

Revision Checklist 219 Summary

Rule Title:	Revisions to the Definition of Solid Waste
Checklist Title:	Revisions to the Definition of Solid Waste
Reference:	73 <u>FR</u> 64668 - 64788
Promulgation Date:	October 30, 2008
Effective Date:	December 29, 2008
Cluster:	RCRA Cluster XIX
Provision Type:	Non-HSWA
Linkage:	13
Optional:	Yes

Summary: Today's rule revises the definition of solid waste to exclude certain hazardous secondary materials which are being reclaimed from regulation under Subtitle C of RCRA. The rule also promulgated regulatory factors for determining when recycling is legitimate.

EPA is proposing a rule to withdraw the Emission Comparable Fuels (ECF) rule, which became effective on January 20, 2009. The proposal will present the agency's concerns and request comments from the public after publication in the Federal Register, planned for November, 2009. After evaluating the public comments, EPA will make a decision on whether to repeal the exclusion.

State Authorization: This rule is placed in RCRA Cluster XIX. The state modification deadline is July 1, 2010 (or July 1, 2011 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.