

Revision Checklist 103 Summary

Rule Title:	Hazardous Waste Management System: Land Disposal Restrictions
Checklist Title:	Hazardous Debris Case-by-Case Capacity Variance
Reference:	57 <u>FR</u> 20766-20770
Promulgation Date:	May 15, 1992
Effective Date:	May 8, 1992
Cluster:	RCRA II
Provision Type:	HSWA
Linkage:	Revision Checklists 78, 83, 109, 116, 123, 137, and 157
Optional:	No

Summary: On June 1, 1990 (55FR 22520; Revision Checklist 78), EPA promulgated a final rule establishing prohibitions and treatment standards for "Third Third" wastes. Because of a lack of treatment capacity, EPA granted a two-year national capacity variance for most hazardous debris. As such, these wastes are prohibited from land disposal on May 8, 1992, unless the treatment standards are met. On January 9, 1992, proposed hazardous debris treatment standards were published which would replace the existing standards published as part of the Third Third rule. While the final rule has been delayed by the review process, it should be issued by June 30, 1992. This May 15, 1992 rule provides, under 40CFR 268.5, a one-year extension of the Land Disposal Restrictions (LDRs) effective date for hazardous waste debris. The action is taken because EPA recognizes that owners and operators of treatment, storage and disposal facilities will have difficulty in obtaining treatment capacity that meets the January 9, 1992 proposed standards for hazardous debris, or that could meet the existing treatment standards by May 8, 1992, when the national capacity variance for most debris expires.

The extension adopted by this rule includes more types of debris than were granted a national capacity extension in the June 1, 1990 final rule (55FR 22520, Revision Checklist 78). In the June 1, 1990 rule, only inorganic solid debris and other debris contaminated with a waste whose treatment standard was based on incineration, mercury retorting, or vitrification received a variance. In this rule, all debris (both organic debris and inorganic solid debris) that is hazardous, with several exceptions, is receiving an extension. The exceptions include debris contaminated with listed solvent or dioxin waste covered in the RCRA §3004(e) prohibition and debris contaminated with non-liquid "California List Waste", pursuant to RCRA §3004(d), because the time for granting national and case-by-case capacity variance for these waste has expired and further extension is not possible.

The final rule that EPA plans to issue on June 30, 1992 is likely to amend the definition of debris in response to comments received on the January 9, 1992 proposed rule. At that time, EPA will explain how any such change would affect the case-by-case extension promulgated by the May 15, 1992 rule.

State Authorization: This rule is placed in RCRA Cluster II. The State modification deadline is July 1, 1993 (or July 1, 1994 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. An interim final rule was published in mid December, 1992, extending interim authorization for HSWA provisions until January 1, 2003. The State Revision Application must include applicable regulations, AG statement addendum, Revision Checklist 103, 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 XXI in the Model Revision Attorney General's Statement.

Revision Checklist 103 Summary (cont'd)

I. State statutes and regulations provide an extension of the land disposal restriction effective date for hazardous waste debris until May 8, 1993, as indicated in Revision Checklist 103.

Federal Authority: RCRA §3004(h)(3); 40 CFR 268.35(e) as amended May 15, 1992 (57 FR 20766).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General