

Revision Checklist 153 Summary

Rule Title:	Criteria for Classification of Solid Waste Disposal Facilities and Practices; Identification and Listing of Hazardous Waste; Requirements for Authorization of State Hazardous Waste Programs
Checklist Title:	Conditionally Exempt Small Quantity Generator Disposal Options under Subtitle D
Reference:	61 <u>FR</u> 34252-34278
Promulgation Date:	July 1, 1996
Effective Date:	January 1, 1997
Cluster:	RCRA Cluster VII
Provision Type:	HSWA
Linkage:	None
Optional:	No

Summary: This final rule revises the provisions for hazardous wastes generated by CESQGs at § 261.5(f) and (g) to clarify acceptable disposal options under RCRA. It specifies that CESQG hazardous waste may be managed at municipal solid waste landfills subject to part 258 and at non-municipal non-hazardous waste disposal units subject to the facility standards in §§ 257.5 through 257.30. These revisions are part of a rule which revises existing criteria for solid waste disposal facilities and practices at 40 CFR Part 257. Only the changes to 40 CFR 261.5 are addressed by Revision Checklist 153.

State Authorization: This rule is placed in RCRA Cluster VII. The State modification deadline is July 1, 1998 (or July 1, 1999 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.

States with authorized RCRA programs may have already adopted requirements under State law similar to the provisions addressed by this final rule; however, these States are not authorized to implement these requirements in lieu of EPA until the State modification has been approved. (As indicated in the checklist, only the changes to §261.5 will be assessed against the Federal program.) States with such existing standards may continue to administer their standards as a matter of State law, but they need to seek authorization for these provisions. States, whose requirements are more stringent and do not allow the disposal of wastes generated by CESQGs into Subtitle D landfills under their existing authorized Subtitle D program, would not be required to revise their programs and obtain authorization for the revisions to §261.5. Instead, the State should inform their EPA Regional Office by letter that for this final rule they are not required to submit an application because the State provision currently in effect is more stringent than the requirement authorized in the July 1, 1996 (61 FR 34252) final rule.

Revision Checklist 153 Summary (cont'd)

For a State not to be required to submit a revision authorization application, the following must be true:

- the State must have provisions that are already authorized by EPA,
- these provisions must be more stringent than the Subtitle C provisions in the final rule addressed by this checklist and not allow the disposal of CESQG waste in Subtitle D landfills, and
- the State must not change its authorized regulatory language.

Because the provisions in such States are more stringent than those addressed by this checklist, they would continue to apply in that State, even though the Federal provisions are promulgated pursuant to HSWA authority.

For States that must seek authorization for these provisions, the Revision Application must include applicable regulations, an AG statement addendum, Revision Checklist 153, 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 entry at Subsection I (JJ) in the Model Revision Attorney General's Statement should be replaced with the following revised entry:

JJ. State statutes and regulations require that when wastes generated by conditionally exempt small quantity generators are sent to a State permitted, licensed or registered facility, that facility must be subject to 40 CFR Part 258 or §§ 257.5 through 257.30 as specified in Revision Checklist 153.

Federal Authority: RCRA §3001(d)(4); 40 CFR 261.5(f)(3) & (g)(3) as amended July 1, 1996 (61 FR 34252).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

Incorporation by Reference:

There is no special guidance for States that incorporate by reference with respect to this Revision Checklist.