

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460**

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

R A Scholten
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Dear Mr. Scholten:

Thank you for your e-mail of April 29, 1998 to Administrator Browner regarding the comparable fuels exclusion. EPA proposed the comparable fuels exclusion on April 19, 1996 (61 FR 17460) and expects to finalize the exclusion in the near future.

Under this final rule, the Environmental Protection Agency (EPA) will be excluding from the regulatory definition of solid waste those hazardous waste-derived fuels that meet specification levels comparable to fossil fuels for concentrations of hazardous constituents and for physical properties that affect burning. Thus, EPA expects that the comparable fuel would pose no greater risk when burned than a fossil fuel. At the same time it would be physically comparable to a fossil fuel, leading to the conclusion that EPA may classify these materials as products, not wastes (see the proposal for more details 61 FR at 17459).

EPA considered alternatives to the comparable fuel approach, such as using risk to human health and the environment as the way to determine the scope and levels of a "clean fuels" specification. However, the Agency encountered several technical and implementation problems using a purely risk-based approach to develop a national rule. For further discussion on this subject see 61 FR at 17460 and 62 FR at 47403 (September 9, 1997). Thus, at this time, the Agency is not prepared to address alternatives to the comparable fuel approach.

Although the exclusion applies to hazardous waste-derived fuels that are comparable to a commercial fuel, EPA does not believe the exclusion is unworkable. EPA has revised the final rule based on comments received and is providing an exclusion that is of value to the regulated community. EPA notes a number of benefits that would result from promulgating this type of exclusion: (1) support for the statutory goal of promoting beneficial energy recovery and resource conservation; (2) reduction of unnecessary regulatory burden and allowing all parties to focus resources on higher permitting and regulatory priorities; and (3) demonstration of a common-sense approach to regulation.

Thank you for your interest in this important area. If you have any further

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questions on the comparable fuels exclusion, please contact Mary Jo Krolewski of my staff at (703) 308-7754.

Sincerely yours,

Elizabeth A. Cotsworth, Acting Director
Office of Solid Waste