

Revision Checklist 234 Summary

Rule Title:	Vacatur of the Comparable Fuels Rule and the Gasification Rule
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Reference:	80 <u>FR</u> 18777 - 18780
Promulgation Date:	April 8, 2015
Effective Date:	April 8, 2015
Cluster:	RCRA Cluster XXIV
Provision Type:	Non-HSWA
Linkage:	168, 216, 221, 224
Optional:	No

Summary: The Environmental Protection Agency (EPA, or the Agency) is revising regulations associated with the comparable fuels exclusion and the gasification exclusion, originally issued by EPA under the Resource Conservation and Recovery Act (RCRA). These revisions implement vacaturs ordered by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit), on June 27, 2014.

State Authorization: This rule is placed in RCRA Cluster XXIV. The state modification deadline is July 1, 2016 (or July 1, 2017, if a state statutory change is necessary). This rule is promulgated pursuant to non-HSWA authority.

For states that have previously been authorized for the comparable fuels and gasification rules, the effect of the vacaturs is that the previously authorized comparable fuels and gasification rules from the state program will no longer be considered part of the federally authorized program. Thus, EPA may bring enforcement actions under RCRA Section 3008 at facilities that do not comply with the RCRA hazardous waste regulations. In other words, the authorization status of the state program that was in place prior to authorization of the state comparable fuels and gasification rules is reinstated with regard to these rules.

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.