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## RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

SEPTEMBER 86

### 2. Export of Hazardous Waste

A generator plans to send an unlisted, characteristic by-product to a reclamation facility in Mexico. How do the new hazardous waste export regulations, effective November 8, 1986, apply to the export of this recyclable material?

The hazardous waste export regulations are in 40 CFR Part 262, Subpart E. Revised export regulations, effective November 8, 1986, require notification of the Administrator, consent from the receiving country, special manifesting procedures, recordkeeping, exception reporting and submittal to EPA of an annual report for the export of hazardous wastes. (See sections 262.52-262.57, promulgated in the August 8, 1986 Federal Register, 51 FR 28664.) According to §261.2(c)(3), Table I, characteristic by-products are not defined as solid wastes, and thus not hazardous wastes, when destined for reclamation. Therefore, the characteristic by-product is not subject to Part 262, Subpart E, because it is not a hazardous waste. The burden of proof, however, is on the exporter to demonstrate and document that the material to be recycled is not a solid waste (§261.2(f)). The exporter should be able to demonstrate that there is a known market or disposition for the material. A copy of a recycling contract, records describing the Mexican reclamation facility, and/or evidence that the facility has a license or approval from the Mexican government would also support the exporter's claim that the recyclable material is not a solid waste (see 51 FR 28670).

Source: Carolyn Barley (202) 382-2217  
Research: Jennifer Brock