), "metals" was incorrectly changed to "metal"; States should not make this change; and
- At 266.103(c)(3)(i), "on-site" was incorrectly changed to "onsite"; States should not make this change.

4) States that are not authorized for Revision Checklists 85, 94, 96 and 111 are strongly encouraged to adopt these present technical corrections at the same time the requirements addressed by Revision Checklists 85, 94, 96 and 111 are adopted. States already authorized for the provisions addressed by Revision Checklists 85, 94, 96 and 111 should adopt these present technical corrections as soon as possible. An updated Consolidated Boilers and Industrial Furnaces Checklist, which includes this checklist, should be available shortly.

**RCRA REVISION CHECKLIST 114: Burning of Hazardous Waste in
Boilers and Industrial Furnaces (cont'd)**

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

**PART 266 - STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND
SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES**

SUBPART H - HAZARDOUS WASTE BURNED IN BOILERS AND INDUSTRIAL FURNACES

INTERIM STATUS STANDARDS FOR BURNERS

change "266.103(a)(5)(I)(D)" to "266.103(a)(5)(i)(D)"	266.103(c)(1)	30 TAC §335.221(a)(11)	X			
insert ")" after "(e)"	266.103(c)(1)(ii)(C)	30 TAC §335.221(a)(11)	X			
replace "." with ";	266.103(c)(1)(iii)	30 TAC §335.221(a)(11)	X			
replace "." with ";	266.103(c)(1)(vi)	30 TAC §335.221(a)(11)	X			
delete "," after "injection"; insert "or" after the first "Tier I"	266.103(c)(1)(vii)	30 TAC §335.221(a)(11)	X			
insert "and the total chlorine and chloride feed rate screening limits under § 266.107(b) or (e)" after "266.106(b) or (e)"	266.103(c)(1)(viii)	30 TAC §335.221(a)(11)	X			
change ";" to ":"	266.103(c)(1)(xi)	30 TAC §335.221(a)(11)	X			
change ":" to ";	266.103(c)(1)(xi)(B)	30 TAC §335.221(a)(11)	X			

APPENDIX IX TO PART 266

METHODS MANUAL FOR COMPLIANCE WITH BIF REGULATIONS

change "g/m ³ " to "µg/m ³ "	Appendix IX/Section 5.0, Table 5.0-4	30 TAC §335.221(a)	X			
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**RCRA REVISION CHECKLIST 114: Burning of Hazardous Waste in
Boilers and Industrial Furnaces (cont'd)**

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
2 change "g/m ³ " to "µg/m ³ "	Appendix IX/Section 5.0, Table 5.0-5	30 TAC §335.221(a)	X			

¹ This rule corrects an error in the August 25, 1992 rule (57 FR 38558, Revision Checklist 111) that changed this internal reference from "266.103(a)(5)(i)(D)" (which was correct) to "266.103(a)(5)(l)(D)" (which is incorrect). Revision Checklist 96 reflected the correct internal reference.

² This rule corrects an error in the August 25, 1992 rule (57 FR 38558, Revision Checklist 111).

RCRA REVISION CHECKLIST 115

Chlorinated Toluenes Production Waste Listing 57 FR 47376-47386 October 15, 1992 (RCRA Cluster III, HSWA provisions)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART D--LISTS OF HAZARDOUS WASTES

HAZARDOUS WASTES FROM SPECIFIC SOURCES

1 add waste streams in alphanumeric order to the subgroup "Organic Chemicals" in the table	261.32	30 TAC §335.1	X			
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Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
K149	Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (This waste does not include still bottoms from the distillation of benzyl chloride.)	(T)
K150	Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.	(T)
K151	Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.	(T)

APPENDIX VII TO PART 261

BASIS FOR LISTING HAZARDOUS WASTE

add entries in alphanumeric order	Appendix VII	30 TAC §335.1, §335.29(4)	X			
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RCRA REVISION CHECKLIST 115: Chlorinated Toluenes Production

Waste Listing (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
EPA hazardous waste No.	Hazardous constituents for which listed					
•	•	•	•	•	•	•
K149	Benzotrichloride, benzyl chloride, chloroform, chloromethane, chlorobenzene, 1,4-dichlorobenzene, hexachlorobenzene, pentachlorobenzene, 1,2,4,5-tetrachlorobenzene, toluene.					
K150	Carbon tetrachloride, chloroform, chloromethane, 1,4-dichlorobenzene, hexachlorobenzene, pentachlorobenzene, 1,2,4,5-tetrachlorobenzene, 1,1,2,2-tetrachloroethane, tetrachloroethylene, 1,2,4-trichlorobenzene.					
K151	Benzene, carbon tetrachloride, chloroform, hexachlorobenzene, pentachlorobenzene, toluene, 1,2,4,5-tetrachlorobenzene, tetrachloroethylene.					
•	•	•	•	•	•	•

¹ In the Federal Register's hazardous waste description for K149, there is a comma after "groups" rather than the correct period, and there appears to be an extra period after "chloride.)". States are advised to use a period after "groups" and omit the period after the closing parenthesis, as shown on this checklist.

RCRA REVISION CHECKLIST 116

Hazardous Soil Case-By-Case Capacity Variance

57 FR 47772-47776

October 20, 1992

(RCRA Cluster III, HSWA provisions)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
PART 268 - LAND DISPOSAL RESTRICTIONS						
SUBPART C - PROHIBITIONS ON LAND DISPOSAL						
WASTE SPECIFIC PROHIBITIONS--THIRD THIRD WASTES						
delete "inorganic solid debris as defined in 40 CFR 268.2(g) (which also applies to chromium refractory bricks carrying the EPA Hazardous Waste Numbers K048-K052);"	268.35(c)	335.431(c)(1)	X			
delete ", and soil or debris contaminated with hazardous wastes listed in 40 CFR 268.10, 268.11, and 268.12 that are mixed radioactive/hazardous wastes,"; after "prohibited from land disposal" add ", except as provided in paragraph (e) of this section"	268.35(d)	335.431(c)(1)	X			

RCRA REVISION CHECKLIST 116: Hazardous Soil Case-by-Case Capacity Variance (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
old 268.35(e) becomes 268.35(e)(1); new paragraph states "Subject to applicable prohibitions in §§ 268.30, 268.31, and 268.32, contaminated soil and debris are prohibited from land disposal as follows:"	268.35(e)	335.431(c)(1)	X			
former 268.35(e) with these changes: add "(including such wastes that are mixed radioactive hazardous wastes)" between "268.12" and ", debris"; replace "are established in subpart D of this part" with "established in subpart D of this part (including such wastes that are mixed radioactive hazardous wastes)"	268.35(e)(1)	335.431(c)(1)	X			

RCRA REVISION CHECKLIST 116: Hazardous Soil Case-by-Case Capacity Variance (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
effective May 8, 1993, hazardous soil having treatment standards in 268 Subpart D based on incineration, mercury retorting or vitrification, and soils contaminated with hazardous wastes listed in 40 CFR 268.10, 268.11 and 268.12 that are mixed radioactive hazardous wastes, are prohibited from land disposal	268.35(e)(2)	335.431(c)(1)	X			

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 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:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	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)	30 TAC §335.1	X			
it is not excluded under 261.4(b)	261.3(a)(1)	30 TAC §335.1	X			
it meets any of the following criteria:	261.3(a)(2)	30 TAC §335.1	X			

RCRA REVISION CHECKLIST 117 A:
Mixture and Derived-From Rules Reissuance (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
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	261.3(a)(2)(i)	30 TAC §335.1	X			
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	261.3(a)(2)(ii)	30 TAC §335.1	X			
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	261.3(a)(2)(iii)	30 TAC §335.1	X			

RCRA REVISION CHECKLIST 117 A:
Mixture and Derived-From Rules Reissuance (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
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:	261.3(a)(2)(iv)	30 TAC §335.1	X			
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	261.3(a)(2)(iv)(A)	30 TAC §335.1	X			
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	261.3(a)(2)(iv)(B)	30 TAC §335.1	X			

RCRA REVISION CHECKLIST 117 A:
Mixture and Derived-From Rules Reissuance (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste No. K050); or	261.3(a)(2)(iv)(C)	30 TAC §335.1	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)	30 TAC §335.1	X			

RCRA REVISION CHECKLIST 117 A:
Mixture and Derived-From Rules Reissuance (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
wastewater resulting from laboratory operations containing 261 subpart D toxic wastes provided the annualized average flow of laboratory wastewater $\leq 1\%$ of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system or the combined annualized average concentration is ≤ 1 ppm in the headworks of the facility's wastewater treatment or pretreatment facility; demonstrated laboratory toxic wastes not discharged to wastewater are not included in the calculation	261.3(a)(2)(iv)(E)	30 TAC §335.1	X			
a solid waste not excluded under 261.3(a)(1) becomes a hazardous waste when:	261.3(b)	30 TAC §335.1	X			
the waste first meets the 261 subpart D listing description	261.3(b)(1)	30 TAC §335.1	X			

RCRA REVISION CHECKLIST 117 A:
Mixture and Derived-From Rules Reissuance (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
a 261 subpart D hazardous waste is first added to a solid waste	261.3(b)(2)	30 TAC §335.1	X			
the waste exhibits any 261 subpart C characteristic	261.3(b)(3)	30 TAC §335.1	X			
unless and until it meets the criteria of 261.3(d):	261.3(c)	30 TAC §335.1	X			
hazardous waste remains hazardous waste	261.3(c)(1)	30 TAC §335.1	X			
except as provided by 261.3(c)(2)(ii), any solid waste generated from the treatment, storage, or disposal of hazardous waste is a hazardous waste; exception for materials reclaimed from solid waste and used beneficially unless burned for energy recovery or used in a manner constituting disposal	261.3(c)(2)(i)	30 TAC §335.1	X			
the following solid wastes generated from the treatment, storage or disposal of a hazardous waste are not hazardous unless they exhibit one or more characteristics of a hazardous waste:	261.3(c)(2)(ii)	30 TAC §335.1	X			

RCRA REVISION CHECKLIST 117 A:
Mixture and Derived-From Rules Reissuance (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry	261.3(c)(2)(ii)(A)	30 TAC §335.1	X			
1 waste from burning any of the materials exempted by § 261.6(a)(3)(v)-(viii)	261.3(c)(2)(ii)(B)	30 TAC §335.1	X			
2 certain nonwastewater residues resulting from high temperature metals recovery processing of K061 waste; generic exclusion levels; testing requirement; notification and certification requirements for each shipment of certain K061 HTMR residues sent to a subtitle D unit	261.3(c)(2)(ii)(C)	30 TAC §335.1	X			
any solid waste described in 261.3(c) is not a hazardous waste if it meets the following criteria:	261.3(d)	30 TAC §335.1	X			

RCRA REVISION CHECKLIST 117 A:
Mixture and Derived-From Rules Reissuance (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
3 if a solid waste, it does not exhibit any of the 261 subpart C criteria; such wastes that exhibit a characteristic at the point of generation may still be subject to part 268	261.3(d)(1)	30 TAC §335.1	X			
if a waste listed in 261 subpart D, containing a 261 subpart D waste or derived from a 261 subpart D waste, it has also been excluded from 261.3(c) by use of the procedures of 260.20 and 260.22	261.3(d)(2)	30 TAC §335.1	X			

¹ As reissued by the March 3, 1992 rule, this subparagraph incorrectly referenced "261.6(a)(3)(v) through (ix)." The June 1, 1992 rule corrected this reference to read "261.6(a)(3)(v)-(viii)."

² Note that this section of code has been further revised by an August 18, 1992 rule (57 FR 37194; Revision Checklist 109). The changes addressed by this present checklist address only the "mixture" and "derived-from" rules as they were at the time of reissuance in March 1992. Unfortunately, the version of the "mixture" and "derived-from" rules, reissued by the March 3, 1992 rule, omitted 261.3(c)(2)(ii)(C) which had been added by an August 19, 1991 rule (56 FR 41164; Revision Checklist 95). The June 1, 1992 amendment to the reissued mixture and derived-from rule reinstated this omitted code.

³ The code reissued by the March 3, 1992 rule omitted the parenthetical sentence added by Revision Checklist 83 (56 FR 3864; January 31, 1991) addressing characteristic waste no longer exhibiting a characteristic that still may be subject to Part 268 requirements. The June 1, 1992 amendment re-added this sentence to the code.

RCRA REVISION CHECKLIST 117B

Toxicity Characteristic Amendment

57 FR 23062-23063

June 1, 1992

(RCRA Cluster III, HSWA provision)

Note: The Toxicity Characteristic rule [55 FR 11798 (March 29, 1990); Revision Checklist 74] and its subsequent amendments [55 FR 26986 (June 29, 1990) and 57 FR 30657 (July 10, 1992); Revision Checklist 74] omitted changing the reference to the "Extraction Procedure Toxicity Characteristic" at 261.3(a)(2)(i). The March 3, 1992 reissuance of the "mixture" and "derived-from" rules, reissued 261.3 with that error still in it. The June 1, 1992 amendment (57 FR 23062) to that reissued code corrected this error. Because this change makes the Federal code more stringent, it is required and was placed in a checklist separate from the other provisions (considered optional, for States) addressing the reissuance of the "mixture" and "derived-from" rules.

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:					
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE		
PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE								
SUBPART A - GENERAL								
DEFINITION OF HAZARDOUS WASTE								
change "Extraction Procedure Toxicity characteristic" to "Toxicity Characteristic"	261.3(a)(2)(i)	30 TAC §335.1	X					