

Revision Checklist 127 Summary

Rule Title: Burning of Hazardous Waste in Boilers and Industrial Furnaces
Checklist Title: Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevill Residues
Reference: 58 FR 59598-59603
Promulgation Date: November 9, 1993
Effective Date: October 15, 1993
Cluster: RCRA Cluster IV
Provision Type: HSWA
Linkage: Revision Checklists 85, 94, and 111
Optional: Yes

Summary: On February 21, 1991, EPA promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) that would expand controls on hazardous waste combustion to regulate the burning of hazardous waste in boilers and industrial furnaces (BIFs). Among other things, the regulations provide two tests for determining whether residues derived from Bevill devices (e.g., cement kilns, light-weight aggregate kilns, primary smelters, coal-fired boilers) co-processing hazardous waste and raw materials are exempt from hazardous waste control: (1) if levels of the toxic constituents in the waste-derived residue are not significantly higher than in normal residue; or (2) if levels of the toxic constituents in the waste-derived residue do not exceed specified health-based levels. This November 9, 1993 interim final rule announces an administrative stay on the previously-published health-based limits for nonmetals that are used to determine whether Bevill residues are exempt from the definition of hazardous waste under test number 2, provided that other limits are met on an interim basis (in order to prevent a situation where nonmetal constituents in these residues go unmonitored). The effect of this rule is to replace the current limits needed to qualify for the Bevill exemption (under test number 2) with the land disposal restriction limits for underlying constituents in nonwastewaters pending further administrative action to establish health-based levels.

State Authorization: This rule is placed in RCRA Cluster IV. Because the regulations promulgated in this rule reduce the regulatory requirements for certain wastes, States are not required to adopt the changes addressed by this rule; they may impose requirements that are broader in scope or more stringent than those imposed under Federal regulations. As such, the checklist developed for this rule has been designated as optional. However, EPA strongly recommends that States adopt this administrative stay as soon as possible because the nonmetal limits affected by the stay are extremely conservative and were based on unintended, mistaken assumptions. For States that choose to adopt the checklist, the State modification deadline is July 1, 1995 (or July 1, 1996 if a State statutory change is necessary). All changes go into effect immediately because this rule was promulgated under HSWA authorities. Both interim and final authorization are available. Interim authorization expires January 1, 2003.

The State Revision Application must include applicable regulations, AG statement addendum, Revision Checklist 127, other associated checklists and other application materials, i.e. a program description and an MOA, as determined by the Regional office.

Attorney General's Statement Entry: The following entry should be placed at Subsection XX G in the Model Revision Attorney General's Statement.

Revision Checklist 127 Summary (cont'd)

G. [OPTIONAL]: This is a reduced requirement.] State statutes and regulations contain an administrative stay, until further administrative action is taken, that replaces the current limits needed to qualify for the Bevill exemption under test number 2 with the land disposal restriction limits for underlying constituents as indicated in Revision Checklist 127.

Federal Authority: 5 U.S.C. 705; RCRA §§2002(a), and 3001(b)&(e)(1); 40 CFR 266.112(b)(2)(i) and Part 266 Appendix VII, as amended November 9, 1993 (58 FR 59598).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General