

Revision Checklist 105 Summary

Rule Title :	Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Exclusions
Checklist Title :	Recycled Coke By-Product Exclusion
Reference :	57 <u>FR</u> 27880-27888
Promulgation Date :	June 22, 1992
Effective Date :	June 22, 1992
Cluster :	RCRA II
Provision Type :	HSWA
Linkage :	Revision Checklists 98 and 110, and affects 261.4(a)(10) which was added by Revision Checklist 85
Optional :	Yes

Summary: This final rule excludes from the definition of solid waste those coke by-product residues that are recycled by being (1) returned to coke ovens as feedstock to produce coke; (2) returned to the tar recovery process as a feedstock to produce coal tar; or (3) mixed with coal tar prior to coal tar refining or sale. These residues are hazardous because they exhibit the Toxicity Characteristic (TC) of 40 CFR 261.24. The exclusion also includes similarly-situated hazardous waste K087 when recycled in this way. These exclusions are conditioned on there being no land disposal of the recycled material. The exclusion was proposed on July 26, 1991 (56 FR 35758). At that time, EPA also proposed to list as hazardous seven wastes from the production, recovery and refining of coke by-products. EPA will address these listings in a separate final rule to be issued at a later date.

The June 22, 1992 rule differs from two previous rules affecting coke by-product plant residues returned to coke ovens. First, the final BIF rule's (February 21, 1991, 56 FR 7134; Revision Checklist 85) exclusion from the definition of solid waste applied to only coke and coal tar produced from hazardous waste K087 and, unlike the present rule, did not extend to coke or coal tar produced from non-K087 wastes. Second, an Administrative Stay was issued on September 5, 1991 (56 FR 43874; Revision Checklist 98) to halt the application of RCRA air emission standards to coke ovens when they reprocess non-K087 coke by-products residues. The June 22, 1992 final rule differs from the stay in that it does not just apply to the coke production process but instead excludes from the definition of solid waste coke by-product plant residues that exhibit the TC, when they are recycled by being returned to coke ovens or mixed with coal tar. This present rule (57 FR 27880) removes the administrative stay from the code that was introduced by the September 5, 1991 rule (56 FR 43874).

State Authorization: This rule is placed in RCRA Cluster II. The exclusion reduces the scope of the Federal program, therefore, States are not required to adopt the changes addressed by this rule. States may, however, impose requirements that are broader in scope or more stringent than those imposed under Federal regulations. As such, the checklist developed for this rule has been designated as optional. However, EPA strongly encourages States to adopt the checklist as quickly as possible in order to minimize disruption to legitimate recycling practices currently taking place in the coking industry. 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 as 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

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HSWA provisions until January 1, 2003. If a State chooses to adopt these provisions, it must include in its application, applicable regulations, AG statement addendum, Revision Checklist 105, 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 I Y in the Model Revision Attorney General's Statement.

Y. [OPTIONAL: This is a reduced requirement.] State statutes and regulations exclude from being a solid waste K087 and those coke by-product residues that are hazardous only because they exhibit the Toxicity Characteristic when, subsequent to generation, these materials are recycled by being returned to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar as indicated in Revision Checklist 105.

Federal Authority: RCRA §3001(e)(2) and (h); 40 CFR 261.4(a)(10) as amended June 22, 1992 (57 FR 27880).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

The following entry should replace the current Subsection XX D entry:

D. [FOR STATES THAT ADOPTED REVISION CHECKLIST 98 ADMINISTRATIVE STAY.] State statutes and regulations no longer contain the Revision Checklist 98 administrative stay of the permitting standards for boilers and industrial furnaces as they apply to coke ovens burning certain hazardous wastes from the coke by-products recovery process. The administrative stay ended on June 22, 1992, as indicated in Revision Checklist 105.

Federal Authority: 5 U.S.C. 705; RCRA §§2002(a) and 3001(b)&(e)(1); 40 CFR 266.100(a) as amended September 5, 1991 (56 FR 43874) and June 22, 1992 (57 FR 27880).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General