

Revision Checklist 188 Summary

Rule Title: NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Technical Corrections
Checklist Title: Hazardous Air Pollutant Standards; Technical Corrections
Reference: 65 FR 42292-42302; 66 FR 24270-24272; 66 FR 35087-35107
Promulgation Date: July 10, 2000; May 14, 2001; July 3, 2001
Effective Date: July 10, 2000; May 14, 2001; October 16, 2001
Cluster: RCRA Cluster XI
Provision Type: Non-HSWA
Linkage: 168, 182
Optional: Conditionally optional

Summary: (1) The July 10, 2000 rule adds gas turbines to the list of approved burners for comparable/syngas fuel burners under 40 CFR 261.38(c)(ii)(2). Gas turbines were inadvertently excluded from the list of approved fuel burners in the June 19, 1998 National Emissions Standards for Hazardous Air Pollutants (NESHAPS) rulemaking (63 FR 33782; Revision Checklist 168). This rule also corrects a typographical error made in the June 19, 1998 rule. States that adopted the optional 40 CFR 261.38 and 270.42(j)(1) provisions added by Revision Checklist 168, should also adopt the corrections in this rule.

(2) The July 10, 2000 rule makes corrections and clarifying revisions to 40 CFR parts 60 and 63. These corrections are noted for informational purposes only, and they are not included in the checklist because they are outside the RCRA program.

(3) This checklist includes the May 14, 2001 (66 FR 24270) amendment which codified a court vacatur of the Notice of Intent to Comply (NIC) provisions in the hazardous waste regulations relating to the standards for hazardous waste combustors in 40 CFR part 63, subpart EEE. Prior to the vacatur, 40 CFR 270.42(j) allowed facilities to use the streamlined permit modification procedures; however, before they could do so they had to comply with the NIC requirements of 40 CFR 63.1210. Facilities were required to submit their NICs by October 2, 2000 and EPA worked closely with the regulated community to assure that all sources intending to continue operating submitted these NICs. The court issued the vacatur of the NIC provisions on October 11, 2000. Because this was after the date facilities were required to submit their NICs, EPA has determined the court's action does not impact a facility's ability to request a RCRA permit modification using the streamlined procedures of 40 CFR 270.42(j) provided the NIC was submitted as required by the rule that was in effect as of July 1, 2000. The May 14, 2001 rule clarified the language at 40 CFR 270.42(j) to indicate which version of 40 CFR 63.1210 must be complied with as a result of the NIC vacatur.

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The language at 40 CFR 270.42(j) was modified by the July 10, 2000 rule to include a conforming change to the reference to 40 CFR 63.1210. This change had been inadvertently left out of the September 30, 1999 rule, which moved the fast-track requirements from 40 CFR 63.1211 to 40 CFR 63.1210.

(4) This checklist also includes the July 3, 2001 (66 FR 35106) amendment which makes improvements to the implementation of the emission standards of 40 CFR part 63 and clarifies 40 CFR 264.340.

State Authorization: This rule is placed in RCRA Cluster XI. The State modification deadline is July 1, 2002 (or July 1, 2003 if a State statutory change is necessary).

The revisions in this checklist are promulgated pursuant to non-HSWA authorities. Therefore, the revisions in this rule only take effect in an authorized State when the State adopts and receives authorization for Revision Checklist 188. Only final authorization is available.

While the provisions on Revision Checklist 188 were all introduced by the optional Revision Checklists 168 or 182, States that opted to adopt the provisions are required to make the Revision Checklist 188 changes. Thus, the revisions made by Revision Checklist 188 are conditionally optional.

Attorney General 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 adoption of standards for Hazardous Air Pollutants (HAPs) from hazardous waste combustors.

Program Description Guidance: A State seeking authorization for this checklist may not need to submit a revised Program Description if the current Program Description already addresses standards for Hazardous Air Pollutants (HAPs) from hazardous waste combustors.

Incorporation by Reference Guidance: The July 3, 2001 amendment to this rule is not included in the printed version of 40 CFR, (revised as of July 1, 2001). States that incorporate by reference through the July 1, 2001 CFR, and are seeking authorization for Revision Checklist 188, should also adopt the July 3, 2001 amendment to the NESHAPS rule.