

Revision Checklist 117 A Summary

Rule Title:	This rule consolidates the changes made by the following three rules: <ul style="list-style-type: none">● "Mixture" and "Derived-From" Rules; Response to Court Remand● "Mixture" and "Derived-From" Rules; Technical Correction● "Mixture" and "Derived-From" Rules; Final Rule
Checklist Title:	Reissuance of the Mixture and Derived-From Rules
Reference:	57 <u>FR</u> 7628-7633, 57 <u>FR</u> 23062-23063, and 57 <u>FR</u> 49278-49279
Promulgation Date:	March 3, 1992; June 1, 1992; and October 30, 1992
Effective Date:	February 18, 1992; June 1, 1992; and October 30, 1992
Cluster:	RCRA Cluster III
Provision Type:	Non-HSWA/HSWA
Linkage:	None
Optional:	Yes

Summary: On December 6, 1991, a panel of the U.S. Court of Appeals for the District of Columbia Circuit ruled that EPA had failed to give sufficient notice and opportunity for comment in promulgating the "mixture" and "derived-from" rules. The court remanded them to the agency and suggested EPA reinstate the rules on an interim basis and solicit comment. The March 3, 1992 interim final rule simultaneously removed and reissued 40 CFR 261.3. The interim final rule was amended by the technical correction on June 1, 1992 (57 FR 23062). An October 30, 1992 (57 FR 49278) final rule removed the April 28, 1993 expiration date of the March 3, 1992 (57 FR 7628) interim final rule. EPA intends to promulgate revisions to the mixture and derived-from rules within 12-24 months of the October 30, 1992 final rule.

Revision Checklist 117 A is an optional checklist and was developed for those States who feel it necessary to adopt the reissued mixture and derived-from rule promulgated on March 3, 1992 (57 FR 7628), and subsequently amended on June 1, 1992 (57 FR 23062), and on October 30, 1992 (57 FR 49278). This checklist consolidates all these rules into one checklist except for a change made to 261.3(a)(2)(i) by the June 1, 1993 rule. That change is addressed by a separate checklist because it corrects an omission made by the Toxicity Characteristic rule by replacing "Extraction Procedure Toxicity Characteristics" to "Toxicity Characteristic" in 261.3(a)(2)(i). This change makes the code more stringent and is, therefore, a required change.

State Authorization: This rule is placed in RCRA Cluster III. According to the due date for the last rule (the October 20, 1992 rule) addressed by Revision Checklist 117 A, the State modification deadline is July 1, 1994 (or July 1, 1995, if a State statutory change is necessary). The "mixture" and "derived-from" rules predate HSWA authority and are, therefore, non-HSWA requirements. However, certain changes made to 261.3 were made by HSWA authority, in particular the addition of 261.3(c)(2)(ii)(C), which was mistakenly left out of the March 3, 1992, reissuance of 261.3 and re-added by the June 1, 1992 technical corrections. This is an optional checklist. For those States that choose to adopt it, the State Revision Application must include applicable regulations, AG statement addendum, Revision Checklist 117 A, other associated checklists and other application materials, i.e. a program description and an MOA, as determined by the Regional office.

Revision Checklist 117 A Summary (cont'd)

Attorney General's Statement Entry: The following entry should be placed at Subsection I Z in the Model Revision Attorney General's Statement.

Z. [OPTIONAL]: This is a reduced requirement.] State statutes and regulations contain reissued mixture and derived-from rules as indicated in Revision Checklist 117 A.

Federal Authority: RCRA §§1006, 2002(a), and 3001-3005; 40 CFR 261.3, as amended March 3, 1992 (57 FR 7628), June 1, 1992 (57 FR 23062) and October 30, 1992 (57 FR 49278).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General