

Revision Checklist 221 Summary

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| Rule Title: | Expansion of RCRA Comparable Fuel Exclusion |
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| Reference: | 73 <u>FR</u> 77954-78017 |
| Promulgation Date: | December 19, 2008 |
| Effective Date: | January 20, 2009 |
| Cluster: | RCRA Cluster XIX |
| Provision Type: | Non-HSWA |
| Linkage: | 168 |
| Optional: | Yes |

Summary: This rule expands the exclusion from the definition of solid waste of fuels to include certain hazardous secondary materials called “emission comparable fuel” (ECF). The rule specifies conditions on burning ECF which assure that emissions from industrial boilers burning ECF are comparable to emissions from industrial boilers burning fuel oil. The ECF exclusion also includes conditions for tanks and containers storing ECF to assure that discard does not occur.

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.