

Revision Checklist 136 Summary

Rule Title:	Standards for the Management of Specific Hazardous Wastes; Amendment to Subpart C—Recyclable Materials Used in a Manner Constituting Disposal; Final Rule
Checklist Title:	Removal of the Conditional Exemption for Certain Slag Residues
Reference:	59 <u>FR</u> 43496-43500
Promulgation Date:	August 24, 1994
Effective Date:	February 24, 1995
Cluster:	RCRA Cluster V
Provision Type:	HSWA
Linkage:	Revision Checklists 167A-C
Optional:	No

Summary. This rule amends 266.20 so that certain uses of slag residues produced from the high temperature metal recovery (HTMR) treatment of electric arc furnace dust (K061), steel finishing pickle liquor (K062), and electroplating sludges (F006) are not exempt from RCRA Subtitle C regulations. Specifically, this rule prohibits anti-skid/deicing uses of HTMR slags derived from K061, K062, and F006 as waste-derived products placed on the land, unless there is compliance with all Subtitle C standards applicable to land disposal. Because the land disposal requirements cannot be realistically met by entities that would use the HTMR slag in this fashion, EPA is effectively prohibiting uses of HTMR slags as anti-skid/deicing materials. This rule also clarifies the definition of non-encapsulated uses of HTMR slags by specifying these uses to be the anti-skid/deicing uses.

This rule partially implements a settlement agreement that EPA entered into on August 13, 1993 with the Natural Resources Defense Council and the Hazardous Waste Treatment Council. This agreement addresses the challenge made by both Councils to EPA's August 13, 1991 (Revision Checklist 95; 56 FR 41164) decision not to apply the generic exclusion levels at which K061 slags are deemed nonhazardous to K061 slags used as waste-derived products that are applied to or placed on the land. (This decision was extended to K062 and F006 HTMR slags on August 18, 1992 (Revision Checklist 109; 57 FR 37194)). The generic exclusion levels established for some metals in the K061 HTMR slags are lower than the BDAT standards that apply to K061. Therefore, while the generic exclusion requires nonhazardous K061 slags meeting exclusion levels to be disposed of in a Subtitle D unit, K061 slags that may exhibit metal levels above the exclusion levels, but below BDAT, may be used as products in a manner constituting disposal in the exemption in 266.20(b). While this amendment effectively prohibits the anti-skid/deicing uses of K061; K062; and F006-derived HTMR slags as waste-derived products placed on the land, it does not prohibit other uses of these slags that meet 266.20(b) requirements and does not prevent the disposal of HTMR slags in Subtitle D units if the residues can meet the risk-based exclusion levels specified at 261.3(c)(2). EPA proposed a rule covering the major HTMR slag uses on December 29, 1994 (59 FR 67256). The proposal has not been finalized yet.

State Authorization: This rule is placed in RCRA Cluster V. The State modification deadline is July 1, 1996 (or July 1, 1997 if a State statutory change is necessary). EPA views this rule as a HSWA regulation, as it is viewed as part of the process establishing land disposal prohibitions and treatment standards for K061, K062, and F006 hazardous wastes. Therefore these requirements go into effect immediately. Both interim and final authorization are available, with interim authorization expiring on January 1, 2003.

Revision Checklist 136 Summary (cont'd)

The State Revision Application must include applicable regulations, AG statement addendum, Revision Checklist 136, 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 XV V in the Model Revision Attorney General's Statement.

V. State statutes and regulations remove from the 266.20(b) exemption anti-skid/deicing uses of slags from high temperature metals recovery (HTMR) processing of hazardous wastes K061, K062, and F006 as indicated in Revision Checklist 136.

Federal Authority: RCRA §3004; 40 CFR Parts 266.20(c) and 268.41(a) as amended August 24, 1994 (59 FR 43496).

Citation of Laws and Regulations; Date of Adoption and Effective Date

Remarks of the Attorney General