

Revision Checklist 236 Summary

Rule Title:	Imports and Exports of Hazardous Waste
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Reference:	81 <u>FR</u> 85696-85729, 82 <u>FR</u> 41015-41016, 83 <u>FR</u> 38263
Promulgation Date:	November 28, 2016
Effective Date:	December 31, 2016; see compliance dates in section II.D of the preamble and the August 29, 2017 and August 6, 2018 FR notices.
Cluster:	RCRA Cluster XXV
Provision Type:	HSWA
Linkage:	31, 49, 129, 152, 215, 222, 232
Optional:	No

Summary: This rule amends existing regulations regarding the export and import of hazardous wastes from and into the United States. EPA is making these changes to provide greater protection to human health and the environment by making existing export and import related requirements more consistent with the current import-export requirements for shipments between members of the Organization for Economic Cooperation and Development (OECD); enable electronic submittal to EPA of all export and import-related documents (e.g., export notices, export annual reports); and enable electronic validation of consent in the Automated Export System (AES) for export shipments subject to RCRA export consent requirements prior to exit.

State Authorization: This rule is placed in RCRA Cluster XXV. The State modification deadline is July 1, 2018 (or July 1, 2019 if a State statutory change is necessary). The provisions of this rule will take effect in all States on the effective date of the rule, since these import and export requirements will be administered by the Federal government as a foreign policy matter, and will not be administered by States. State programs are required to adopt the provisions in this rule to maintain their equivalency with the Federal program under 40 CFR 271.10(e).

When a State adopts the import/export provisions in this rule, they must not replace Federal or international references or terms with State references or terms. The one exception is in 262.12(d), (subsequently moved to 262.18(e) in the Hazardous Waste Generator Improvements Rule (Checklist 237)) where states may replace “EPA” with the authorized state agency.

Several provisions in this rule were subsequently amended by the Hazardous Waste Generator Improvements Rule (November 28, 2016, 81 FR 85732, Checklist 237). These provisions are noted in the rule checklist (see endnotes 3-5).

Only those States that have previously adopted the optional CRT conditional exclusion in 40 CFR 261.39, or the optional exclusions for samples in 40 CFR 261.4(d) and 40 CFR 261.4(e) are required to adopt the revisions related to those exclusions in this final rule. Note that this rule amends 40 CFR 271.10(e), 271.11(c)(4) and 271.12(i)(2).

The Automated Export System (AES) filing compliance date referenced at 40 CFR 261.39(a)(5)(v)(B) and 262.83(a)(6)(i) was set as December 31, 2017, in 82 FR 41015 (August

29, 2017). States should insert this date into their regulations. See also section II.D of the preamble.

Conforming changes to the EPA offices and addresses to which paper documents must be sent were made on August 6, 2018 (83 FR 38263).

Attorney General (AG) Certification Guidance: An Attorney General's certification of statutory authority is not necessary.

Incorporation by Reference Guidance: When a State adopts the import/export provisions in this rule, they must not replace Federal or international references or terms with State references or terms, except for 262.12(d), as noted above.