

Revision Checklist 186 Summary
(Not applicable to State Programs)

Rule Title:	Amendments to Streamline the National Pollutant Discharge Elimination System Program Regulations: Round Two
Checklist Title:	[<i>No Checklist Issued</i>]
Reference:	65 <u>FR</u> 30886-30913
Promulgation Date:	May 15, 2000
Effective Date:	June 14, 2000
Cluster:	RCRA Cluster X
Provision Type:	Non-HSWA
Linkage:	None
Optional:	[<i>This rule is not applicable to State programs.</i>]

Summary: This rule modifies EPA’s procedures for terminating RCRA permits. Prior to this rule, the federal regulations contained a three step process for a decision to terminate a permit for a hazardous waste treatment, storage, or disposal facility. The three steps were: (1) public comment and informal hearing under 40 CFR 124.10 and 124.12, (2) a formal evidentiary hearing under Subpart E of 40 CFR Part 124, and (3) an appeal to the Environmental Appeals Board (EAB) under 40 CFR 124.19. This rule eliminates the formal evidentiary hearing procedures in Subpart E of 40 CFR Part 124. Now, the involuntary termination of permits will be processed in accordance with EPA’s “Consolidated Rules of Procedures” at 40 CFR Part 22 instead of 40 CFR Part 124. The new two step process includes: (1) a hearing under Part 22, and (2) an appeal to the EAB under 40 CFR 22.30. For termination at the request of the permittee, the part 124 two step process for the issuance of RCRA permits will be used without a formal evidentiary hearing.

In addition, this rule removes the non-adversary panel procedures of Subpart F of 40 CFR Part 124. Prior to this rule, the Regional Administrator had discretion to process the issuance of a RCRA permit under those procedures in lieu of the informal hearing procedures at 40 CFR 124.12. This is no longer an option.

Finally, this rule modifies the provisions at 40 CFR 124.16 regarding when the conditions of a RCRA permit take effect if appealed to the EAB. Contested permit conditions are stayed as of the date of the filing of a request for review by the EAB until final action is taken. Uncontested permit conditions take effect 30 days after the Regional Administrator notifies the EAB, the permit applicant, and other interested parties as to which conditions are uncontested.

State Authorization: The revisions addressed by this final rule only impact the procedures used by EPA for appeals of permit decisions. According to the State authorization requirements in 40 CFR 271.14, EPA does not require State programs to have equivalent procedures for appeals in their programs. Therefore, the revisions made by this rule concerning permit appeal and termination procedures have no impact on authorized State programs. EPA will *not* authorize States for this rule and has, therefore, not issued a checklist to be used by States.

Revision Checklist 186 Summary (cont'd)

The following table summarizes changes made by his rule to specific Federal provisions which are listed in 40 CFR 271.14.

124.5(d)	Amended to indicate that EPA-initiated termination of a RCRA permit shall be processed in accordance with 40 CFR Part 22
124.10(a)(1)(iii) and (d)(2)	Amended to eliminate internal references to Subparts E and F which were removed
270.32(c)	Amended to eliminate internal reference to Subparts E and F which were removed
270.43(b)	Amended to include a reference to the procedures in 40 CFR Part 22 for EPA-initiated termination of RCRA permits

Incorporation by Reference Guidance: There is no special guidance for States that incorporate by reference with respect to this rule. Note, however, that States that have incorporated by reference any of the procedures in 40 CFR Parts 124 and 270 should refer to the *Guidelines for State Adoption of Federal RCRA Regulations By Reference*.