

RCRA REVISION CHECKLIST 168

Hazardous Waste Combustors; Revised Standards
 63 FR 33782 - 33829
 June 19, 1998
 (RCRA Cluster VIII, non-HSWA provisions)

Note that the June 19, 1998 rule addressed by this checklist makes amendments addressing the Clean Air Regulations. These changes are not necessary for RCRA authorization for this rule; however, of concern are those places within the RCRA regulations which reference changes made to the Clean Air Regulations. In these situations, a State must reference regulations analogous to the referenced provisions. A State may, if it has chosen to adopt these optional Clean Air Regulation changes, reference its own corresponding analog. If choosing not to adopt them, a State should retain the reference to the Federal regulations. Those provisions where this issue of concern have been indicated with a “✓” in the far left margin.

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A - GENERAL

EXCLUSIONS

1,† add paragraph; comparable fuels or syngas fuels that meet requirements of 261.38	261.4(a)(16)					
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SUBPART D - LISTS OF HAZARDOUS WASTES

2,† **COMPARABLE/SYNGAS FUEL EXCLUSION**

wastes meeting following comparable/syngas fuel requirements are not solid wastes:	261.38 intro					
comparable fuels; physical and constituent specifications	261.38(a) intro					
	261.38(a)(1) intro					
	261.38(a)(1)(i)					
	261.38(a)(1)(ii)					
	261.38(a)(2)					

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Revised Standards (cont'd)

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synthesis gas fuel specifications	261.38(b) intro					
	261.38(b)(1)					
	261.38(b)(2)					
	261.38(b)(3)					
	261.38(b)(4)					
	261.38(b)(5)					
Detection and Detection Limit Values for Comparable Fuel Specification	261.38/Table 1					
implementation; waste meeting comparable or syngas fuel specification is excluded from the definition of solid waste provided following requirements are met:	261.38(c) intro					
notices; person claiming and qualifying for exclusion is comparable/syngas fuel generator; person burning fuel is comparable/syngas burner; generator must claim and certify exclusion	261.38(c)(1)					
State RCRA and CAA Directors in authorized States or Regional RCRA and CAA Directors in unauthorized States	261.38(c)(1)(i) intro					
generator must submit one-time notice certifying compliance with conditions of exclusion and providing required documentation	261.38(c)(1)(i)(A)					

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			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
generator shall specify facility(ies) generating comparable/syngas fuel	261.38(c)(1)(i)(B)					
generator's notification requirements	261.38(c)(1)(i)(C) intro					
	261.38(c)(1)(i)(C)(1)					
	261.38(c)(1)(i)(C)(2)					
	261.38(c)(1)(i)(C)(3)					
	261.38(c)(1)(i)(C)(4)					
public notice; prior to burning excluded comparable/syngas fuel, burner must publish notice; information requirements	261.38(c)(1)(ii) intro					
	261.38(c)(1)(ii)(A)					
	261.38(c)(1)(ii)(B)					
	261.38(c)(1)(ii)(C)					
	261.38(c)(1)(ii)(D)					
	261.38(c)(1)(ii)(E)					
✓ burning; exclusion for comparable/syngas fuel applies only if fuel is burned in units subject to Federal/State/local air emission requirements, including applicable CAA MACT requirements	261.38(c)(2) intro					
industrial furnaces as defined in § 260.10	261.38(c)(2)(i)					
boilers as defined in § 260.10, and	261.38(c)(2)(ii) intro					

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industrial boilers located on facility engaged in manufacturing process where substances are transformed into new products, including component parts of products, by mechanical or chemical processes; or	261.38(c)(2)(ii)(A)					
utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale	261.38(c)(2)(ii)(B)					
✓ hazardous waste incinerators subject to regulation under subpart O of parts 264 and 265, or applicable CAA MACT standards	261.38(c)(2)(iii)					
blending to meet viscosity specification; hazardous waste blending requirements	261.38(c)(3) intro					
	261.38(c)(3)(i)					
	261.38(c)(3)(ii)					
	261.38(c)(3)(iii)					
treatment to meet comparable fuel exclusion specifications	261.38(c)(4) intro					
hazardous waste may be treated to meet exclusion specification if standards are met; treatment standards	261.38(c)(4)(i) intro					
	261.38(c)(4)(i)(A)					
	261.38(c)(4)(i)(B)					
	261.38(c)(4)(i)(C)					
residuals resulting from treatment of listed subpart D hazardous waste to generate a comparable fuel remain hazardous waste	261.38(c)(4)(ii)					

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generation of a syngas fuel	261.38(c)(5) intro					
syngas fuel can be generated from processing hazardous wastes to meet exclusion specification; processing standards	261.38(c)(5)(i) intro					
	261.38(c)(5)(i)(A)					
	261.38(c)(5)(i)(B)					
	261.38(c)(5)(i)(C)					
residuals resulting from treatment of listed subpart D hazardous waste to generate a comparable fuel remain hazardous waste	261.38(c)(5)(ii)					
dilution prohibition for comparable/syngas fuels	261.38(c)(6)					
waste analysis plans; generator shall develop and follow written waste analysis plan; plan shall be developed in accordance with SW-846 and followed/retained at facility excluding waste	261.38(c)(7) intro					
minimum specifications for waste analysis plan	261.38(c)(7)(i) intro					
	261.38(c)(7)(i)(A)					
	261.38(c)(7)(i)(B)					
	261.38(c)(7)(i)(C)					
	261.38(c)(7)(i)(D)					
	261.38(c)(7)(i)(E)					

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waste analysis plan recording requirements	261.38(c)(7)(ii) intro					
	261.38(c)(7)(ii)(A)					
	261.38(c)(7)(ii)(B)					
	261.38(c)(7)(ii)(C)					
	261.38(c)(7)(ii)(D)					
	261.38(c)(7)(ii)(E)					
	261.38(c)(7)(ii)(F)					
	261.38(c)(7)(ii)(G)					
	261.38(c)(7)(ii)(H)					
waste analysis plan shall be submitted prior to performing sampling, analysis or management of syngas fuel as excluded waste; approval of plan must be in writing and received by facility prior to sampling and analysis; plan approval may contain provisions and conditions as regulatory authority deems appropriate	261.38(c)(7)(iii)					
comparable fuel sampling and analysis	261.38(c)(8) intro					
for each excluded waste generator must test for constituents in Part 261 Appendix VIII, except those generator determines by testing or knowledge to not be present in waste; generator required to document basis of each decision; generator may not determine certain categories of constituents should not be present	261.38(c)(8)(i) intro					
	261.38(c)(8)(i)(A)					
	261.38(c)(8)(i)(B)					
	261.38(c)(8)(i)(C)					
	261.38(c)(8)(i)(D)					

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for each excluded waste where generator of comparable/syngas fuel is not original generator, generator of comparable/syngas fuel may not use process knowledge and must test to determine constituent specifications	261.38(c)(8)(ii)					
generator may use any reliable analytical method to demonstrate no constituent of concern is present above specification levels; responsibility of generator to ensure unbiased, precise, and representative sampling and analysis; waste is eligible for exclusion if:	261.38(c)(8)(iii) intro					
each constituent of concern is not present above specification level at 95% upper confidence limit around mean, and	261.38(c)(8)(iii)(A)					
analysis could have detected presence of constituent at or below specification level at 95% upper confidence limit around mean	261.38(c)(8)(iii)(B)					
nothing preempts, overrides or negates 262.11 provision which requires generators of solid waste to determine if waste is hazardous waste	261.38(c)(8)(iv)					

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in enforcement action, burden of proof to establish conformance with exclusion specification shall be on generator	261.38(c)(8)(v)					
generator must conduct sampling and analysis in accordance with waste analysis plan	261.38(c)(8)(vi)					
syngas and comparable fuel not blended to meet kinematic viscosity specification shall be analyzed as generated	261.38(c)(8)(vii)					
if comparable fuel blended to meet kinematic viscosity specification generator shall:	261.38(c)(8)(viii) intro					
analyze fuel as generated to ensure meeting constituent and heating value specifications	261.38(c)(8)(viii)(A)					
after blending, analyze fuel again to ensure blended fuel meets comparable/syngas fuel specifications	261.38(c)(8)(viii)(B)					
excluded comparable/syngas fuel must be re-tested at least annually and after a process change that could change chemical or physical properties of waste	261.38(c)(8)(ix)					
speculative accumulation; any persons handling comparable/syngas fuel are subject to speculative accumulation test under 261.2(c)(4)	261.38(c)(9)					

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records; generator must maintain certain records on-site	261.38(c)(10) intro					
information required to be submitted to implementing authority as part of notification of claim	261.38(c)(10)(i) intro					
	261.38(c)(10)(i)(A)					
	261.38(c)(10)(i)(B)					
	261.38(c)(10)(i)(C)					
brief description of process generating hazardous waste and process generating excluded fuel, if not same	261.38(c)(10)(ii)					
estimate of average and maximum monthly and annual quantities of each waste claimed for exclusion	261.38(c)(10)(iii)					
documentation for any claim that constituent is not present in hazardous waste	261.38(c)(10)(iv)					
results of all analyses and all detection limits achieved	261.38(c)(10)(v)					
required documentation if excluded waste was generated through treatment or blending	261.38(c)(10)(vi)					
certification from burner if waste is shipped off-site	261.38(c)(10)(vii)					
waste analysis plan and results of sampling and analysis	261.38(c)(10)(viii) intro					

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required analysis and sampling information	261.38(c)(10)(viii)(A)					
	261.38(c)(10)(viii)(B)					
	261.38(c)(10)(viii)(C)					
	261.38(c)(10)(viii)(D)					
	261.38(c)(10)(viii)(E)					
	261.38(c)(10)(viii)(F)					
	261.38(c)(10)(viii)(G)					
	261.38(c)(10)(viii)(H)					
if fuel is shipped off-site for burning, generator must retain shipment information on-site; information requirements	261.38(c)(10)(ix) intro					
	261.38(c)(10)(ix)(A)					
	261.38(c)(10)(ix)(B)					
	261.38(c)(10)(ix)(C)					
	261.38(c)(10)(ix)(D)					
	261.38(c)(10)(ix)(E)					
records retention; records must be maintained for three years; generator must maintain current waste analysis plan during three- year period	261.38(c)(11)					
burner certification; prior to submitting notification, generator intending to ship fuel off-site for burning must obtain one-time written, signed statement from burner; certification information requirements	261.38(c)(12) intro					
	261.38(c)(12)(i)					
	261.38(c)(12)(ii)					
	261.38(c)(12)(iii)					

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ineligible waste codes; wastes listed because of presence of dioxins or furans are not eligible for exclusion, and fuel produced from or containing these wastes remains hazardous waste subject to full RCRA requirements	261.38(c)(13)					

**PART 270 - EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT
PROGRAM**

SUBPART D - CHANGES TO PERMITS

PERMIT MODIFICATION AT THE REQUEST OF THE PERMITTEE

✓,† add new paragraph; combustion facility changes to meet part 63 MACT standards; procedures apply to hazardous waste combustion facility permit modifications requested under Appendix I of 270.42, section L(9)	270.42(j) intro					
	270.42(j)(1)					
	270.42(j)(2)					
† add entry L(9) as follows:	270.42 Appendix I					

Modification												Class
*	*	*	*	*	*	*	*	*	*	*	*	*
L. Incinerators, Boilers and Industrial Furnaces												¹ 1
*	*	*	*	*	*	*	*	*	*	*	*	*
9.	Technology Changes Needed to meet Standards under 40 CFR part 63 (Subpart EEE - National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of §270.42(i) are followed.											
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¹ Class 1 modifications requiring Agency prior approval.

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SUBPART G - INTERIM STATUS

CHANGES DURING INTERIM STATUS

✓,† add paragraph; changes necessary to comply with standards under 40 CFR part 63, Subpart EEE - National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors	270.72(b)(8)					
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- ¹ There is a typographical error in the 63 FR 33782 (6/19/98) rule. The new paragraph 261.4(a)(16) should be numbered 261.4(a)(17). Paragraph 261.4(a)(16) was added by 63 FR 28556 (May 26, 1998, Revision Checklist 167).
- ² The entire section at 40 CFR 261.38 was added by the June 19, 1998 rule (63 FR 33782; Revision Checklist 168).