

## Revision Checklist 197 Summary

<b>Rule Title:</b>	NESHAP: Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Interim Standards Rule)
<b>Checklist Title:</b>	Hazardous Air Pollutant Standards for Combustors: Interim Standards
<b>Reference:</b>	67 <u>FR</u> 6792-6818
<b>Promulgation Date:</b>	February 13, 2002
<b>Effective Date:</b>	February 13, 2002
<b>Cluster:</b>	RCRA Cluster XII
<b>Provision Type:</b>	HSWA/Non-HSWA
<b>Linkage:</b>	Revision Checklist 182, 188, 198
<b>Optional:</b>	Yes

**Summary:** On September 30, 1999, as amended November 19, 1999 (Revision Checklist 182; 64 FR 52828 & 64 FR 63209), the Agency promulgated the NESHAPS rule to control emissions of hazardous air pollutants from incinerators, cement kilns and lightweight aggregate kilns that burn hazardous wastes. Portions of the rule were challenged and subsequently vacated by the U.S. Court of Appeals for the District of Columbia Circuit on July 24, 2001. On October 19, 2001, EPA and all petitioners jointly moved the Court to stay the issuance of its mandate for four months to allow EPA time to develop interim standards. The motion also included plans for EPA to issue final standards by June 14, 2005 and to promulgate by February 14, 2002, a rule with amended interim emission standards and compliance and implementation amendments. The Court granted EPA's request and stayed issuance of its mandate until February 14, 2002.

In general, this rule (Revision Checklist 197) amends the September 1999 NESHAPS rule to accommodate the parties' joint motion. This rule replaces the vacated emission standards temporarily until final standards are promulgated (by June 14, 2005). EPA believes this Interim Standards Rule best fulfills the statutory requirement to have national emission standards in place by a specified time, while avoiding unnecessary disruption and burden to regulated industry, and affected state and federal administrative agencies.

**State Authorization:** This rule is placed in RCRA Cluster XII. The State modification deadline is July 1, 2003 (or July 1, 2004 if a State statutory change is necessary).

The amendment in 40 CFR 270.235 is promulgated under both HSWA and non-HSWA authorities, depending on the waste management unit to which the standards apply. All other revisions are promulgated under HSWA authority. The HSWA revisions will go into effect in all States, including authorized States, on the effective date of this rule. The 40 CFR 270.235 amendments regarding non-HSWA units (i.e., incinerators) will only become effective in an authorized State when the State amends its regulations to include the applicable provisions and receives authorization.

All revisions are considered to be neither more nor less stringent than current regulations; they are deemed to provide equivalent regulatory protection. Thus, this rule is optional, although EPA *strongly encourages* states to make the revisions.

## Revision Checklist 197 Summary (cont'd)

**Attorney General (AG) Certification Guidance:** Specific AG certification of statutory authority may not be required for this checklist as long as the AG has previously demonstrated authority for interim status, permitting, and air emissions standards.

**Program Description (PD) Guidance:** A State seeking authorization for this checklist should determine whether the revisions impact the program described in the Program Description. This rule does not include any significant changes or additions affecting the RCRA program and thus, States should not need to submit a revised PD.

**Incorporation by Reference Guidance:** Throughout the rule represented by Revision Checklist 197, the terms “Administrator” and “Director” are used to mean the same person (the head of each agency). Different terms are used because the Air program uses the term “Administrator”, while the Hazardous Waste program generally uses “Director” relative to air emissions standards. Thus, “Administrator” is used in provisions which reference 40 CFR part 63 (the Air program), while “Director” is used in provisions which reference air emissions standards in 40 CFR parts 260 through 279. States should substitute the term they use for the State “Heads” of the Air and Hazardous Waste programs for “Administrator” and “Director”, respectively.