

### Revision Checklist 174 Summary

<b>Rule Title:</b>	Standards Applicable to Owners and Operators of Closed and Closing Hazardous Waste Management Facilities: Post-Closure Permit Requirement and Closure Process; Final Rule
<b>Checklist Title:</b>	Post-Closure Requirements and Closure Process
<b>Reference:</b>	63 <u>FR</u> 56710-56735
<b>Promulgation Date:</b>	October 22, 1998
<b>Effective Date:</b>	October 22, 1998
<b>Cluster:</b>	RCRA Cluster IX
<b>Provision Type:</b>	HSWA/non-HSWA
<b>Linkage:</b>	None
<b>Optional:</b>	Yes

**Summary:** With this rule, EPA is modifying the requirement for a post-closure permit, to allow for the use of a variety of authorities to impose requirements on non-permitted land disposal units requiring post-closure care. As a result, regulators have the flexibility to use alternate mechanisms under a variety of authorities to address post-closure care requirements, based on the particular needs at the facility. The rule also amends the regulations governing closure of land-based units that have released hazardous constituents, to allow certain regulated units where releases may have mingled with releases from solid waste management units to be addressed through the corrective action program. This will provide regulators the discretion to use corrective action requirements, rather than closure requirements, to address the closure of these regulated units. Finally, the rule specifies the Part B information submission requirements for facilities that receive post-closure permits.

**State Authorization:** This rule is placed in RCRA Cluster IX. The State modification deadline is July 1, 2000 (or July 1, 2001 if a State statutory change is necessary). The revisions to 40 CFR 264.90(f), 264.110(c), 264.112(b)(8), 264.112(c)(2)(iv), 264.118(b)(4), 264.118(d)(2)(iv), 264.140(d), 265.90(f), 265.110(d), 265.112(b)(8), 265.112(c)(1)(iv), 265.118(c)(5), 265.118(d)(1)(iii), 265.121(a)(2), 265.140(d) and 271.16(e) are promulgated pursuant to HSWA. Because these provisions are not more stringent, they are immediately effective only in those States not authorized for the base RCRA program. The revisions to 40 CFR 264.90(e), 265.110(c), 265.118(c)(4), 265.121 (except for 265.121(a)(2)), 270.1, 270.14(a), and 270.28 are promulgated relative to non-HSWA authority. Only final authorization is available. Since none of the provisions addressed by this rule make the Federal regulations more stringent, States are not required to adopt them; therefore, Revision Checklist 174 is optional.

States seeking authorization for this checklist must submit copies of statutes and regulations that the State plans to use to impose cleanup requirements. Those statutes and regulations must provide authority sufficient to impose requirements consistent with 264.101 (facility-wide assessments, to address all releases as per RCRA § 3004(u), and to protect human health and the environment), sue in court, and assess or sue in court for civil penalties in order to be authorized for this checklist. This rule will also add new requirements to 40 CFR 271.16. States seeking

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authorization to use alternative cleanup authorities must show that they have authority to go to court to compel compliance with cleanup requirements and to recover civil penalties for noncompliance.

The State Revision Application must include applicable statutes and regulations, AG statement addendum, Revision Checklist 174, other associated checklists and other application materials, e.g., a program description and an MOA, as determined by the Regional office.

**Attorney General's Statement Entries:** The following entries should be placed at Subsection XV (AA) and (BB) in the Model Revision Attorney General's Statement.

AA. [OPTIONAL: This is a reduced requirement.] State statutes and regulations remove requirements to issue post-closure permits at each facility and allow post-closure care requirements to be imposed at interim status facilities using either permits or approved alternate authorities as indicated in Revision Checklist 174.

Federal Authority: RCRA §§ 2002(a), 3005 and 3006; 40 CFR 264.90(e), 265.110(c), 265.118(c)(4), 265.121 and 270.1(c) as amended October 22, 1998 (63 FR 56710).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

BB. [OPTIONAL: This is a reduced requirement.] State statutes and regulations give discretion to the State Director to impose requirements developed for corrective action in lieu of Subparts F, G, and H at certain regulated facilities, either permitted or interim status, that appear to have released to the environment, if nearby SWMUs also appear to have contributed to the same release as indicated in Revision Checklist 174.

Federal Authority: RCRA §§ 2002(a), 3004, 3005 and 3006; 40 CFR 264.90(f), 264.110(c), 264.112(b)&(c), 264.118(b)&(d), 264.140(d), 265.90(f), 265.110(d), 265.112(b)&(c), 265.118(c)(5)&(d)(1)(iii), and 265.140(d) as amended October 22, 1998 (63 FR 56710).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

The following entry should be placed at Subsection XVI (CC) in the Model Revision Attorney General's Statement.

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CC. [OPTIONAL]: This is a reduced requirement.] State statutes and regulations require that owners and operators seeking a post-closure permit have to submit only that information required by 40 CFR 270.28 as indicated in Revision Checklist 174.

Federal Authority: RCRA §3006; 40 CFR 270.14 and 270.28 as amended October 22, 1998 (63 FR 56710).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

**Incorporation by Reference Guidance:**

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