

## Revision Checklist 182 Summary

<b>Rule Title:</b>	NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule
<b>Checklist Title:</b>	Hazardous Air Pollutant Standards for Combustors, Miscellaneous Units, and Secondary Lead Smelters; Clarification of BIF Requirements; Technical Correction to Fast-track Rule
<b>Reference:</b>	64 <u>FR</u> 52828-53077; 64 <u>FR</u> 63209-63213
<b>Promulgation Date:</b>	September 30, 1999; November 19, 1999
<b>Effective Date:</b>	September 30, 1999; November 19, 1999
<b>Cluster:</b>	RCRA Cluster X
<b>Provision Type:</b>	HSWA/Non-HSWA
<b>Linkage:</b>	None
<b>Optional:</b>	No; however, certain provisions are optional

**Summary:** (1) This rule finalizes National Emissions Standards for Hazardous Air Pollutants (NESHAPS) for three source categories referred to collectively as hazardous waste combustors. Hazard waste combustors include hazardous waste burning incinerators, hazardous waste burning cement kilns, and hazardous waste burning lightweight aggregate kilns. These standards are promulgated under joint authority of the Clean Air Act (CAA) and the Resource Conservation and Recovery Act (RCRA). The rule establishes emission standards for chlorinated dioxins and furans, other toxic organic compounds, toxic metals, hydrochloric acid, chlorine gas and particulate matter. The standards reflect the performance of Maximum Achievable Control Technologies (MACT). After submittal of the Notification of Compliance (NOC) under the CAA, and after modification of the RCRA permit at individual facilities, the RCRA national stack emission standards will no longer apply to hazardous waste combustors. By using both authorities, EPA consolidates regulatory control of hazardous waste combustion into a single set of regulations, eliminating conflicting or duplicative federal requirements while increasing protection of human health and the environment.

(2) This rule added a requirement that permits for miscellaneous units must include appropriate terms and conditions from part 63, subpart EEE standards.

(3) This rule exempts secondary lead smelters from all provisions of the boilers and industrial furnaces (BIFs) requirements except for 266.101. The smelter must provide a one-time notice to the State identifying each hazardous waste burned and stating that the facility claims an exemption from other BIF requirements. Those secondary lead smelters who have already provided notice pursuant to 266.100(c) do not have to renotify.

(4) This rule incorporates the term “treatment” into 266.101(c) to clarify that fuel blending activities that are conducted in units other than 90-day tanks or containers also are subject to full regulation under RCRA.

**Revision Checklist 182 Summary (cont'd)**

(5) This rule amends the comparable fuels portion to make necessary conforming changes to the comparable fuels specifications as listed in Table 1 of 261.38.

(6) This rule corrects a typographical error to section 270.42 Appendix I entry L(9) promulgated in the June 19, 1998 Fast-track rule (Revision Checklist 168; 63 FR 33782).

**State Authorization:** This rule is placed in RCRA Cluster X. The State modification deadline is July 1, 2001 (or July 1, 2002 if a State statutory change is necessary).

The revisions to 260.10, 261.38 Table 1, 264.340(b)-(e), 264.601 intro, 265.340(b)-(c), 266.100(b)-(h), 266.101(c), 266.105(c), 266.112(b)(1) & (b)(2)(i), 266 Appendix VIII, 270.19 intro & (e), 270.22 intro, 270.62 intro, and 270.66 intro are promulgated pursuant to HSWA authorities. There are HSWA revisions that are considered more stringent than the existing Federal regulations as well as HSWA revisions that are considered less stringent than the existing Federal regulations. An authorized State is required to adopt Federal regulations that are more stringent than the authorized State regulations. These required HSWA revisions take effect in an authorized State on the Federal effective date. A State is not required to modify its program when EPA promulgates Federal regulations that are less stringent than the authorized State regulations. As such, optional revisions are not effective under HSWA in an authorized State until the State adopts and receives authorization for the changes. The revisions to 270.42 Appendix I are promulgated pursuant to non-HSWA authorities. The non-HSWA changes do not go into effect in an authorized State until the State adopts and receives authorization for the revisions. Both interim and final authorization are available for the HSWA provisions. Interim authorization expires January 1, 2003. Only final authorization is available for the non-HSWA provisions.

The State Revision Application must include applicable statutes and regulations, Revision Checklist 182, and other application materials, i.e. a supplemental AG statement, a program description, and/or an MOA, as determined by the Regional office. Note that under 271.21(b), the Regional office is allowed flexibility to determine what specific documents must be included in an application. Also, under 271.21(d), the Regional office may require the submission of any additional application materials it deems necessary.

**Attorney General's Statement Entry:** The entry at Subsection II (F) in the Model Revision Attorney General's Statement should be replaced with the following revised entry:

F. [OPTIONAL]: This is a reduced requirement.] State statutes and regulations exclude from the definition of solid waste fuels which are produced from a hazardous waste, but which are comparable to some currently used fossil fuels, as indicated in Revision Checklists 168 and 182.

**Revision Checklist 182 Summary (cont'd)**

Federal Authority: RCRA §§1004, 1006, and 3001; 40 CFR 261.4(a)(16)<sup>1</sup>, 261.38, and 261.38 Table 1, as amended June 19, 1998 (63 FR 33782), September 30, 1999 (64 FR 52828), and November 19, 1999 (64 FR 63209).

Citation of Laws and Regulations; Date of Enactment and AdoptionRemarks of the Attorney General

The following entry should be placed at Subsection XV (FF) in the Model Revision Attorney General's Statement:

FF. [OPTIONAL: This is a reduced requirement.] State statutes and regulations include an exemption for hazardous waste burning incinerators from the RCRA national stack emission standards when owners or operators demonstrate compliance with the MACT requirements of 40 CFR part 63 subpart EEE by conducting a comprehensive performance test and submitting a Notification of Compliance as indicated in Revision Checklist 182. However, after this demonstration, RCRA permit conditions will remain in effect until the permit is modified, terminated, or revoked, unless the permit expressly provides otherwise.

Federal Authority: RCRA §§ 1006(b), 3004(a), and 3005(c)(3); 40 CFR 264.340(b)-(e), 265.340(b)-(c), 270.19 intro, 270.19(e), and 270.62 intro, as amended September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and AdoptionRemarks of the Attorney General

The following entry should be placed at Subsection XV (GG) in the Model Revision Attorney General's Statement:

GG. State statutes and regulations require that permits for miscellaneous units include appropriate terms and conditions from the part 63, subpart EEE standards as indicated in Revision Checklist 182.

Federal Authority: RCRA §§ 1006(b), 3004(a), and 3005(c)(3); 40 CFR 264.601 intro, as amended September 30, 1999 (64 FR 52828).

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<sup>1</sup> 63 FR 33782 contains a typographical error. The rule indicates that it is adding 261.4(a)(16), which was previously added by 63 FR 28556 (see Revision Checklist 167). The correct numbering of the added paragraph should be 261.4(a)(17).

**Revision Checklist 182 Summary (cont'd)**

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

### Revision Checklist 182 Summary (cont'd)

The entry at Subsection XVI (BB) in the Model Revision Attorney General's Statement should be replaced with the following revised entry:

BB. [OPTIONAL]: This is a reduced requirement.] State statutes and regulations include requirements for hazardous waste combustion facility permit modifications to meet 40 CFR part 63 MACT standards as indicated in Revision Checklists 168 and 182. State statutes and regulations also address such changes during interim status.

Federal Authority: RCRA §§ 1006, 3004, 3005, and 7004; 40 CFR 270.42(j), 270.42 Appendix I (L(9)), and 270.72(b)(8), as amended June 19, 1998 (63 FR 33782) and September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

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

EE. [OPTIONAL]: This is a reduced requirement.] State statutes and regulations include requirements for permit modifications to remove permit conditions that are no longer applicable as indicated in Revision Checklist 182.

Federal Authority: RCRA §§ 1006(b), 3004(a), and 3005(c)(3); 40 CFR 270.42 Appendix I (A(8)), as amended September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

The following entry should be placed at Subsection XX(I) in the Model Revision Attorney General's Statement:

I. State statutes and regulations include requirements related to the MACT standards limiting emissions of chlorinated dioxins, furans, other toxic organic compounds, toxic metals, hydrochloric acid, chlorine gas, and particulate matter as indicated in Revision Checklist 182.

Federal Authority: RCRA §1006(b), 3004(a) and 3005(c)(3); 40 CFR 260.10, 266.105(c), 266.112(b) and 266, Appendix VIII as amended September 30, 1999 (64 FR 52828) and November 19, 1999 (64 FR 63209).

Citation of Laws and Regulations; Date of Enactment and Adoption

**Revision Checklist 182 Summary (cont'd)**Remarks of the Attorney General

The following entry should be placed at Subsection XX(J) in the Model Revision Attorney General's Statement:

J. [OPTIONAL: This is a reduced requirement.] State statutes and regulations include an exemption for hazardous waste burning cement kilns or aggregate kilns from the RCRA national stack emission standards when owners or operators demonstrate compliance with the MACT requirements of 40 CFR part 63 subpart EEE by conducting a comprehensive performance test and submitting a Notification of Compliance as indicated in Revision Checklist 182. However, after this demonstration, RCRA permit conditions will remain in effect until the permit is modified, terminated, or revoked, unless the permit expressly provides otherwise.

Federal Authority: RCRA §§ 1006(b), 3004(a), and 3005(c)(3); 40 CFR 266.100(b), 270.22 intro, and 270.66 intro, as amended September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and AdoptionRemarks of the Attorney General

The following entry should be placed at Subsection XX (K) in the Model Revision Attorney General's Statement:

K. [OPTIONAL: This is a reduced requirement.] State statutes and regulations include an exemption for secondary lead smelters from all provisions of the boilers and industrial furnaces (BIFs) requirements except for 266.101, as indicated in Revision Checklist 182. The smelter must provide a one-time notice to the State identifying each hazardous waste burned and stating that the facility claims an exemption from other BIF requirements. Those secondary lead smelters who have already provided notice pursuant to 266.100(c) do not have to renotify.

Federal Authority: RCRA §§ 1006, 3004, and 3005; 40 CFR 266.100(d)(1) intro, 266.100(d)(3) intro, and 266.100(h), as amended September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and AdoptionRemarks of the Attorney General

**Revision Checklist 182 Summary (cont'd)**

The following entry should be placed at Subsection XX(L) in the Model Revision Attorney General's Statement:

L. State statutes and regulations clarify that fuel blending activities that are conducted in units other than 90-day tanks or containers are also subject to regulation as indicated in Revision Checklist 182.

Federal Authority: RCRA §§ 3004 and 3005; 40 CFR 266.101(c) intro and 266.101(c)(1) as amended as amended September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

**Incorporation by Reference Guidance:** Note that this checklist references 40 CFR Part 63, subpart EEE and §§ 63.1207(j) and 63.1210(d) relative to integration of the MACT standards. A State may either directly reference the provisions in 40 CFR Part 63, or incorporate the provisions into its regulations and reference the provisions within its regulations. If the first approach is used, the State must make sure that its Administrative Procedures Act allows the State to reference the Federal regulations. References to the 40 CFR Part 63 provisions are found at the following citations:

264.340(b)(1)  
 264.601 introductory paragraph  
 265.340(b)(1)  
 266.100(b)(1)  
 270.19(e)  
 270.22 introductory paragraph  
 270.42, Appendix I, item L(9)  
 270.62 introductory paragraph  
 270.66 introductory paragraph

Also note that the Federal Register does not reprint the introductory paragraph at 266.100(d)(3) after the newly inserted phrase. The paragraph contains references to subparagraphs of 266.100(c) which has been redesignated as 266.100(d). This paragraph should have been reprinted and the references changed to reflect the redesignation. Also, the July 1, 2000 CFR contains an error at this provision. The introductory paragraph is only printed through the new language, the rest of the paragraph has been omitted. State's should modify their adoption of the provision to include the inadvertently omitted text.