

Revision Checklist 231 Summary

Rule Title:	Hazardous Waste Electronic Manifest System; Final Rule
Checklist Title:	Hazardous Waste Electronic Manifest Rule
Reference:	79 <u>FR</u> 7518 - 7563
Promulgation Date:	February 7, 2014
Effective Date:	August 6, 2014. However, the implementation and compliance date for these regulations will be delayed until such time as the e-Manifest system is shown to be ready for operation and the schedule of fees for manifest related services has been announced in a subsequent notice.
Cluster:	RCRA Cluster XXIII
Provision Type:	Non-HSWA
Linkage:	5, 17D, 31, 32, 58, 207
Optional:	No

Summary: This rule establishes new requirements that will authorize the use of electronic manifests (or e-Manifests) as a means to track off-site shipments of hazardous waste from a generator's site to the site of the receipt and disposition of the hazardous waste. This final rule also implements certain provisions of the Hazardous Waste Electronic Manifest Establishment Act, P.L. 112-195, which directs EPA to establish a national electronic manifest system (or e-Manifest system), and to impose reasonable user service fees as a means to fund the development and operation of the e-Manifest system.

State Authorization: This rule is placed in RCRA Cluster XXIII. The State modification deadline is July 1, 2015 (or July 1, 2016 if a State statutory change is necessary). This rule announces, consistent with the mandate of the Hazardous Waste Electronic Manifest Establishment Act (section 2(g)(2)), that the final electronic manifest requirements promulgated today will be implemented in all states on the same effective date for the national e-Manifest system. Authorized states must adopt program revisions equivalent to and consistent with today's federal requirements, but EPA will implement these electronic manifest regulations unless and until the states are fully authorized to implement them in lieu of EPA. EPA strongly encourages states to adopt this rule in advance of the subsequent final rule announcing the user fee schedule for manifest related activities and the compliance date.

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 hazardous waste manifest.

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 are many provisions in this final rule which are non-delegable to states. Thus, states cannot implement the provisions listed below. However, EPA strongly recommends that states

adopt these provisions (while retaining the EPA rule language unchanged). States cannot receive authorization to establish a federal user. The provisions are 40 CFR 262.24(g), 263.20(a)(8), 264.71(j), and 265.71(j). Similarly, states cannot receive authorization for the electronic signature requirements in 40 CFR 262.25. States must retain the citation to 40 CFR § 262.25(a) elsewhere in this rule, and cannot insert a citation to a state provision. States must retain the citation to 40 CFR § 3.10 in 40 CFR 262.20(a)(3)(ii).

40 CFR Part 263.20(a) (2) deals with exports of hazardous waste. References to “EPA Acknowledgement of Consent” and “US Customs official” should not be substituted with State terms.

Revision Checklist 232 Summary

Rule Title:	Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule
Checklist Title:	Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule
Reference:	79 <u>FR</u> 36220-36231
Promulgation Date:	June 26, 2014
Effective Date:	December 26, 2014
Cluster:	RCRA Cluster XXIII
Provision Type:	HSWA
Linkage:	215
Optional:	No

Summary: Today's rule revises certain export provisions of the cathode ray tube (CRT) final rule published on July 28, 2006. The revisions will allow the Agency to better track exports of CRTs for reuse and recycling in order to ensure safe management of these materials.

State Authorization: This rule is placed in RCRA Cluster XXIII. The State modification deadline is July 1, 2015 (or July 1, 2016 if a State statutory change is necessary).

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 identification and listing of hazardous 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: The export notification requirements at 261.39(a)(5) and 261.41 are non-delegable to States. States should follow the general guidance regarding the replacement of terms in section regarding imports and exports of hazardous waste in the Incorporation by Reference Guidance.

Revision Checklist 234 Summary

Rule Title:	Vacatur of the Comparable Fuels Rule and the Gasification Rule
Checklist Title:	Vacatur of the Comparable Fuels Rule and the Gasification Rule
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 vacatur orders 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 vacatur 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.

Revision Checklist 235 Summary

Rule Title:	Disposal of Coal Combustion Residuals from Electric Utilities
Checklist Title:	Disposal of Coal Combustion Residuals from Electric Utilities
Reference:	80 <u>FR</u> 21302 - 21501
Promulgation Date:	April 17, 2015
Effective Date:	October 19, 2015
Cluster:	RCRA Cluster XXIV
Provision Type:	Non-HSWA
Linkage:	None
Optional:	Yes

Summary: The Environmental Protection Agency (EPA, or the Agency) is codifying a list of wastes generated primarily from processes that support the combustion of coal or other fossil fuels that when co-disposed with coal combustion residuals are not subject to hazardous waste regulations. This action codifies long-standing Agency guidance and reflects Congressional intent. Note that a second notice (80 FR 37988, July 2, 2015) corrected the effective date of the rule.

State Authorization: This rule is placed in RCRA Cluster XXIV. This rule is promulgated pursuant to non-HSWA authority. These provisions are also less stringent than the current federal requirements. Therefore, states will not be required to adopt and seek authorization for this rule. If a state does not seek and obtain authorization for this rule or does not have a valid interpretation mirroring the promulgated exemption, the state program could be considered to be broader in scope than the federal regulations.

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.

Revision Checklist 236 Summary

Rule Title:	Imports and Exports of Hazardous Waste
Checklist Title:	Imports and Exports of Hazardous Waste
Reference:	81 FR 85696-85729, 82 FR 41015-41016
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 FR notice.
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.

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.

Revision Checklist 237 Summary

Rule Title:	Hazardous Waste Generator Rule Improvements
Checklist Title:	Hazardous Waste Generator Rule Improvements
Reference:	81 <u>FR</u> 85732-85829
Promulgation Date:	November 28, 2016
Effective Date:	May 30, 2017
Cluster:	RCRA Cluster XXV
Provision Type:	Non-HSWA
Linkage:	None
Optional:	No, however, most provisions are equivalent or less stringent.

Summary: This rule amends the existing hazardous waste generator regulatory program by reorganizing the hazardous waste generator regulations to make them more user-friendly and thus improve their usability by the regulated community; providing a better understanding of how the RCRA hazardous waste generator regulatory program works; addressing gaps in the existing regulations to strengthen environmental protection; providing greater flexibility for hazardous waste generators to manage their hazardous waste in a cost-effective and protective manner; and making technical corrections and conforming changes to address inadvertent errors and remove obsolete references to programs that no longer exist.

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). Provisions which are more stringent than the current regulatory program are marked in the rule checklist.

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 to regulate hazardous waste generators.

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: None.

Revision Checklist 238 Summary

Rule Title:	Confidentiality Determinations for Hazardous Waste Export and Import Documents
Checklist Title:	Confidentiality Determinations for Hazardous Waste Export and Import Documents
Reference:	82 <u>FR</u> 60894-60901
Promulgation Date:	December 26, 2017
Effective Date:	June 26, 2018
Cluster:	RCRA Cluster XXVI
Provision Type:	HSWA
Linkage:	31, 49, 129, 152, 215, 222, 232, 236
Optional:	No

Summary: This rule amends existing regulations regarding the export and import of hazardous wastes from and into the United States. Specifically, this rule applies a confidentiality determination such that no person can assert confidential business information (CBI) claims for documents related to the export, import, and transit of hazardous waste and export of excluded cathode ray tubes (CRTs). EPA is making these changes to apply a consistent approach in addressing confidentiality claims for export and import documentation.

State Authorization: This rule is placed in RCRA Cluster XXVI. The State modification deadline is July 1, 2019 (or July 1, 2020 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.

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.

Revision Checklist 239 Summary

Rule Title:	Hazardous Waste Electronic Manifest System User Fee; Final Rule
Checklist Title:	Hazardous Waste Electronic Manifest User Fee Rule
Reference:	83 <u>FR</u> 420 - 462
Promulgation Date:	January 3, 2018
Effective Date:	June 30, 2018
Cluster:	RCRA Cluster XXVI
Provision Type:	Non-HSWA
Linkage:	5, 17D, 31, 32, 58, 207, 231
Optional:	No

Summary: This rule establishes the methodology the Agency will use to determine and revise the user fees applicable to the electronic and paper manifests to be submitted to the national electronic manifest system (e-Manifest system) that EPA is developing under the Hazardous Waste Electronic Manifest Establishment Act, P.L. 112-195, which directs EPA to establish a national electronic manifest system. After the e-Manifest system's implementation date, certain users of the hazardous waste manifest will be required to pay a prescribed fee for each electronic and paper manifest they use and submit to the national system so that EPA can recover the costs of developing and operating the national e-Manifest system. This final rule also announces the June 30, 2018 date when EPA expects the system to be operational and when this rule and the earlier promulgated One Year Rule will go into effect. EPA will begin accepting manifest submissions and collecting the corresponding manifest submission fees on this date.

State Authorization: This rule is placed in RCRA Cluster XXVI. The State modification deadline is July 1, 2019 (or July 1, 2020 if a State statutory change is necessary). This rule announces, consistent with the mandate of the Hazardous Waste Electronic Manifest Establishment Act (section 2(g)(2)), that the final electronic manifest user fee requirements promulgated today will be implemented in all states on the same effective date for the national e-Manifest system. Authorized states must adopt program revisions equivalent to and consistent with today's delegable federal requirements, but EPA will implement these delegable electronic manifest regulations unless and until the states are fully authorized to implement them in lieu of EPA. EPA strongly encourages states to adopt this rule in advance of the subsequent final rule announcing the user fee schedule for manifest related activities and the compliance date.

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 hazardous waste manifest.

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 are many provisions in this final rule which are non-delegable to states. See the rule checklist for details on the provisions whose language cannot be changed.