

Revision Checklist 224 Summary

Rule Title:	Withdrawal of the Emission Comparable Fuel Exclusion
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Reference:	75 <u>FR</u> 33712-33724
Promulgation Date:	June 15, 2010
Effective Date:	June 5, 2010
Cluster:	RCRA Cluster XX
Provision Type:	Non-HSWA
Linkage:	168, 221
Optional:	No, if authorized for CL 168

Summary: This rule withdraws the conditional exclusion from regulations promulgated on December 19, 2008 under subtitle C of the Resource Conservation and Recovery Act (RCRA) for so-called Emission Comparable Fuel (ECF). These are fuels produced from hazardous secondary materials which, when burned in industrial boilers under specified conditions, generate emissions that are comparable to emissions from burning fuel oil in those boilers. EPA withdrew this conditional exclusion because the Agency has concluded that ECF is more appropriately classified as a discarded material and regulated as a hazardous waste. The exclusions for comparable fuel and synthesis gas fuel are not addressed or otherwise affected by this rule. Therefore, this rule is equivalent to and also supersedes the June 19, 1998 (63 FR 33782) known as checklist 168. If a State has not adopted the June 19, 1998 rule, the State may instead adopt this rule.

State Authorization: This rule is placed in RCRA Cluster XX. The state modification deadline is July 1, 2011 (or July 1, 2012 if a state statutory change is necessary).

This rule is promulgated pursuant to non-HSWA authority and is considered to be less stringent than the current federal requirements. Therefore, states will not be required to adopt and seek authorization for this rule.

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 the definition of solid waste.

Program Description (PD) Guidance: A state seeking authorization for this checklist should determine whether the revisions impact the program described in the Program Description.

Incorporation by Reference Guidance: There is no special guidance for states that incorporate by reference.