

1
2 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**
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5 **Solid and Hazardous Waste Commission/Hazardous Materials and**
6 **Waste Management Division**
7

8
9 **6 CCR 1007-3**
10

11 **HAZARDOUS WASTE**
12

13 **Hazardous Waste Export-Import Revisions**
14

15
16
17 **1) Section 260.10 is amended by adding the following definitions in alphabetical order to**
18 **read as follows:**
19

20
21 **§ 260.10 Definitions**
22

23 *****
24

25 **“Recognized trader”** means a person domiciled in the United States, by site of business, who acts to
26 arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations,
27 either by purchasing from and subsequently selling to United States and foreign facilities, or by acting
28 under arrangements with a United States waste facility to arrange for the export or import of the
29 wastes.
30

31 * * * * *
32
33
34

35 **2) Section 260.11 is amended by revising paragraphs (g) and (g)(1) to read as follows:**
36

37 **§ 260.11 References.**

38 (g) The following materials are available for purchase from the Organization for Economic Co-operation
39 and Development, Environment Directorate, 2 rue Andre Pascal, F-75775 Paris Cedex 16, France.
40

41 ~~(1) OECD Green List of Wastes (revised May 1994), Amber List of Wastes and Red List of Wastes~~
42 ~~(both revised May 1993) as set forth in Appendix 3, Appendix 4 and Appendix 5, respectively, to the~~
43 ~~OECD Council Decision C(92)39/FINAL (Concerning the Control of Transfrontier Movements of~~
44 ~~Wastes Destined for Recovery Operations), IBR approved for § 262.89 of these regulations.~~
45 ~~Guidance Manual for the Control of Transboundary Movements of Recoverable Wastes, copyright~~
46 ~~2009, Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure and~~
47 ~~Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure, IBR approved~~
48 ~~for §§ 262.82(a), 262.83(b),(d), and (g), and 262.84(b) and (d) of these regulations.~~

49
50 (2) [Reserved]

51
52

53 **3) Section 261.4 is amended by revising paragraph (d)(1) introductory text; adding**
54 **paragraph (d)(4); revising paragraph (e)(1) introductory text; and adding paragraph (e)(4)**
55 **to read as follows:**

56
57 **§ 261.4 Exclusions.**

58
59 (d) **Samples.** (1) Except as provided in paragraphs (d)(2) and (4) of this section, a sample of solid waste
60 or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its
61 characteristics or composition, is not subject to any requirements of this part or Parts 262 through
62 266, Part 268 or Part 100 or to the notification requirements of Part 99 of these regulations when:

63
64 *****
65 *****

66
67 (4) In order to qualify for the exemption in paragraphs (d)(1)(i) and (ii) of this section, the mass
68 of a sample that will be exported to a foreign laboratory or that will be imported to a U.S.
69 laboratory from a foreign source must additionally not exceed 25 kg.

70
71 (e) **Treatability Study Samples.**

72
73 (1) Except as provided in paragraphs (e)(2) and (4) of this section, persons who generate or collect
74 samples for the purpose of conducting treatability studies as defined in § 260.10, are not subject to
75 any requirement of Parts 261 through 263 of these regulations or to the notification requirements of
76 Section 99 of ~~these regulations~~ Colorado Hazardous Waste Regulations, nor are such samples
77 included in the quantity determinations of § 261.5 and § 262.34(d) when:

78
79 *****
80 *****

81
82
83 (4) In order to qualify for the exemption in paragraph (e)(1)(i) of this section, the mass of a sample
84 that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S.
85 laboratory or testing facility from a foreign source must additionally not exceed 25 kg.

86
87

88 **4) Section 261.6 is amended by revising paragraphs (a)(3)(i) and (a)(5) to read as follows:**

89
90 **§ 261.6 Requirements for recyclable materials.**

91
92 (a) *****

93
94 *****

95
96 (3) The following recyclable materials are not subject to regulation under Parts 262 through 268 or
97 Part 100 of these regulations, and are not subject to the notification requirements of Part 99 of these
98 regulations:

99

(i) Industrial ethyl alcohol that is reclaimed except that, ~~unless provided otherwise in an international agreement as specified in § 262.58: exports and imports of such recyclable materials must comply with the requirements of Part 262, Subpart H.~~

(5) Hazardous waste that is exported ~~to or imported from designated member countries of the Organization for Economic Cooperation and Development (OECD) (as defined in § 262.58(a)(1) of these regulations)~~ for the purpose of recovery is subject to the requirements of Part 262, Subpart H, ~~if it is subject to either the manifesting requirements of Part 262, to the universal waste management standards of 40 CFR Part 273, or to the requirements of Part 273 of these regulations.~~

5) The Table of Contents for Part 262 is amended by removing and reserving the listings for Subparts E and F, and revising the listings for Subpart H to read as follows:

PART 262 STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

Subpart E – ~~Exports of Hazardous Waste [Reserved]~~

~~262.50 Applicability.~~
~~262.51 Definitions.~~
~~262.52 General requirements.~~
~~262.53 Notification of intent to export.~~
~~262.54 Special manifest requirements.~~
~~262.55 Exception reports.~~
~~262.56 Annual reports.~~
~~262.57 Recordkeeping.~~
~~262.58 International agreements.~~

Subpart F – ~~Imports of Hazardous Waste [Reserved]~~

~~262.60 Imports of hazardous waste.~~

Subpart H – Transboundary Movements of Hazardous Waste for Recovery ~~Within the OECD or Disposal~~

262.80 Applicability.
262.81 Definitions.
262.82 General conditions.
262.83 ~~Notification and consent.~~ Exports of hazardous waste.
262.84 ~~Movement document.~~ Imports of hazardous waste
262.85 – 262.89 [Reserved] Contracts.

152 ~~262.86 Provisions relating to recognized traders.~~
153 ~~262.87 Reporting and recordkeeping.~~
154 ~~262.88 Pre-approval for U.S. recovery facilities (Reserved).~~
155 ~~262.89 OECD waste lists.~~

156
157 *****
158

159
160 **6) Section 262.10 is amended by revising paragraph (d) to read as follows:**

161
162 **§ 262.10 Purpose, scope, and applicability.**

163
164 *****
165

166 (d) ~~Any person who exports or imports hazardous wastes must comply with § 262.12 and Subpart H of~~
167 ~~this part. Any person who exports or imports wastes that are considered hazardous under U.S. national~~
168 ~~procedures to or from the countries listed in § 262.58(a)(1) for recovery must comply with Subpart H of~~
169 ~~this part. A waste is considered hazardous under U.S. national procedures if the waste meets the~~
170 ~~Federal definition of hazardous waste in 40 CFR § 261.3 and is subject to either the Federal RCRA~~
171 ~~manifesting requirements at 40 CFR Part 262, Subpart B, the universal waste management standards of~~
172 ~~40 CFR Part 273, the universal waste management standards of Part 273 of these regulations, the export~~
173 ~~requirements in the spent lead-acid battery management standards of 40 CFR Part 266, Subpart G, or~~
174 ~~the export requirements in the spent lead-acid battery management standards of Part 267, Subpart G of~~
175 ~~these regulations.~~

176
177 *****
178

179
180 **7) Section 262.12 is amended by adding paragraph (d) to read as follows:**

181
182 **§ 262.12 EPA identification numbers.**

183
184 *****
185

186 (d) A recognized trader must not arrange for import or export of hazardous waste without having received
187 an EPA identification number from the Administrator.

188
189
190
191 **8) Section 262.41 is amended by revising the last sentence in paragraph (b) to read as**
192 **follows:**

193
194 **§ 262.41 Biennial reporting.**

195
196 *****
197

198 (b) Any generator who treats, stores, or disposes of hazardous waste on site must submit a biennial
199 report covering those wastes in accordance with the provisions of Parts 100, 264, 265, 266, and 267.
200 Reporting for exports of hazardous waste is not required on the biennial report form. A separate annual
201 report requirement is set forth ~~in § 262.56~~ at § 262.83(g) for hazardous waste exporters.
202

203
204 **9) Subpart E of Part 262, consisting of §§ 262.50 through 262.58, is removed and reserved**
205 **to read as follows:**

206
207
208 **Subpart E – ~~Exports of Hazardous Waste~~[Reserved]**
209

210 **~~§ 262.50 Applicability~~**

211
212 ~~This subpart establishes requirements applicable to exports of hazardous waste. Except to the extent §~~
213 ~~262.58 provides otherwise, a primary exporter of hazardous waste must comply with the special~~
214 ~~requirements of this subpart and a transporter transporting hazardous waste for export must comply with~~
215 ~~applicable requirements of Part 263. Section 262.58 sets forth the requirements of international~~
216 ~~agreements between the United States and receiving countries which establish different notice, export,~~
217 ~~and enforcement procedures for the transportation, treatment, storage and disposal of hazardous waste~~
218 ~~for shipments between the United States and those countries.~~

219
220
221 **~~§ 262.51 Definitions.~~**

222
223 ~~In addition to the definitions set forth at § 260.10, the following definitions apply to this subpart:~~

224
225 ~~"Consignee" means the ultimate treatment, storage or disposal facility in a receiving country to which the~~
226 ~~hazardous waste will be sent.~~

227
228 ~~"EPA Acknowledgement of Consent" means the cable sent to EPA from the U.S. Embassy in a~~
229 ~~receiving country that acknowledges the written consent of the receiving country to accept the hazardous~~
230 ~~waste and describes the terms and conditions of the receiving country's consent to the shipment.~~

231
232 ~~"Primary Exporter" means any person who is required to originate the manifest for a shipment of~~
233 ~~hazardous waste in accordance with Part 262, Subpart B, which specifies a treatment, storage, or~~
234 ~~disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any~~
235 ~~intermediary arranging for the export.~~

236
237 ~~"Receiving country" means a foreign country to which a hazardous waste is sent for the purpose of~~
238 ~~treatment, storage or disposal (except short term storage incidental to transportation).~~

239
240 ~~"Transit country" means any foreign country, other than a receiving country, through which a hazardous~~
241 ~~waste is transported.~~

242
243
244 **~~§ 262.52 General requirements.~~**

245
246 ~~Exports of hazardous waste are prohibited except in compliance with the applicable requirements of this~~
247 ~~Subpart and Part 263. Exports of hazardous waste are prohibited unless:~~

248
249 ~~(a) Notification in accordance with § 262.53 has been provided;~~

250
251 ~~(b) The receiving country has consented to accept the hazardous waste;~~

252

253 ~~(c) A copy of the EPA Acknowledgment of Consent to the shipment accompanies the hazardous waste~~
254 ~~shipment and, unless exported by rail, is attached to the manifest (or shipping paper for exports by water~~
255 ~~(bulk shipment)).~~

256
257 ~~(d) The hazardous waste shipment conforms to the terms of the receiving country's written consent as~~
258 ~~reflected in the EPA Acknowledgment of Consent.~~

259
260
261 ~~§ 262.53 Notification of intent to export.~~
262

263 ~~(a) A primary exporter of hazardous waste must notify EPA of an intended export before such waste is~~
264 ~~scheduled to leave the United States. A complete notification should be submitted sixty (60) days before~~
265 ~~the initial shipment is intended to be shipped off site. This notification may cover export activities~~
266 ~~extending over a twelve (12) month or lesser period. The notification must be in writing, signed by the~~
267 ~~primary exporter, and include the following information:~~

268
269 ~~(1) Name, mailing address, telephone number and EPA ID number of the primary exporter;~~

270
271 ~~(2) By consignee, for each hazardous waste type:~~

272
273 ~~(i) A description of the hazardous waste and the EPA hazardous waste number (from Part 261,~~
274 ~~Subparts C and D), U.S. DOT proper shipping name, hazard class and ID number (UN/NA) for~~
275 ~~each hazardous waste as identified in 49 CFR Parts 171 through 177;~~

276
277 ~~(ii) The estimated frequency or rate at which such waste is to be exported and the period of time~~
278 ~~over which such waste is to be exported.~~

279
280 ~~(iii) The estimated total quantity of the hazardous waste in units as specified in the instructions to~~
281 ~~the Uniform Hazardous Waste Manifest Form (8700-22);~~

282
283 ~~(iv) All points of entry to and departure from each foreign country through which the hazardous~~
284 ~~waste will pass;~~

285
286 ~~(v) A description of the means by which each shipment of the hazardous waste will be~~
287 ~~transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), type(s) of~~
288 ~~container (drums, boxes, tanks, etc.);~~

289
290 ~~(vi) A description of the manner in which the hazardous waste will be treated, stored or disposed~~
291 ~~of in the receiving country (e.g., land or ocean incineration, other land disposal, ocean dumping,~~
292 ~~recycling);~~

293
294 ~~(vii) The name and site address of the consignee and any alternate consignee; and~~

295
296 ~~(viii) The name of any transit countries through which the hazardous waste will be sent and a~~
297 ~~description of the approximate length of time the hazardous waste will remain in such country and~~
298 ~~the nature of its handling while there;~~

299
300 ~~(b) Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement~~
301 ~~and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division~~
302 ~~(2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.~~
303 ~~Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office~~
304 ~~of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency,~~
305 ~~Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC 20004. In both~~

306 cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of
307 Intent to Export."
308

309 ~~(c) Except for changes to the telephone number in paragraph (a)(1) of this section, changes to paragraph
310 (a)(2)(v) of this section and decreases in the quantity indicated pursuant to paragraph (a)(2)(iii) of this
311 section when the conditions specified on the original notification change (including any exceedance of the
312 estimate of the quantity of hazardous waste specified in the original notification), the primary exporter
313 must provide EPA with a written re-notification of the change. The shipment cannot take place until
314 consent of the receiving country to the changes (except for changes to paragraph (a)(2)(viii) of this
315 section and in the ports of entry to and departure from transit countries pursuant to paragraph (a)(2)(iv) of
316 this section) has been obtained and the primary exporter receives an EPA Acknowledgment of Consent
317 reflecting the receiving country's consent to the changes.~~

318
319 ~~(d) Upon request by EPA, a primary exporter shall furnish to EPA any additional information which a
320 receiving country requests in order to respond to a notification.~~

321
322 ~~(e) In conjunction with the Department of State, EPA will provide a complete notification to the receiving
323 country and any transit countries. A notification is complete when EPA receives a notification which EPA
324 determines satisfies the requirements of paragraph (a) of this section. Where a claim of confidentiality is
325 asserted with respect to any notification information required by paragraph (a) of this section, EPA may
326 find the notification not complete until any such claim is resolved in accordance with § 260.2.~~

327
328 ~~(f) Where the receiving country consents to the receipt of the hazardous waste, EPA will forward an EPA
329 Acknowledgment of Consent to the primary exporter for purposes of § 262.54(h). Where the receiving
330 country objects to receipt of the hazardous waste or withdraws a prior consent, EPA will notify the primary
331 exporter in writing. EPA will also notify the primary exporter of any responses from transit countries.~~

332 333 334 **~~§ 262.54 Special manifest requirements.~~**

335
336 ~~A primary exporter must comply with the manifest requirements of § 262.20 through § 262.23 except that:~~

337
338 ~~(a) In lieu of the name, site address and EPA ID number of the designated permitted facility, the primary
339 exporter must enter the name and site address of the consignee;~~

340
341 ~~(b) In lieu of the name, site address and EPA ID number of a permitted alternate facility, the primary
342 exporter may enter the name and site address of any alternate consignee.~~

343
344 ~~(c) In the International Shipments block, the primary exporter must check the export box and enter the
345 point of exit (city and State) from the United States.~~

346
347 ~~(d) The following statement must be added to the end of the first sentence of the certification set forth in
348 Item 16 of the Uniform Hazardous Waste Manifest Form: "and conforms to the terms of the attached EPA
349 Acknowledgment of Consent";~~

350
351 ~~(e) The primary exporter may obtain the manifest from any source that is registered with the U.S. EPA as
352 a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).~~

353
354 ~~(f) The primary exporter must require the consignee to confirm in writing the delivery of the hazardous
355 waste to that facility and to describe any significant discrepancies (as defined in § 264.72(a)) between the
356 manifest and the shipment. A copy of the manifest signed by such facility may be used to confirm delivery
357 of the hazardous waste.~~

359 ~~(g) In lieu of the requirements of § 262.20(d), where a shipment cannot be delivered for any reason to the~~
360 ~~designated or alternate consignee, the primary exporter must:~~

361
362 ~~(1) Re-notify EPA of a change in the conditions of the original notification to allow shipment to a new~~
363 ~~consignee in accordance with § 262.53(e) and obtain an EPA Acknowledgment of Consent prior to~~
364 ~~delivery; or~~

365
366 ~~(2) Instruct the transporter to return the waste to the primary exporter in the United States or~~
367 ~~designate another facility within the United States; and~~

368
369 ~~(3) Instruct the transporter to revise the manifest in accordance with the primary exporter's~~
370 ~~instructions.~~

371
372 ~~(h) The primary exporter must attach a copy of the EPA Acknowledgment of Consent to the shipment to~~
373 ~~the manifest which must accompany the hazardous waste shipment. For exports by rail or water (bulk~~
374 ~~shipment), the primary exporter must provide the transporter with an EPA Acknowledgment of Consent~~
375 ~~which must accompany the hazardous waste but which need not be attached to the manifest except that~~
376 ~~for exports by water (bulk shipment) the primary exporter must attach the copy of the EPA~~
377 ~~Acknowledgment of Consent to the shipping paper.~~

378
379 ~~(i) The primary exporter shall provide the transporter with an additional copy of the manifest for delivery to~~
380 ~~the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with §~~
381 ~~263.20(g)(4).~~

382 383 384 ~~§ 262.55 Exception reports.~~

385
386 ~~In lieu of the requirements of § 262.42, a primary exporter must file an exception report with the~~
387 ~~Department and the Office of Enforcement and Compliance Assurance, Office of Federal Activities,~~
388 ~~International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200~~
389 ~~Pennsylvania Avenue, NW., Washington, DC 20460, if any of the following occurs:~~

390
391 ~~(a) He/she has not received a copy of the manifest signed by the transporter stating the date and place of~~
392 ~~departure from the United States within forty five (45) days from the date it was accepted by the initial~~
393 ~~transporter;~~

394
395 ~~(b) Within ninety (90) days from the date the waste was accepted by the initial transporter, the primary~~
396 ~~exporter has not received written confirmation from the consignee that the hazardous waste was~~
397 ~~received;~~

398
399 ~~(c) The waste is returned to the United States.~~

400 401 402 ~~§ 262.56 Annual reports.~~

403
404 ~~(a) Primary exporters of hazardous waste shall file with the Administrator no later than March 1 of each~~
405 ~~year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous~~
406 ~~waste exported during the previous calendar year. Such reports shall include the following:~~

407
408 ~~(1) The EPA identification number, name, and mailing and site address of the exporter;~~

409
410 ~~(2) The calendar year covered by the report;~~

412 ~~(3) The name and site address of each consignee;~~

413
414 ~~(4) By consignee, for each hazardous waste exported, a description of the hazardous waste, the EPA~~
415 ~~hazardous waste number (from Part 261, Subpart C or D), DOT hazard class, the name and US EPA~~
416 ~~ID number (where applicable) for each transporter used, the total amount of waste shipped and~~
417 ~~number of shipments pursuant to each notification;~~

418
419 ~~(5) Except for hazardous waste produced by exporters of greater than 100 kg but less than 1000 kg in~~
420 ~~a calendar month, unless provided pursuant to § 262.41, in even numbered years:~~

421 ~~(i) A description of the efforts undertaken during the year to reduce the volume and toxicity of~~
422 ~~waste generated; and~~

423
424 ~~(ii) A description of the changes in volume and toxicity of waste actually achieved during the year~~
425 ~~in comparison to previous years to the extent such information is available for years prior to 1984.~~

426
427
428 ~~(6) A certification signed by the primary exporter which states:~~

429
430 ~~I certify under penalty of law that I have personally examined and am familiar with the information~~
431 ~~submitted in this and all attached documents, and that based on my inquiry of those individuals~~
432 ~~immediately responsible for obtaining the information, I believe that the submitted information is~~
433 ~~true, accurate, and complete. I am aware that there are significant penalties for submitting false~~
434 ~~information including the possibility of fine and imprisonment.~~

435
436 ~~(b) Annual reports submitted by mail should be sent to the following mailing address: Office of~~
437 ~~Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance~~
438 ~~Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW.,~~
439 ~~Washington, DC 20460. Hand delivered reports should be sent to: Office of Enforcement and~~
440 ~~Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division,~~
441 ~~Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW.,~~
442 ~~Washington, DC 20004.~~

443 444 ~~§ 262.57 Recordkeeping.~~

445
446
447 ~~(a) For all exports a primary exporter must:~~

448
449 ~~(1) Keep a copy of each notification of intent to export for a period of at least three years from the~~
450 ~~date the hazardous waste was accepted by the initial transporter;~~

451
452 ~~(2) Keep a copy of each EPA Acknowledgment of Consent for a period of at least three years from~~
453 ~~the date the hazardous waste was accepted by the initial transporter;~~

454
455 ~~(3) Keep a copy of each confirmation of delivery of the hazardous waste from the consignee for at~~
456 ~~least three years from the date the hazardous waste was accepted by the initial transporter; and~~

457
458 ~~(4) Keep a copy of each annual report for a period of at least three years from the due date of the~~
459 ~~report.~~

460
461 ~~(b) The periods of retention referred to in this section are extended automatically during the course of any~~
462 ~~unresolved enforcement action regarding the regulated activity or as requested by the Department.~~

465 ~~§ 262.58 International agreements.~~

466
467 ~~(a) Any person who exports or imports wastes that are considered hazardous under U.S. national~~
468 ~~procedures to or from designated Member countries of the Organization for Economic Cooperation and~~
469 ~~Development (OECD) as defined in paragraph (a)(1) of this section for purposes of recovery is subject to~~
470 ~~Subpart H of this part. The requirements of Subparts E and F of this part do not apply to such exports~~
471 ~~and imports. A waste is considered hazardous under U.S. national procedures if the waste meets the~~
472 ~~Federal definition of hazardous waste in 40 CFR § 261.3 and is subject to either the Federal RCRA~~
473 ~~manifesting requirements at 40 CFR Part 262, Subpart B, the universal waste management standards of~~
474 ~~40 CFR Part 273, the universal waste management standards of Part 273 of these regulations, the export~~
475 ~~requirements in the spent lead-acid battery management standards of 40 CFR Part 266, Subpart G, or~~
476 ~~the export requirements in the spent lead-acid battery management standards of Part 267, Subpart G of~~
477 ~~these regulations.~~

478
479 ~~(1) For the purposes of Subpart H of this part, the designated OECD Member countries consist of~~
480 ~~Australia, Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece,~~
481 ~~Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland,~~
482 ~~Portugal, the Republic of Korea, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, the~~
483 ~~United Kingdom, and the United States.~~

484
485 ~~(2) For the purposes of Subpart H of this part, Canada and Mexico are considered OECD Member~~
486 ~~countries only for the purpose of transit.~~

487
488 ~~(b) Any person who exports hazardous waste to or imports hazardous waste from: A designated OECD~~
489 ~~Member country for purposes other than recovery (e.g., incineration, disposal), Mexico (for any purpose),~~
490 ~~or Canada (for any purpose) remains subject to the requirements of Subparts E and F of this part, and is~~
491 ~~not subject to the requirements of Subpart H of this part.~~

492
493
494 **10) Subpart F of Part 262, consisting of § 262.60, is removed and reserved to read as**
495 **follows:**

496
497
498 **Subpart F – ~~Imports of Hazardous Waste~~[Reserved]**

499
500
501 ~~§ 262.60 Imports of hazardous waste.~~

502
503 ~~(a) Any person who imports hazardous waste from a foreign country into the United States must comply~~
504 ~~with the requirements of this part and the special requirements of this subpart.~~

505
506 ~~(b) When importing hazardous waste, a person must meet all the requirements of § 262.20(a) for the~~
507 ~~manifest except that:~~

508
509 ~~(1) In place of the generator's name, address and EPA identification number, the name and address~~
510 ~~of the foreign generator and the importer's name, address and EPA identification number must be~~
511 ~~used.~~

512
513 ~~(2) In place of the generator's signature on the certification statement, the U.S. importer or his/her~~
514 ~~agent must sign and date the certification and obtain the signature of the initial transporter.~~

516 ~~(c) A person who imports hazardous waste may obtain the manifest form from any source that is~~
517 ~~registered with the U.S. EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial~~
518 ~~forms printers).~~

519
520 ~~(d) In the International Shipments block, the importer must check the import box and enter the point of~~
521 ~~entry (city and State) into the United States.~~

522
523 ~~(e) The importer must provide the transporter with an additional copy of the manifest to be submitted by~~
524 ~~the receiving facility to U.S. EPA in accordance with § 264.71(a)(3) and § 265.71(a)(3) of these~~
525 ~~regulations.~~

526
527
528 **11) Subpart H of Part 262 is amended to read as follows:**

529
530 **Subpart H – Transboundary Movements of Hazardous Waste**
531 **for Recovery Within the OECD or Disposal**

532
533
534 **§ 262.80 Applicability.**

535
536 (a) The requirements of this subpart apply to ~~transboundary movements of hazardous wastes, imports and~~
537 ~~exports of wastes that are considered hazardous under U.S. national procedures and are destined for~~
538 ~~recovery operations in the countries listed in § 262.58(a)(1). A waste is considered hazardous under U.S.~~
539 ~~national procedures if the waste:~~

540
541 ~~(1) Meets the Federal definition of hazardous waste in 40 CFR 261.3; and~~

542
543 ~~(2) Is subject to either the Federal RCRA manifesting requirements at 40 CFR Part 262, Subpart B,~~
544 ~~the universal waste management standards of 40 CFR Part 273, the universal waste management~~
545 ~~standards of Part 273 of these regulations, the export requirements in the spent lead-acid battery~~
546 ~~management standards of 40 CFR Part 266, Subpart G, or the export requirements in the spent lead-~~
547 ~~acid battery management standards of Part 267, Subpart G of these regulations.~~

548
549 (b) Any person (including exporter, importer, disposal facility operator, or recovery facility operator) who
550 mixes two or more wastes (including hazardous and non-hazardous wastes) or otherwise subjects two or
551 more wastes (including hazardous and non-hazardous wastes) to physical or chemical transformation
552 operations, and thereby creates a new hazardous waste, becomes a generator and assumes all
553 subsequent generator duties under RCRA and any exporter duties, if applicable, under this subpart.

554
555
556
557 **§ 262.81 Definitions.**

558
559 ~~In addition to the definitions set forth at Section 260.10 of these regulations, t~~The following definitions
560 apply to this subpart:;

561
562 "**Competent authority**" means the regulatory authority or authorities of concerned countries having
563 jurisdiction over transboundary movements of wastes; ~~destined for recovery operations.~~

564
565 "**Countries concerned**" means the ~~OECD Member~~ countries of export or import and any ~~OECD Member~~
566 countries of transit.

568 "Country of export" means any ~~designated OECD Member~~ country ~~listed in § 262.58(a)(1)~~ from which a
569 transboundary movement of hazardous wastes is planned to be initiated or is initiated.

570
571 "Country of import" means any ~~designated OECD Member~~ country ~~listed in § 262.58(a)(1)~~ to which a
572 transboundary movement of hazardous wastes is planned or takes place for the purpose of submitting the
573 wastes to recovery or disposal operations therein.

574
575 "Country of transit" means any ~~designated OECD Member~~ country ~~listed in § 262.58(a)(1) and (a)(2)~~
576 other than the country of export or country of import across which a transboundary movement of
577 hazardous wastes is planned or takes place.

578
579 "Disposal operations" means activities which do not lead to the possibility of resource recovery,
580 recycling, reclamation, direct re-use or alternate uses, which include:

581
582 (1) D1 Release or Deposit into or onto land, other than by any of operations D2 through D5 or D12.

583
584 (2) D2 Land treatment, such as biodegradation of liquids or sludges in soils.

585
586 (3) D3 Deep injection, such as injection into wells, salt domes or naturally occurring repositories.

587
588 (4) D4 Surface impoundment, such as placing of liquids or sludges into pits, ponds or lagoons.

589
590 (5) D5 Specially engineered landfill, such as placement into lined discrete cells which are capped and
591 isolated from one another and the environment.

592
593 (6) D6 Release into a water body other than a sea or ocean, and other than by operation D4.

594
595 (7) D7 Release into a sea or ocean, including sea-bed insertion, other than by operation D4.

596
597 (8) D8 Biological treatment not specified elsewhere in operations D1 through D12, which results in
598 final compounds or mixtures which are discarded by means of any of operations D1 through D12.

599
600 (9) D9 Physical or chemical treatment not specified elsewhere in operations D1 through D12, such as
601 evaporation, drying, calcination, neutralization, or precipitation, which results in final compounds or
602 mixtures which are discarded by means of any of operations D1 through D12.

603
604 (10) D10 Incineration on land.

605
606 (11) D11 Incineration at sea.

607
608 (12) D12 Permanent storage.

609
610 (13) D13 Blending or mixing, prior to any of operations D1 through D12.

611
612 (14) D14 Repackaging, prior to any of operations D1 through D13.

613
614 (15) D15 (or DC17 for transboundary movements with Canada only) Interim Storage, prior to any of
615 operations D1 through D12.

616
617 (16) DC15 Release, including the venting of compressed or liquified gases, or treatment, other than by
618 any of operations D1 to D12 (for transboundary movements with Canada only).

619

620 (17) DC16 Testing of a new technology to dispose of a hazardous waste (for transboundary
621 movements with Canada only).

622
623 “EPA Acknowledgment of Consent (AOC)” means the letter EPA sends to the exporter documenting
624 the specific terms of the country of import's consent and the country(ies) of transit's consent(s). The AOC
625 meets the definition of an export license in U.S. Census Bureau regulations 15 CFR 30.1.

626
627 “Export” means the transportation of hazardous waste from a location under the jurisdiction of the United
628 States to a location under the jurisdiction of another country, or a location not under the jurisdiction of any
629 country, for the purposes of recovery or disposal operations therein.

630
631 “Exporter” , also known as primary exporter on the RCRA hazardous waste manifest, means the person
632 domiciled in the United States who is required to originate the movement document in accordance with §
633 262.83(d) or the manifest for a shipment of hazardous waste in accordance with subpart B of this part, or
634 equivalent State provision, which specifies a foreign receiving facility as the facility to which the
635 hazardous wastes will be sent, or any recognized trader who proposes export of the hazardous wastes
636 for recovery or disposal operations in the country of import. means the person under the jurisdiction of the
637 country of export who has, or will have at the time the planned transboundary movement commences,
638 possession or other forms of legal control of the wastes and who proposes transboundary movement of
639 the hazardous wastes for the ultimate purpose of submitting them to recovery operations. When the
640 United States (U.S.) is the country of export, exporter is interpreted to mean a person domiciled in the
641 United States.

642
643 “Foreign exporter” means the person under the jurisdiction of the country of export who has, or will have
644 at the time the planned transboundary movement commences, possession or other forms of legal control
645 of the hazardous wastes and who proposes shipment of the hazardous wastes to the United States for
646 recovery or disposal operations.

647
648 “Foreign importer” means the person to whom possession or other form of legal control of the hazardous
649 waste is assigned at the time the exported hazardous waste is received in the country of import.

650
651 “Foreign receiving facility” means a facility which, under the importing country's applicable domestic
652 law, is operating or is authorized to operate in the country of import to receive the hazardous wastes and
653 to perform recovery or disposal operations on them.

654
655 “Import” means the transportation of hazardous waste from a location under the jurisdiction of another
656 country to a location under the jurisdiction of the United States for the purposes of recovery or
657 disposal operations therein.

658
659 “Importer” means the person to whom possession or other form of legal control of the hazardous waste is
660 assigned at the time the imported hazardous waste is received in the United Statescountry of import.

661
662 “OECD” means the Organization for Economic Cooperation and Development.

663
664 “OECD area” means all land or marine areas under the national jurisdiction of any OECD Member
665 country ~~listed in § 262.58~~. When the regulations refer to shipments to or from an OECD Member country,
666 this means OECD area.

667
668 “OECD Member country” means the countries that are members of the OECD and participate in the
669 Amended 2001 OECD Decision. (EPA provides a list of OECD Member countries at
670 <https://www.epa.gov/hwgenerators/international-agreements-transboundary-shipments-waste>).

672 "Receiving facility" means a U.S. facility which, under RCRA and other applicable domestic laws, is
673 operating or is authorized to operate to receive hazardous wastes and to perform recovery or disposal
674 operations on them.

676 "Recognized trader" means a person who, with appropriate authorization of countries concerned, acts in
677 the role of principal to purchase and subsequently sell wastes; this person has legal control of such
678 wastes from time of purchase to time of sale; such a person may act to arrange and facilitate
679 transboundary movements of wastes destined for recovery operations.

681 "Recovery facility" means a facility which, under applicable domestic law, is operating or is authorized to
682 operate in the country of import to receive wastes and to perform recovery operations on them.

684 "Recovery operations" means activities leading to resource recovery, recycling, reclamation, direct re-
685 use or alternative uses, which include:

687 (1) R1 Use as a fuel (other than in direct incineration) or other means to generate energy.

688 (2) R2 Solvent reclamation/regeneration.

689 (3) R3 Recycling/reclamation of organic substances which are not used as solvents.

690 (4) R4 Recycling/reclamation of metals and metal compounds.

691 (5) R5 Recycling/reclamation of other inorganic materials.

692 (6) R6 Regeneration of acids or bases.

693 (7) R7 Recovery of components used for pollution abatement.

694 (8) R8 Recovery of components used from catalysts.

695 (9) R9 Used oil re-refining or other reuses of previously used oil.

696 (10) R10 Land treatment resulting in benefit to agriculture or ecological improvement.

697 (11) R11 Uses of residual materials obtained from any of the operations numbered R1- through R10
698 or RC14 (for transboundary shipments with Canada only).

699 (12) R12 Exchange of wastes for submission to any of the operations numbered R1- through R11 or
700 RC14 (for transboundary shipments with Canada only).

701 (13) R13 Accumulation of material intended for any operation numbered R1- through R12 or RC14
702 (for transboundary shipments with Canada only).

703 (14) RC14 Recovery or regeneration of a substance or use or re-use of a recyclable material, other
704 than by any of operations R1 to R10 (for transboundary shipments with Canada only).

705 (15) RC15 Testing of a new technology to recycle a hazardous recyclable material (for transboundary
706 shipments with Canada only).

707 (16) RC16 Interim storage prior to any of operations R1 to R11 or RC14 (for transboundary shipments
708 with Canada only).

710 "Transboundary movement" means any movement of hazardous wastes from an area under the
711 national jurisdiction of one ~~OECD Member~~ country to an area under the national jurisdiction of another
712 ~~OECD Member~~ country.

716 § 262.82 General conditions.

718 (a) **Scope.** The level of control for exports and imports of waste is indicated by assignment of the waste
719 to either a list of wastes subject to the Green control procedures or a list of wastes subject to the Amber
720 control procedures and whether the waste is or is not hazardous waste by the national procedures of the
721 United States, as defined in § 262.80(a). The OECD Green and Amber lists are incorporated by
722 reference in § ~~262.89(d)~~260.11 of these regulations.

724 (1) Green list wastes. ~~Listed wastes subject to the Green control procedures.~~

725
726 (i) Green wastes that are not ~~considered hazardous wastes under U.S. national procedures as~~
727 ~~defined in § 262.80(a)~~ are subject to existing controls normally applied to commercial
728 transactions, and are not subject to the requirements of this subpart.

729
730 (ii) Green wastes that are ~~considered hazardous wastes under U.S. national procedures as~~
731 ~~defined in § 262.80(a)~~ are subject to the Amber control procedures set forth in this requirements
732 of this subpart.

733
734 (2) Amber list wastes. Listed wastes subject to the Amber control procedures.
735

736 (i) Amber wastes that are ~~considered hazardous wastes under U.S. national procedures as~~
737 ~~defined in § 262.80(a)~~ are subject to the Amber control procedures set forth in requirements of this
738 subpart, even if they are imported to or exported from a country that does not consider the waste
739 to be hazardous or control the transboundary shipment as a hazardous waste import or export.

740
741 (A) For exports, the exporter must comply with § 262.83.

742
743 (B) For imports, the recovery or disposal facility and the importer must comply with § 262.84.
744

745 (ii) ~~Amber wastes that are considered hazardous under U.S. national procedures as defined in §~~
746 ~~262.80(a), are subject to the Amber control procedures in the United States, even if they are~~
747 ~~imported to or exported from a designated OECD Member country listed in § 262.58(a)(1) that~~
748 ~~does not consider the waste to be hazardous. In such an event, the responsibilities of the Amber~~
749 ~~control procedures shift as provided:~~

750
751 (A) ~~For U.S. exports, the United States shall issue an acknowledgement of receipt and~~
752 ~~assume other responsibilities of the competent authority of the country of import.~~

753
754 (B) ~~For U.S. imports, the U.S. recovery facility/importer and the United States shall assume~~
755 ~~the obligations associated with the Amber control procedures that normally apply to the~~
756 ~~exporter and country of export, respectively.~~

757
758 (iii) Amber wastes that are not ~~considered hazardous wastes under U.S. national procedures as~~
759 ~~defined in § 262.80(a)~~, but are considered hazardous by ~~an OECD Member the other~~ country are
760 subject to the Amber control procedures in the ~~OECD Member~~ country that considers the waste
761 hazardous, and are not subject to the requirements of this subpart. All responsibilities of the ~~U.S.~~
762 ~~importer/ or exporter~~ shift to the foreign importer/ or foreign exporter of the OECD Member in the
763 other country that considers the waste hazardous unless the parties make other arrangements
764 through contracts.

765
766 Note to Paragraph (a)(2): Some Amber list wastes subject to the Amber control procedures
767 are not listed or otherwise identified as hazardous under RCRA, and therefore are not
768 subject to the Amber control procedures requirements of this subpart. Regardless of the
769 status of the waste under RCRA, however, other Federal environmental statutes (e.g., the
770 Toxic Substances Control Act) restrict certain waste imports or exports. Such restrictions
771 continue to apply with regard to this subpart.

772
773 (3) Procedures for Mmixtures of wastes.
774

775 (i) A Green waste that is mixed with one or more other Green wastes such that the resulting
776 mixture is not ~~considered hazardous waste is not subject to the requirements of this~~
777 subpart under U.S. national procedures as defined in § 262.80(a) shall be subject to the Green

control procedures, provided the composition of this mixture does not impair its environmentally sound recovery.

Note to paragraph (a)(3)(i): The regulated community should note that some OECD Member countries may require, by domestic law, that mixtures of different Green wastes be subject to the Amber control procedures.

(ii) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is considered hazardous waste under U.S. national procedures as defined in § 262.80(a) are is subject to the requirements of this subpart. Amber control procedures, provided the composition of this mixture does not impair its environmentally sound recovery.

Note to Paragraph (a)(3)(ii): The regulated community should note that some OECD Member countries may require, by domestic law, that a mixture of a Green waste and more than a de minimis amount of an Amber waste or a mixture of two or more Amber wastes be subject to the Amber control procedures.

(4) Wastes not yet assigned to an OECD waste list are eligible for transboundary movements, as follows:

(i) If such wastes are considered hazardous wastes under U.S. national procedures as defined in § 262.80(a), such wastes are subject to the Amber control procedures requirements of this subpart.

(ii) If such wastes are not considered hazardous waste under U.S. national procedures as defined in § 262.80(a), such wastes are not subject to the Green control procedures requirements of this subpart.

(b) General conditions applicable to transboundary movements of hazardous waste.

(1) The hazardous waste must be destined for recovery or disposal operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the importing country of import;

(2) The transboundary movement must be in compliance with applicable international transport agreements; and

Note to paragraph (b)(2): These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADN (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).

(3) Any transit of hazardous waste through a non-OECD Member country one or more countries must be conducted in compliance with all applicable international and national laws and regulations.

~~(c) Provisions relating to re-export for recovery to a third country.~~

~~(1) Re-export of wastes subject to the Amber control procedures from the United States, as the country of import, to a third country listed in § 262.58(a)(1) may occur only after an exporter in the United States provides notification to and obtains consent from the competent authorities in the third country, the original country of export, and any transit countries. The notification must comply with the notice and consent procedures in § 262.83 for all countries concerned and the original country of export. The competent authorities of the original country of export, as well as the competent authorities of all other countries concerned have thirty (30) days to object to the proposed movement.~~

831
832 (i) The thirty (30) day period begins once the competent authorities of both the initial country of
833 export and new country of import issue Acknowledgements of Receipt of the notification.
834

835 (ii) The transboundary movement may commence if no objection has been lodged after the thirty
836 (30) day period has passed or immediately after written consent is received from all relevant
837 OECD importing and transit countries.
838

839 (2) In the case of re-export of Amber wastes to a country other than those listed in § 262.58(a)(1),
840 notification to and consent of the competent authorities of the original OECD Member country of
841 export and any OECD Member countries of transit is required as specified in paragraph (c)(1) of this
842 section, in addition to compliance with all international agreements and arrangements to which the
843 first importing OECD Member country is a party and all applicable regulatory requirements for exports
844 from the first importing country.
845

846 **(d) Duty to return ~~or re-export~~ wastes subject to the Amber control procedures during transit**
847 **through the United States.** When a transboundary movement of hazardous wastes transiting the United
848 States and subject to the Amber control procedures ~~cannot be completed in accordance with the terms of~~
849 ~~the contract or the consent(s) and alternative arrangements cannot be made to recover the waste in an~~
850 ~~environmentally sound manner in the country of import, does not comply with the requirements of the~~
851 ~~notification and movement documents or otherwise constitutes illegal shipment, and if alternative~~
852 ~~arrangements cannot be made to recover or dispose of these wastes in an environmentally sound~~
853 ~~manner, the waste must be returned to the country of export, or re-exported to a third country. The~~
854 ~~provisions of paragraph (c) of this section apply to any shipments to be re-exported to a third country. The~~
855 ~~following provisions apply to shipments to be returned to the country of export as appropriate:~~
856

857 (1) ~~Return from the United States to the country of export:~~ The U.S. importer transporter must inform
858 EPA at the specified mailing address in § 262.83(b)(1)(i) paragraph (e) of this section of the need to
859 return the shipment. EPA will then inform the competent authorities authority of the countries country
860 of export ~~and transit~~, citing the reason(s) for returning the waste. The U.S. ~~importer~~ transporter must
861 complete the return within ninety (90) days from the time EPA informs the country of export of the
862 need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the
863 concerned ~~Member~~ countries. ~~If the return shipment will cross any transit country, the return shipment~~
864 ~~may only occur after EPA provides notification to and obtains consent from the competent authority of~~
865 ~~the country of transit, and provides a copy of that consent to the U.S. importer.~~
866

867 (2) ~~Return from the country of import to the United States:~~ The U.S. exporter must provide for the
868 return of the hazardous waste shipment within ninety (90) days from the time the country of import
869 informs EPA of the need to return the waste or such other period of time as the concerned Member
870 countries agree. The U.S. exporter must submit an exception report to EPA in accordance with §
871 262.87(b).
872

873 **(e) ~~Duty to return wastes subject to the Amber control procedures from a country of transit.~~** When
874 a transboundary movement of wastes subject to the Amber control procedures does not comply with the
875 requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if
876 alternative arrangements cannot be made to recover these wastes in an environmentally sound manner,
877 the waste must be returned to the country of export. ~~The following provisions apply as appropriate:~~
878

879 (1) ~~Return from the United States (as country of transit) to the country of export:~~ The U.S. transporter
880 must inform EPA at the specified address in § 262.83(b)(1)(i) of the need to return the shipment. EPA
881 will then inform the competent authority of the country of export, citing the reason(s) for returning the
882 waste. The U.S. transporter must complete the return within ninety (90) days from the time EPA

883 informs the country of export of the need to return the waste, unless informed in writing by EPA of
884 another timeframe agreed to by the concerned Member countries.

885
886 (2) Return from the country of transit to the United States (as country of export): The U.S. exporter
887 must provide for the return of the hazardous waste shipment within ninety (90) days from the time the
888 competent authority of the country of transit informs EPA of the need to return the waste or such other
889 period of time as the concerned Member countries agree. The U.S. exporter must submit an exception
890 report to EPA in accordance with § 262.87(b).

891
892 ~~(f) Requirements for wastes destined for and received by R12 and R13 facilities.~~ The transboundary
893 movement of wastes destined for R12 and R13 operations must comply with all Amber control
894 procedures for notification and consent as set forth in § 262.83 and for the movement document as set
895 forth in § 262.84. Additional responsibilities of R12/R13 facilities include:

896
897 (1) Indicating in the notification document the foreseen recovery facility or facilities where the
898 subsequent R1-R11 recovery operation takes place or may take place.

899
900 (2) Within three (3) days of the receipt of the wastes by the R12/R13 recovery facility or facilities, the
901 facility(ies) shall return a signed copy of the movement document to the exporter and to the competent
902 authorities of the countries of export and import. The facility(ies) shall retain the original of the
903 movement document for three (3) years.

904
905 (3) As soon as possible, but no later than thirty (30) days after the completion of the R12/R13
906 recovery operation and no later than one (1) calendar year following the receipt of the waste, the R12
907 or R13 facility(ies) shall send a certificate of recovery to the foreign exporter and to the competent
908 authority of the country of export and to the Office of Enforcement and Compliance Assurance, Office
909 of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection
910 Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by mail, e-mail without digital
911 signature followed by mail, or fax followed by mail.

912
913 (4) When an R12/R13 recovery facility delivers wastes for recovery to an R1-R11 recovery facility
914 located in the country of import, it shall obtain as soon as possible, but no later than one (1) calendar
915 year following delivery of the waste, a certification from the R1-R11 facility that recovery of the wastes
916 at that facility has been completed. The R12/R13 facility must promptly transmit the applicable
917 certification to the competent authorities of the countries of import and export, identifying the
918 transboundary movements to which the certification pertain.

919
920 (5) When an R12/R13 recovery facility delivers wastes for recovery to an R1-R11 recovery facility
921 located:

922
923 (i) In the initial country of export, Amber control procedures apply, including a new notification;

924
925 (ii) In a third country other than the initial country of export, Amber control procedures apply, with
926 the additional provision that the competent authority of the initial country of export shall also be
927 notified of the transboundary movement.

928
929 ~~(gd) Laboratory analysis exemption.~~ The transboundary movement of an Amber waste is exempt from
930 the Amber control procedures if it is in certain quantities and Export or import of a hazardous waste
931 sample is exempt from the requirements of this subpart if the sample is destined for laboratory analysis to
932 assess its physical or chemical characteristics, or to determine its suitability for recovery or disposal
933 operations. The quantity of such waste shall be determined by the minimum quantity reasonably needed
934 to perform the analysis in each particular case adequately, but in no case does not exceed twenty-five

935 kilograms (25 kg) ~~in quantity.~~ ~~Waste destined for laboratory analysis must still be~~ is appropriately
936 packaged and labeled, and complies with the conditions of Section 261.4(d) or (e) of these regulations.
937

938 (e) EPA Address for submittals by postal mail or hand delivery. Submittals required in this subpart to
939 be made by postal mail or hand delivery should be sent to the following addresses:

940
941 (1) For postal mail delivery, the Office of Enforcement and Compliance Assurance, Office of Federal
942 Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency,
943 1200 Pennsylvania Avenue NW., Washington, DC 20460.

944
945 (2) For hand-delivery, the Office of Enforcement and Compliance Assurance, Office of Federal
946 Activities, International Compliance Assurance Division, Environmental Protection Agency, William
947 Jefferson Clinton South Bldg., Room 6144, 12th St. and Pennsylvania Ave NW., Washington, DC
948 20004.

950 951 ~~§ 262.83 Notification and consent.~~

952
953 ~~(a) Applicability.~~ ~~Consent must be obtained from the competent authorities of the relevant OECD~~
954 ~~countries of import and transit prior to exporting hazardous waste destined for recovery operations~~
955 ~~subject to this subpart. Hazardous wastes subject to the Amber control procedures are subject to the~~
956 ~~requirements of paragraph (b) of this section; and wastes not identified on any list are subject to the~~
957 ~~requirements of paragraph (c) of this section.~~

958
959 ~~(b) Amber wastes.~~ ~~Exports of hazardous wastes from the United States as described in § 262.80(a) that~~
960 ~~are subject to the Amber control procedures are prohibited unless the notification and consent~~
961 ~~requirements of paragraph (b)(1) or paragraph (b)(2) of this section are met.~~

962 963 ~~(1) Transactions requiring specific consent:~~

964
965 ~~(i) Notification.~~ ~~At least forty five (45) days prior to commencement of each transboundary~~
966 ~~movement, the exporter must provide written notification in English of the proposed~~
967 ~~transboundary movement to the Office of Enforcement and Compliance Assurance Office of~~
968 ~~Federal Activities, International Compliance Assurance Division (2254A), Environmental~~
969 ~~Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, with the words~~
970 ~~"Attention: OECD Export Notification" prominently displayed on the envelope. This notification~~
971 ~~must include all of the information identified in paragraph (d) of this section. In cases where~~
972 ~~wastes having similar physical and chemical characteristics, the same United Nations~~
973 ~~classification, the same RCRA waste codes, and are to be sent periodically to the same recovery~~
974 ~~facility by the same exporter, the exporter may submit one general notification of intent to export~~
975 ~~these wastes in multiple shipments during a period of up to one (1) year. Even when a general~~
976 ~~notification is used for multiple shipments, each shipment still must be accompanied by its own~~
977 ~~movement document pursuant to § 262.84.~~

978
979 ~~(ii) Tacit consent.~~ ~~If no objection has been lodged by any countries concerned (i.e., exporting,~~
980 ~~importing, or transit) to a notification provided pursuant to paragraph (b)(1)(i) of this section within~~
981 ~~thirty (30) days after the date of issuance of the Acknowledgment of Receipt of notification by the~~
982 ~~competent authority of the country of import, the transboundary movement may commence. Tacit~~
983 ~~consent expires one (1) calendar year after the close of the thirty (30) day period; renotification~~
984 ~~and renewal of all consents is required for exports after that date.~~

985
986 ~~(iii) Written consent.~~ ~~If the competent authorities of all the relevant OECD importing and transit~~
987 ~~countries provide written consent in a period less than thirty (30) days, the transboundary~~

988 ~~movement may commence immediately after all necessary consents are received. Written~~
989 ~~consent expires for each relevant OECD importing and transit country one (1) calendar year after~~
990 ~~the date of that country's consent unless otherwise specified; renotification and renewal of each~~
991 ~~expired consent is required for exports after that date.~~

992
993 ~~(2) Transboundary movements to facilities pre-approved by the competent authorities of the importing~~
994 ~~countries to accept specific wastes for recovery:~~

995
996 ~~(i) **Notification.** The exporter must provide EPA a notification that contains all the information~~
997 ~~identified in paragraph (d) of this section in English, at least ten (10) days in advance of~~
998 ~~commencing shipment to a pre-approved facility. The notification must indicate that the recovery~~
999 ~~facility is pre-approved, and may apply to a single specific shipment or to multiple shipments as~~
1000 ~~described in paragraph (b)(1)(i) of this section. This information must be sent to the Office of~~
1001 ~~Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance~~
1002 ~~Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW.,~~
1003 ~~Washington, DC 20460, with the words "OECD Export Notification Pre-approved Facility"~~
1004 ~~prominently displayed on the envelope. General notifications that cover multiple shipments as~~
1005 ~~described in paragraph (b)(1)(i) of this section may cover a period of up to three (3) years. Even~~
1006 ~~when a general notification is used for multiple shipments, each shipment still must be~~
1007 ~~accompanied by its own movement document pursuant to § 262.84.~~

1008
1009 ~~(ii) Exports to pre-approved facilities may take place after the elapse of seven (7) working days~~
1010 ~~from the issuance of an Acknowledgement of Receipt of the notification by the competent~~
1011 ~~authority of the country of import unless the exporter has received information indicating that the~~
1012 ~~competent authority of any countries concerned objects to the shipment.~~

1013
1014 ~~(c) **Wastes not covered in the OECD Green and Amber lists.** Wastes destined for recovery operations,~~
1015 ~~that have not been assigned to the OECD Green and Amber lists, incorporated by reference in §~~
1016 ~~262.89(d), but which are considered hazardous under U.S. national procedures as defined in § 262.80(a),~~
1017 ~~are subject to the notification and consent requirements established for the Amber control procedures in~~
1018 ~~accordance with paragraph (b) of this section. Wastes destined for recovery operations, that have not~~
1019 ~~been assigned to the OECD Green and Amber lists incorporated by reference in § 262.89(d), and are not~~
1020 ~~considered hazardous under U.S. national procedures as defined by § 262.80(a) are subject to the Green~~
1021 ~~control procedures.~~

1022
1023 ~~(d) Notifications submitted under this section must include the information specified in paragraphs (d)(1)~~
1024 ~~through (d)(14) of this section:~~

1025
1026 ~~(1) Serial number or other accepted identifier of the notification document;~~

1027
1028 ~~(2) Exporter name and EPA identification number (if applicable), address, telephone, and fax~~
1029 ~~numbers, and e-mail address;~~

1030
1031 ~~(3) Importing recovery facility name, address, telephone, fax numbers, e-mail address, and~~
1032 ~~technologies employed;~~

1033
1034 ~~(4) Importer name (if not the owner or operator of the recovery facility) address, telephone, fax~~
1035 ~~numbers, and e-mail address; whether the importer will engage in waste exchange recovery operation~~
1036 ~~R12 or waste accumulation recovery operation R13 prior to delivering the waste to the final recovery~~
1037 ~~facility and identification of recovery operations to be employed at the final recovery facility;~~

1038
1039 ~~(5) Intended transporter(s) and/or their agent(s); address, telephone, fax, and e-mail address;~~
1040

- 1041 ~~(6) Country of export and relevant competent authority, and point of departure;~~
- 1042
- 1043 ~~(7) Countries of transit and relevant competent authorities and points of entry and departure;~~
- 1044
- 1045 ~~(8) Country of import and relevant competent authority, and point of entry;~~
- 1046
- 1047 ~~(9) Statement of whether the notification is a single notification or a general notification. If general,~~
- 1048 ~~include period of validity requested;~~
- 1049
- 1050 ~~(10) Date(s) foreseen for commencement of transboundary movement(s);~~
- 1051
- 1052 ~~(11) Means of transport envisaged;~~
- 1053
- 1054 ~~(12) Designation of waste type(s) from the appropriate OECD list incorporated by reference in §~~
- 1055 ~~262.89(d), description(s) of each waste type, estimated total quantity of each, RCRA waste code, and~~
- 1056 ~~the United Nations number for each waste type;~~
- 1057
- 1058 ~~(13) Specification of the recovery operation(s) as defined in § 262.81.~~
- 1059
- 1060 ~~(14) Certification/Declaration signed by the exporter that states:~~

1061 I certify that the above information is complete and correct to the best of my knowledge. I also

1062 certify that legally enforceable written contractual obligations have been entered into, and that any

1063 applicable insurance or other financial guarantees are or shall be in force covering the

1064 transboundary movement.

1065

1066

1067 Name: _____

1068 Signature: _____

1069 Date: _____

1070

1071 Note to paragraph (d)(14): The United States does not currently require financial assurance

1072 for these waste shipments. However, U.S. exporters may be asked by other governments to

1073 provide and certify to such assurance as a condition of obtaining consent to a proposed

1074 movement.

1075

1076 **(e) Certificate of Recovery.** As soon as possible, but no later than thirty (30) days after the completion of

1077 recovery and no later than one (1) calendar year following receipt of the waste, the U.S. recovery facility

1078 shall send a certificate of recovery to the exporter and to the competent authorities of the countries of

1079 export and import by mail, e-mail without a digital signature followed by mail, or fax followed by mail. The

1080 certificate of recovery shall include a signed, written and dated statement that affirms that the waste

1081 materials were recovered in the manner agreed to by the parties to the contract required under § 262.85.

1082 **§ 262.83 Exports of hazardous waste.**

1083

1084 **(a) General export requirements.** Except as provided in paragraphs (a)(5) and (6) of
1085 this section, exporters that have received an AOC from EPA before December 31, 2016
1086 are subject to that approval and the requirements listed in the AOC that existed at the
1087 time of that approval until such time the approval period expires. All other exports of
1088 hazardous waste are prohibited unless:

1089

1090 (1) The exporter complies with the contract requirements in paragraph (f) of this
1091 section;

1092

1093 (2) The exporter complies with the notification requirements in paragraph (b) of this
1094 section;

1095

1096 (3) The exporter receives an AOC from EPA documenting consent from the countries
1097 of import and transit (and original country of export if exporting previously imported
1098 hazardous waste);

1099

1100 (4) The exporter ensures compliance with the movement documents requirements in
1101 paragraph (d) of this section;

1102

1103 (5) The exporter ensures compliance with the manifest instructions for export
1104 shipments in paragraph (c) of this section; and

1105

1106 (6) The exporter or a U.S. authorized agent:

1107

1108 (i) For shipments initiated prior to December 31, 2017, does one of the following:

1109

1110 (A) Submits Electronic Export Information (EEI) for each shipment to the
1111 Automated Export System (AES) or its successor system, under the
1112 International Trade Data System (ITDS) platform, in accordance with 15
1113 CFR § 30.4(b), and includes the following items in the EEI, along with the
1114 other information required under 15 CFR § 30.6:

1115

1116 (1) EPA license code;

1117

1118 (2) Commodity classification code for each hazardous waste per 15 CFR
1119 § 30.6(a)(12);

1120

1121 (3) EPA consent number for each hazardous waste;

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(4) Country of ultimate destination code per 15 CFR § 30.6(a)(5);

(5) Date of export per 15 CFR § 30.6(a)(2);

(6) RCRA hazardous waste manifest tracking number, if required;

(7) Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR § 30.6(a)(15); or

(8) EPA net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

(B) Complies with a paper-based process by:

(1) Attaching paper documentation of consent (i.e., a copy of the EPA Acknowledgment of Consent, international movement document) to the manifest, or shipping papers if a manifest is not required, which must accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter must provide the transporter with the paper documentation of consent which must accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipment) the primary exporter must attach the paper documentation of consent to the shipping paper.

(2) Providing the transporter with an additional copy of the manifest, and instructing the transporter via mail, email or fax to deliver that copy to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with § 263.20(g)(4)(ii).

(ii) For shipments initiated on or after December 31, 2017, submits Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR § 30.4(b), and includes the following items in the EEI, along with the other information required under 15 CFR § 30.6:

- 1162 (A) EPA license code;
1163
1164 (B) Commodity classification code for each hazardous waste per 15 CFR §
1165 30.6(a)(12);
1166
1167 (C) EPA consent number for each hazardous waste;
1168
1169 (D) Country of ultimate destination code per 15 CFR § 30.6(a)(5);
1170
1171 (E) Date of export per 15 CFR § 30.6(a)(2);
1172
1173 (F) RCRA hazardous waste manifest tracking number, if required;
1174
1175 (G) Quantity of each hazardous waste in shipment and units for reported
1176 quantity, if required reporting units established by value for the reported
1177 commodity classification number are in units of weight or volume per 15
1178 CFR § 30.6(a)(15); or
1179
1180 (H) EPA net quantity for each hazardous waste reported in units of
1181 kilograms if solid or in units of liters if liquid, if required reporting units
1182 established by value for the reported commodity classification number are
1183 not in units of weight or volume.
1184
1185 (b) Notifications--(1) General notifications. At least sixty (60) days before the first
1186 shipment of hazardous waste is expected to leave the United States, the exporter must
1187 provide notification in English to EPA of the proposed transboundary movement.
1188 Notifications must be submitted electronically using EPA's Waste Import Export Tracking
1189 System (WIETS), or its successor system. The notification may cover up to one year of
1190 shipments of one or more hazardous wastes being sent to the same recovery or disposal
1191 facility, and must include all of the following information:
1192
1193 (i) Exporter name and EPA identification number, address, telephone, fax
1194 numbers, and email address;
1195
1196 (ii) Foreign receiving facility name, address, telephone, fax numbers, email
1197 address, technologies employed, and the applicable recovery or disposal
1198 operations as defined in § 262.81 of these regulations;
1199
1200 (iii) Foreign importer name (if not the owner or operator of the foreign receiving
1201 facility), address, telephone, fax numbers, and email address;

1202
1203 (iv) Intended transporter(s) and/or their agent(s); address, telephone, fax
1204 numbers, and email address;
1205
1206 (v) "U.S." as the country of export name, "USA01" as the relevant competent
1207 authority code, and the intended U.S. port(s) of exit;
1208
1209 (vi) The ISO standard 3166 country name 2-digit code, OECD/Basel competent
1210 authority code, and the ports of entry and exit for each country of transit;
1211
1212 (vii) The ISO standard 3166 country name 2-digit code, OECD/Basel competent
1213 authority code, and port of entry for the country of import;
1214
1215 (viii) Statement of whether the notification covers a single shipment or multiple
1216 shipments;
1217
1218 (ix) Start and End Dates requested for transboundary movements;
1219
1220 (x) Means of transport planned to be used;
1221
1222 (xi) Description(s) of each hazardous waste, including whether each hazardous
1223 waste is regulated universal waste under 40 CFR Part 273, or Part 273 of these
1224 regulations, spent lead-acid batteries being exported for recovery of lead under
1225 40 CFR Part 266, Subpart G, or Part 267, Subpart G of these regulations, or
1226 industrial ethyl alcohol being exported for reclamation under 40 CFR §
1227 261.6(a)(3)(i), or § 261.6(a)(3)(i) of these regulations, estimated total quantity of
1228 each waste in either metric tons or cubic meters, the applicable RCRA waste
1229 code(s) for each hazardous waste, the applicable OECD waste code from the
1230 lists incorporated by reference in § 260.11, and the United Nations/U.S.
1231 Department of Transportation (DOT) ID number for each waste;
1232
1233 (xii) Specification of the recovery or disposal operation(s) as defined in § 262.81.
1234
1235 (xiii) Certification/Declaration signed by the exporter that states:
1236
1237 I certify that the above information is complete and correct to the best of my
1238 knowledge. I also certify that legally enforceable written contractual
1239 obligations have been entered into and that any applicable insurance or
1240 other financial guarantee is or shall be in force covering the transboundary
1241 movement.

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Name:
Signature:
Date:

(2) Exports to pre-consented recovery facilities in OECD Member countries. If the recovery facility is located in an OECD member country and has been pre-consented by the competent authority of the OECD member country to recover the waste sent by exporters located in other OECD member countries, the notification may cover up to three years of shipments. Notifications proposing export to a pre-consented facility in an OECD member country must include all information listed in paragraphs (b)(1)(i) through (b)(1)(xiii) of this section and additionally state that the facility is pre-consented. Exporters must submit the notification to EPA using the allowable methods listed in paragraph (b)(1) of this section at least ten days before the first shipment is expected to leave the United States.

(3) Notifications listing interim recycling operations or interim disposal operations. If the foreign receiving facility listed in paragraph (b)(1)(ii) of this section will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, or in the case of transboundary movements with Canada, any of the interim recovery operations R12, R13, or RC16, or interim disposal operations D13 to D14, or DC17, the notification submitted according to paragraph (b)(1) of this section must also include the final foreign recovery or disposal facility name, address, telephone, fax numbers, email address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, or in the case of transboundary movements with Canada, which of the applicable recovery or disposal operations R1 through R11, RC14 to RC15, D1 through D12, and DC15 to DC16 will be employed at the final foreign recovery or disposal facility. The recovery and disposal operations in this paragraph are defined in § 262.81.

(4) Renotifications. When the exporter wishes to change any of the information specified on the original notification (including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters), the exporter must submit a renotification of the changes to EPA using the allowable methods in paragraph (b)(1) of this section. Any shipment using the requested changes cannot take place until the countries of import and transit consent to the changes and the exporter receives an EPA AOC letter documenting the countries' consents to the changes.

1282 (5) For cases where the proposed country of import and recovery or disposal
1283 operations are not covered under an international agreement to which both the United
1284 States and the country of import are parties, EPA will coordinate with the Department
1285 of State to provide the complete notification to country of import and any countries of
1286 transit. In all other cases, EPA will provide the notification directly to the country of
1287 import and any countries of transit. A notification is complete when EPA receives a
1288 notification which EPA determines satisfies the requirements of paragraph (b)(1)(i)
1289 through (b)(1)(xiii) of this section. Where a claim of confidentiality is asserted with
1290 respect to any notification information required by paragraphs (b)(1)(i) through
1291 (b)(1)(xiii) of this section, EPA may find the notification not complete until any such
1292 claim is resolved in accordance with 40 CFR § 260.2.

1293
1294 (6) Where the countries of import and transit consent to the proposed transboundary
1295 movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the
1296 exporter documenting the countries' consents. Where any of the countries of import
1297 and transit objects to the proposed transboundary movement(s) of the hazardous
1298 waste or withdraws a prior consent, EPA will notify the exporter.

1299
1300 (7) Export of hazardous wastes for recycling or disposal operations that were
1301 originally imported into the United States for recycling or disposal operations in a third
1302 country is prohibited unless an exporter in the United States complies with the export
1303 requirements in § 262.83, including providing notification to EPA in accordance with
1304 paragraph (b)(1) of this section. In addition to listing all required information in
1305 paragraphs (b)(1)(i) through (b)(1)(xiii) of this section, the exporter must provide the
1306 original consent number issued for the initial import of the wastes in the notification,
1307 and receive an AOC from EPA documenting the consent of the competent authorities
1308 in new country of import, the original country of export, and any transit countries prior
1309 to re-export.

1310
1311 (8) Upon request by EPA, the exporter must furnish to EPA any additional information
1312 which the country of import requests in order to respond to a notification.

1313
1314 (c) RCRA manifest instructions for export shipments. The exporter must comply with
1315 the manifest requirements of §§ 262.20 through 262.23 except that:

1316
1317 (1) In lieu of the name, site address and EPA ID number of the designated permitted
1318 facility, the exporter must enter the name and site address of the foreign receiving
1319 facility;

1320

1321 (2) In the International Shipments block, the exporter must check the export box and
1322 enter the U.S. port of exit (city and State) from the United States.

1323
1324 (3) The exporter must list the consent number from the AOC for each hazardous
1325 waste listed on the manifest, matched to the relevant list number for the hazardous
1326 waste from block 9b. If additional space is needed, the exporter should use a
1327 Continuation Sheet(s) (EPA Form 8700-22A).

1328
1329 (4) The exporter may obtain the manifest from any source that is registered with the
1330 U.S. EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial
1331 forms printers).

1332
1333 **(d) Movement document requirements for export shipments.** (1) All exporters must
1334 ensure that a movement document meeting the conditions of paragraph (d)(2) of this
1335 section accompanies each transboundary movement of hazardous wastes from the
1336 initiation of the shipment until it reaches the foreign receiving facility, including cases in
1337 which the hazardous waste is stored and/or sorted by the foreign importer prior to
1338 shipment to the foreign receiving facility, except as provided in paragraphs (d)(1)(i) and
1339 (ii) of this section.

1340
1341 (i) For shipments of hazardous waste within the United States solely by water
1342 (bulk shipments only), the exporter must forward the movement document to the
1343 last water (bulk shipment) transporter to handle the hazardous waste in the
1344 United States if exported by water.

1345
1346 (ii) For rail shipments of hazardous waste within the United States which start
1347 from the company originating the export shipment, the exporter must forward the
1348 movement document to the next non-rail transporter, if any, or the last rail
1349 transporter to handle the hazardous waste in the United States if exported by rail.

1350
1351 (2) The movement document must include the following paragraphs (d)(2)(i) through
1352 (xv) of this section:

1353
1354 (i) The corresponding consent number(s) and hazardous waste number(s) for the
1355 listed hazardous waste from the relevant EPA AOC(s);

1356
1357 (ii) The shipment number and the total number of shipments from the EPA AOC;

1358
1359 (iii) Exporter name and EPA identification number, address, telephone, fax
1360 numbers, and email address;

1361
1362 (iv) Foreign receiving facility name, address, telephone, fax numbers, email
1363 address, technologies employed, and the applicable recovery or disposal
1364 operations as defined in § 262.81;
1365
1366 (v) Foreign importer name (if not the owner or operator of the foreign receiving
1367 facility), address, telephone, fax numbers, and email address;
1368
1369 (vi) Description(s) of each hazardous waste, quantity of each hazardous waste in
1370 the shipment, applicable RCRA hazardous waste code(s) for each hazardous
1371 waste, applicable OECD waste code for each hazardous waste from the lists
1372 incorporated by reference in § 260.11, and the United Nations/U.S. Department
1373 of Transportation (DOT) ID number for each hazardous waste;
1374
1375 (vii) Date movement commenced;
1376
1377 (viii) Name (if not exporter), address, telephone, fax numbers, and email of
1378 company originating the shipment;
1379
1380 (ix) Company name, EPA ID number, address, telephone, fax numbers, and
1381 email address of all transporters;
1382
1383 (x) Identification (license, registered name or registration number) of means of
1384 transport, including types of packaging;
1385
1386 (xi) Any special precautions to be taken by transporter(s);
1387
1388 (xii) Certification/declaration signed and dated by the exporter that the information
1389 in the movement document is complete and correct;
1390
1391 (xiii) Appropriate signatures for each custody transfer (e.g., transporter, importer,
1392 and owner or operator of the foreign receiving facility);
1393
1394 (xiv) Each U.S. person that has physical custody of the hazardous waste from the
1395 time the movement commences until it arrives at the foreign receiving facility
1396 must sign the movement document (e.g., transporter, foreign importer, and owner
1397 or operator of the foreign receiving facility); and
1398
1399 (xv) As part of the contract requirements per paragraph (f) of this section, the
1400 exporter must require that the foreign receiving facility send a copy of the signed

1401 movement document to confirm receipt within three working days of shipment
1402 delivery to the exporter, to the competent authorities of the countries of import
1403 and transit, and for shipments occurring on or after December 31, 2017, the
1404 exporter must additionally require that the foreign receiving facility send a copy to
1405 EPA at the same time using the allowable methods listed in paragraph (b)(1) of
1406 this section.

1407
1408 **(e) Duty to return or re-export hazardous wastes.** When a transboundary movement
1409 of hazardous wastes cannot be completed in accordance with the terms of the contract or
1410 the consent(s) and alternative arrangements cannot be made to recover or dispose of the
1411 waste in an environmentally sound manner in the country of import, the exporter must
1412 ensure that the hazardous waste is returned to the United States or re-exported to a third
1413 country. If the waste must be returned, the exporter must provide for the return of the
1414 hazardous waste shipment within ninety days from the time the country of import informs
1415 EPA of the need to return the waste or such other period of time as the concerned
1416 countries agree. In all cases, the exporter must submit an exception report to EPA in
1417 accordance with paragraph (h) of this section.

1418
1419 **(f) Export contract requirements.** (1) Exports of hazardous waste are prohibited unless
1420 they occur under the terms of a valid written contract, chain of contracts, or equivalent
1421 arrangements (when the movement occurs between parties controlled by the same
1422 corporate or legal entity). Such contracts or equivalent arrangements must be executed
1423 by the exporter, foreign importer (if different from the foreign receiving facility), and the
1424 owner or operator of the foreign receiving facility, and must specify responsibilities for
1425 each. Contracts or equivalent arrangements are valid for the purposes of this section only
1426 if persons assuming obligations under the contracts or equivalent arrangements have
1427 appropriate legal status to conduct the operations specified in the contract or equivalent
1428 arrangements.

1429
1430 (2) Contracts or equivalent arrangements must specify the name and EPA ID number,
1431 where available, of paragraph (f)(2)(i) through (iv) of this section:

1432
1433 (i) The company from where each export shipment of hazardous waste is
1434 initiated;

1435
1436 (ii) Each person who will have physical custody of the hazardous wastes;

1437
1438 (iii) Each person who will have legal control of the hazardous wastes; and

1439
1440 (iv) The foreign receiving facility.

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(3) Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the hazardous wastes if their disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts must specify that:

(i) The transporter or foreign receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the exporter, EPA, and either the competent authority of the country of transit or the competent authority of the country of import of the need to make alternate management arrangements; and

(ii) The person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of hazardous wastes and, as the case may be, shall provide the notification for re-export to the competent authority in the country of import and include the equivalent of the information required in paragraph (b)(1) of this section, the original consent number issued for the initial export of the hazardous wastes in the notification, and obtain consent from EPA and the competent authorities in the new country of import and any transit countries prior to re-export.

(4) Contracts must specify that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter and to the competent authorities of the countries of import and transit. For contracts that will be in effect on or after December 31, 2017, the contracts must additionally specify that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in paragraph (b)(1) of this section on or after that date.

(5) Contracts must specify that the foreign receiving facility shall send a copy of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the exporter and to the competent authority of the country of import. For contracts that will be in effect on or after December 31, 2017, the contracts must additionally specify that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in paragraph (b)(1) of this section on or after that date.

1480 (6) Contracts must specify that the foreign importer or the foreign receiving facility that
1481 performed interim recycling operations R12, R13, or RC16, or interim disposal
1482 operations D13 through D15 or DC17, (recovery and disposal operations defined in §
1483 262.81) as appropriate, will:

1484
1485 (i) Provide the notification required in paragraph (f)(3)(ii) of this section prior to
1486 any re-export of the hazardous wastes to a final foreign recovery or disposal
1487 facility in a third country; and

1488
1489 (ii) Promptly send copies of the confirmation of recovery or disposal that it
1490 receives from the final foreign recovery or disposal facility within one year of
1491 shipment delivery to the final foreign recovery or disposal facility that performed
1492 one of recovery operations R1 through R11, or RC16, or one of disposal
1493 operations D1 through D12, DC15 or DC16 to the competent authority of the
1494 country of import. For contracts that will be in effect on or after December 31,
1495 2017, the contracts must additionally specify that the foreign facility send copies
1496 to EPA at the same time using the allowable method listed in paragraph (b)(1) of
1497 this section on or after that date.

1498
1499 (7) Contracts or equivalent arrangements must include provisions for financial
1500 guarantees, if required by the competent authorities of the country of import and any
1501 countries of transit, in accordance with applicable national or international law
1502 requirements.

1503
1504 Note 1 to paragraph (f)(7): Financial guarantees so required are intended to
1505 provide for alternate recycling, disposal or other means of sound management of
1506 the wastes in cases where arrangements for the shipment and the recovery
1507 operations cannot be carried out as foreseen. The United States does not require
1508 such financial guarantees at this time; however, some OECD Member countries
1509 and other foreign countries do. It is the responsibility of the exporter to ascertain
1510 and comply with such requirements; in some cases, persons or facilities located
1511 in those OECD Member countries or other foreign countries may refuse to enter
1512 into the necessary contracts absent specific references or certifications to
1513 financial guarantees.

1514
1515 (8) Contracts or equivalent arrangements must contain provisions requiring each
1516 contracting party to comply with all applicable requirements of this subpart.

1517
1518 (9) Upon request by EPA, U.S. exporters, importers, or recovery facilities must submit
1519 to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the

1520 movement occurs between parties controlled by the same corporate or legal entity).
1521 Information contained in the contracts or equivalent arrangements for which a claim of
1522 confidentiality is asserted in accordance with 40 CFR § 2.203(b) will be treated as
1523 confidential and will be disclosed by EPA only as provided in 40 CFR § 260.2.
1524

1525 (g) **Annual reports.** The exporter shall file an annual report with EPA no later than March
1526 1 of each year summarizing the types, quantities, frequency, and ultimate destination of
1527 all such hazardous waste exported during the previous calendar year. Prior to December
1528 31, 2018, the exporter must mail or hand-deliver annual reports to EPA using one of the
1529 addresses specified in § 262.82(e), or submit to EPA using the allowable methods
1530 specified in paragraph (b)(1) of this section if the exporter has electronically filed EPA
1531 information in AES, or its successor system, per paragraph (a)(6)(i)(A) of this section for
1532 all shipments made the previous calendar year. Subsequently, the exporter must submit
1533 annual reports to EPA using the allowable methods specified in paragraph (b)(1) of this
1534 section. The annual report must include all of the following paragraphs (g)(1) through (6)
1535 of this section specified as follows:

1536 (1) The EPA identification number, name, and mailing and site address of the
1537 exporter filing the report;

1539 (2) The calendar year covered by the report;

1540 (3) The name and site address of each foreign receiving facility;

1541 (4) By foreign receiving facility, for each hazardous waste exported:

1542 (i) A description of the hazardous waste;

1543 (ii) The applicable EPA hazardous waste code(s) (from Part 261, Subpart C or D)
1544 for each waste;

1545 (iii) The applicable waste code from the appropriate OECD waste list
1546 incorporated by reference in § 260.11;

1547 (iv) The applicable DOT ID number;

1548 (v) The name and U.S. EPA ID number (where applicable) for each transporter
1549 used over the calendar year covered by the report; and

1550

1559 (vi) The consent number(s) under which the hazardous waste was shipped, and
1560 for each consent number, the total amount of the hazardous waste and the
1561 number of shipments exported during the calendar year covered by the report;
1562

1563 (5) In even numbered years, for each hazardous waste exported, except for
1564 hazardous waste produced by exporters of greater than 100kg but less than 1,000kg
1565 in a calendar month, and except for hazardous waste for which information was
1566 already provided pursuant to § 262.41:
1567

1568 (i) A description of the efforts undertaken during the year to reduce the volume
1569 and toxicity of the waste generated; and
1570

1571 (ii) A description of the changes in volume and toxicity of the waste actually
1572 achieved during the year in comparison to previous years to the extent such
1573 information is available for years prior to 1984; and
1574

1575 (6) A certification signed by the exporter that states:
1576

1577 I certify under penalty of law that I have personally examined and am familiar with
1578 the information submitted in this and all attached documents, and that based on
1579 my inquiry of those individuals immediately responsible for obtaining the
1580 information, I believe that the submitted information is true, accurate, and
1581 complete. I am aware that there are significant penalties for submitting false
1582 information including the possibility of fine and imprisonment.
1583

1584 (h) **Exception reports.** (1) The exporter must file an exception report in lieu of the
1585 requirements of § 262.42 (if applicable) with EPA if any of the following occurs:
1586

1587 (i) The exporter has not received a copy of the RCRA hazardous waste manifest
1588 (if applicable) signed by the transporter identifying the point of departure of the
1589 hazardous waste from the United States, within forty-five (45) days from the date
1590 it was accepted by the initial transporter, in which case the exporter must file the
1591 exception report within the next thirty (30) days;
1592

1593 (ii) The exporter has not received a written confirmation of receipt from the
1594 foreign receiving facility in accordance with paragraph (d) of this section within
1595 ninety (90) days from the date the waste was accepted by the initial transporter in
1596 which case the exporter must file the exception report within the next thirty (30)
1597 days; or
1598

1599 (iii) The foreign receiving facility notifies the exporter, or the country of import
1600 notifies EPA, of the need to return the shipment to the U.S. or arrange alternate
1601 management, in which case the exporter must file the exception report within
1602 thirty (30) days of notification, or one (1) day prior to the date the return shipment
1603 commences, whichever is sooner.

1604
1605 (2) Prior to December 31, 2107, exception reports must be mailed or hand delivered
1606 to EPA using the addresses listed in § 262.82(e). Subsequently, exception reports
1607 must be submitted to EPA using the allowable methods listed in paragraph (b)(1) of
1608 this section.

1609
1610 (i) **Recordkeeping.** (1) The exporter shall keep the following records in paragraphs
1611 (i)(1)(i) through (v) of this section and provide them to EPA or authorized state personnel
1612 upon request:

1613
1614 (i) A copy of each notification of intent to export and each EPA AOC for a period
1615 of at least three (3) years from the date the hazardous waste was accepted by
1616 the initial transporter;

1617
1618 (ii) A copy of each annual report for a period of at least three (3) years from the
1619 due date of the report;

1620
1621 (iii) A copy of any exception reports and a copy of each confirmation of receipt
1622 (i.e., movement document) sent by the foreign receiving facility to the exporter for
1623 at least three (3) years from the date the hazardous waste was accepted by the
1624 initial transporter;

1625
1626 (iv) A copy of each confirmation of recovery or disposal sent by the foreign
1627 receiving facility to the exporter for at least three (3) years from the date that the
1628 foreign receiving facility completed interim or final processing of the hazardous
1629 waste shipment; and

1630
1631 (v) A copy of each contract or equivalent arrangement established per § 262.85
1632 for at least three (3) years from the expiration date of the contract or equivalent
1633 arrangement.

1634
1635 (2) Exporters may satisfy these recordkeeping requirements by retaining electronically
1636 submitted documents in the exporter's account on EPA's Waste Import Export
1637 Tracking System (WIETS), or its successor system, provided that copies are readily
1638 available for viewing and production if requested by any EPA or authorized state

1639 inspector. No exporter may be held liable for the inability to produce such documents
1640 for inspection under this section if the exporter can demonstrate that the inability to
1641 produce the document is due exclusively to technical difficulty with EPA's Waste
1642 Import Export Tracking System (WIETS), or its successor system for which the
1643 exporter bears no responsibility.

1644
1645 (3) The periods of retention referred to in this section are extended automatically
1646 during the course of any unresolved enforcement action regarding the regulated
1647 activity or as requested by the Administrator.

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§ 262.84 – Movement document.

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~~(a) All U.S. parties subject to the contract provisions of § 262.85 must ensure that a movement document meeting the conditions of paragraph (b) of this section accompanies each transboundary movement of wastes subject to the Amber control procedures from the initiation of the shipment until it reaches the final recovery facility, including cases in which the waste is stored and/or sorted by the importer prior to shipment to the final recovery facility, except as provided in paragraphs (a)(1) and (2) of this section.~~

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~~(1) For shipments of hazardous waste within the United States solely by water (bulk shipments only) the generator must forward the movement document with the manifest to the last water (bulk shipment) transporter to handle the waste in the United States if exported by water, (in accordance with the manifest routing procedures at § 262.23(e)).~~

~~(2) For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must forward the movement document with the manifest (in accordance with the routing procedures for the manifest in § 262.23(d)) to the next non-rail transporter, if any, or the last rail transporter to handle the waste in the United States if exported by rail.~~

~~(b) The movement document must include all information required under § 262.83 (for notification), as well as the following paragraphs (b)(1) through (b)(7) of this sections:~~

~~(1) Date movement commenced;~~

~~(2) Name (if not exporter), address, telephone, fax numbers, and e-mail of primary exporter;~~

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~~(3) Company name and EPA ID number of all transporters;~~

~~(4) Identification (license, registered name or registration number) of means of transport, including types of packaging envisaged;~~

~~(5) Any special precautions to be taken by transporter(s);~~

~~(6) Certification/declaration signed by the exporter that no objection to the shipment has been lodged as follows:~~

~~I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantees are or shall be in force covering the transboundary movement, and that:~~

~~1. All necessary consents have been received; OR~~

~~2. The shipment is directed at a recovery facility within the OECD area and no objection has been received from any of the countries concerned within the thirty (30) day tacit consent period; OR~~

~~3. The shipment is directed to a recovery facility pre-approved for that type of waste within the OECD area; such an authorization has not been revoked, and no objection has been received from any of the countries concerned.~~

~~(delete sentences that are not applicable)~~

~~Name: _____~~

~~Signature: _____~~

~~Date: _____~~

~~(7) Appropriate signatures for each custody transfer (e.g. transporter, importer, and owner or operator of the recovery facility).~~

~~(c) Exporters also must comply with the special manifest requirements of §§ 262.54(a), (b), (e), (e), and (i) and importers must comply with the import requirements of Part 262, Subpart F.~~

1719
1720 (d) Each U.S. person that has physical custody of the waste from the time the movement
1721 commences until it arrives at the recovery facility must sign the movement document
1722 (e.g. transporter, importer, and owner or operator of the recovery facility).
1723

1724 (e) Within three (3) working days of the receipt of imports subject to this subpart, the
1725 owner or operator of the U.S. recovery facility must send signed copies of the movement
1726 document to the exporter, to the Office of Enforcement and Compliance Assurance,
1727 Office of Federal Activities, International Compliance Assurance Division (2254A),
1728 Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC
1729 20460, and to the competent authorities of the countries of export and transit. If the
1730 concerned U.S. recovery facility is a R12/R13 recovery facility as defined under § 262.81,
1731 the facility shall retain the original of the movement document for three (3) years.
1732

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1734

1735 **§ 262.84 Imports of hazardous waste.**

1736

1737 (a) **General import requirements.** (1) With the exception of paragraph (a)(5) of this
1738 section, importers of shipments covered under a consent from EPA to the country of
1739 export issued before December 31, 2016 are subject to that approval and the
1740 requirements that existed at the time of that approval until such time the approval period
1741 expires. Otherwise, any other person who imports hazardous waste from a foreign
1742 country into the United States must comply with the requirements of this part and the
1743 special requirements of this subpart.
1744

1745 (2) In cases where the country of export does not require the foreign exporter to
1746 submit a notification and obtain consent to the export prior to shipment, the importer
1747 must submit a notification to EPA in accordance with paragraph (b) of this section.
1748

1749 (3) The importer must comply with the contract requirements in paragraph (f) of this
1750 section.
1751

1752 (4) The importer must ensure compliance with the movement documents
1753 requirements in paragraph (d) of this section; and
1754

1755 (5) The importer must ensure compliance with the manifest instructions for import
1756 shipments in paragraph (c) of this section.
1757

1758 (b) **Notifications.** In cases where the competent authority of the country of export does
1759 not regulate the waste as hazardous waste and, thus, does not require the foreign
1760 exporter to submit to it a notification proposing export and obtain consent from EPA and
1761 the competent authorities for the countries of transit, but EPA does regulate the waste as
1762 hazardous waste:

1763
1764 (1) The importer is required to provide notification in English to EPA of the proposed
1765 transboundary movement of hazardous waste at least sixty (60) days before the first
1766 shipment is expected to depart the country of export. Notifications submitted prior to
1767 December 31, 2017 must be mailed or hand delivered to EPA at the addresses
1768 specified in § 262.82(e). Notifications submitted on or after December 31, 2107 must
1769 be submitted electronically using EPA's Waste Import Export Tracking System
1770 (WIETS), or its successor system. The notification may cover up to one year of
1771 shipments of one or more hazardous wastes being sent from the same foreign
1772 exporter, and must include all of the following information:

1773
1774 (i) Foreign exporter name, address, telephone, fax numbers, and email address;

1775
1776 (ii) Receiving facility name, EPA ID number, address, telephone, fax numbers,
1777 email address, technologies employed, and the applicable recovery or disposal
1778 operations as defined in § 262.81;

1779
1780 (iii) Importer name (if not the owner or operator of the receiving facility), EPA ID
1781 number, address, telephone, fax numbers, and email address;

1782
1783 (iv) Intended transporter(s) and/or their agent(s); address, telephone, fax
1784 numbers, and email address;

1785
1786 (v) "U.S." as the country of import, "USA01" as the relevant competent authority
1787 code, and the intended U.S. port(s) of entry;

1788
1789 (vi) The ISO standard 3166 country name 2-digit code, OECD/Basel competent
1790 authority code, and the ports of entry and exit for each country of transit;

1791
1792 (vii) The ISO standard 3166 country name 2-digit code, OECD/Basel competent
1793 authority code, and port of exit for the country of export;

1794
1795 (viii) Statement of whether the notification covers a single shipment or multiple
1796 shipments;

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(ix) Start and End Dates requested for transboundary movements;

(x) Means of transport planned to be used;

(xi) Description(s) of each hazardous waste, including whether each hazardous waste is regulated universal waste under 40 CFR Part 273, or Part 273 of these regulations-, spent lead-acid batteries being exported for recovery of lead under 40 CFR Part 266, Subpart G, or Part 267, Subpart G of these regulations, or industrial ethyl alcohol being exported for reclamation under 40 CFR § 261.6(a)(3)(i), or § 261.6(a)(3)(i) of these regulations, estimated total quantity of each hazardous waste, the applicable RCRA hazardous waste code(s) for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(xii) Specification of the recovery or disposal operation(s) as defined in § 262.81; and

(xiii) Certification/Declaration signed by the importer that states:

I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement.

Name:

Signature:

Date:

Note to paragraph (b)(1)(xiii): The United States does not currently require financial assurance for these waste shipments.

(2) Notifications listing interim recycling operations or interim disposal operations. If the receiving facility listed in paragraph (b)(1)(ii) of this section will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, the notification submitted according to paragraph (b)(1) of this section must also include the final recovery or disposal facility name, address, telephone, fax numbers, email address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, will

1838 be employed at the final recovery or disposal facility. The recovery and disposal
1839 operations in this paragraph are defined in § 262.81.
1840
1841 (3) **Renotifications.** When the foreign exporter wishes to change any of the
1842 conditions specified on the original notification (including increasing the estimate of
1843 the total quantity of hazardous waste specified in the original notification or adding
1844 transporters), the importer must submit a renotification of the changes to EPA using
1845 the allowable methods in paragraph (b)(1) of this section. Any shipment using the
1846 requested changes cannot take place until EPA and the countries of transit consent to
1847 the changes and the importer receives an EPA AOC letter documenting the consents
1848 to the changes.
1849
1850 (4) A notification is complete when EPA determines the notification satisfies the
1851 requirements of paragraph (b)(1)(i) through (xiii) of this section. Where a claim of
1852 confidentiality is asserted with respect to any notification information required by
1853 paragraphs (b)(1)(i) through (xiii) of this section, EPA may find the notification not
1854 complete until any such claim is resolved in accordance with 40 CFR
1855 § 260.2.
1856
1857 (5) Where EPA and the countries of transit consent to the proposed transboundary
1858 movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the
1859 importer documenting the countries' consents and EPA's consent. Where any of the
1860 countries of transit or EPA objects to the proposed transboundary movement(s) of the
1861 hazardous waste or withdraws a prior consent, EPA will notify the importer.
1862
1863 (6) Export of hazardous wastes originally imported into the United States. Export of
1864 hazardous wastes that were originally imported into the United States for recycling or
1865 disposal operations is prohibited unless an exporter in the United States complies
1866 with the export requirements in § 262.83(b)(7).
1867
1868 (c) **RCRA Manifest instructions for import shipments.** (1) When importing hazardous
1869 waste, the importer must meet all the requirements of § 262.20 for the manifest except
1870 that:
1871
1872 (i) In place of the generator's name, address and EPA identification number, the
1873 name and address of the foreign generator and the importer's name, address and
1874 EPA identification number must be used.
1875

1876 (ii) In place of the generator's signature on the certification statement, the
1877 importer or his agent must sign and date the certification and obtain the signature
1878 of the initial transporter.
1879
1880 (2) The importer may obtain the manifest form from any source that is registered with
1881 the EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial
1882 forms printers).
1883
1884 (3) In the International Shipments block, the importer must check the import box and
1885 enter the point of entry (city and State) into the United States.
1886
1887 (4) The importer must provide the transporter with an additional copy of the manifest
1888 to be submitted by the receiving facility to U.S. EPA in accordance with § 264.71(a)(3)
1889 and § 265.71(a)(3).
1890
1891 (5) In lieu of the requirements of § 262.20(d), where a shipment cannot be delivered
1892 for any reason to the receiving facility, the importer must instruct the transporter in
1893 writing via fax, email or mail to:
1894
1895 (i) Return the hazardous waste to the foreign exporter or designate another
1896 facility within the United States; and
1897
1898 (ii) Revise the manifest in accordance with the importer's instructions.
1899
1900 **(d) Movement document requirements for import shipments.** (1) The importer must
1901 ensure that a movement document meeting the conditions of paragraph (d)(2) of this
1902 section accompanies each transboundary movement of hazardous wastes from the
1903 initiation of the shipment in the country of export until it reaches the receiving facility,
1904 including cases in which the hazardous waste is stored and/or sorted by the importer
1905 prior to shipment to the receiving facility, except as provided in paragraphs (d)(1)(i) and
1906 (ii) of this section.
1907
1908 (i) For shipments of hazardous waste within the United States by water (bulk
1909 shipments only), the importer must forward the movement document to the last
1910 water (bulk shipment) transporter to handle the hazardous waste in the United
1911 States if imported by water.
1912
1913 (ii) For rail shipments of hazardous waste within the United States which start
1914 from the company originating the export shipment, the importer must forward the

1915 movement document to the next non-rail transporter, if any, or the last rail
1916 transporter to handle the hazardous waste in the United States if imported by rail.
1917
1918 (2) The movement document must include the following paragraphs (d)(2)(i) through
1919 (xv) of this section:
1920
1921 (i) The corresponding AOC number(s) and waste number(s) for the listed waste;
1922
1923 (ii) The shipment number and the total number of shipments under the AOC
1924 number;
1925
1926 (iii) Foreign exporter name, address, telephone, fax numbers, and email address;
1927
1928 (iv) Receiving facility name, EPA ID number, address, telephone, fax numbers,
1929 email address, technologies employed, and the applicable recovery or disposal
1930 operations as defined in § 262.81;
1931
1932 (v) Importer name (if not the owner or operator of the receiving facility), EPA ID
1933 number, address, telephone, fax numbers, and email address;
1934
1935 (vi) Description(s) of each hazardous waste, quantity of each hazardous waste in
1936 the shipment, applicable RCRA hazardous waste code(s) for each hazardous
1937 waste, the applicable OECD waste code for each hazardous waste from the lists
1938 incorporated by reference in § 260.11, and the United Nations/U.S. Department
1939 of Transportation (DOT) ID number for each hazardous waste;
1940
1941 (vii) Date movement commenced;
1942
1943 (viii) Name (if not the foreign exporter), address, telephone, fax numbers, and
1944 email of the foreign company originating the shipment;
1945
1946 (ix) Company name, EPA ID number, address, telephone, fax numbers, and
1947 email address of all transporters;
1948
1949 (x) Identification (license, registered name or registration number) of means of
1950 transport, including types of packaging;
1951
1952 (xi) Any special precautions to be taken by transporter(s);
1953

1954 (xii) Certification/declaration signed and dated by the foreign exporter that the
1955 information in the movement document is complete and correct;
1956
1957 (xiii) Appropriate signatures for each custody transfer (e.g., transporter, importer,
1958 and owner or operator of the receiving facility);
1959
1960 (xiv) Each person that has physical custody of the waste from the time the
1961 movement commences until it arrives at the receiving facility must sign the
1962 movement document (e.g., transporter, importer, and owner or operator of the
1963 receiving facility); and
1964
1965 (xv) The receiving facility must send a copy of the signed movement document to
1966 confirm receipt within three working days of shipment delivery to the foreign
1967 exporter, to the competent authorities of the countries of export and transit, and
1968 for shipments received on or after December 31, 2017, to EPA electronically
1969 using EPA's Waste Import Export Tracking System (WIETS), or its successor
1970 system.
1971
1972 **(e) Duty to return or export hazardous wastes.** When a transboundary movement of
1973 hazardous wastes cannot be completed in accordance with the terms of the contract or
1974 the consent(s), the provisions of paragraph (f)(4) of this section apply. If alternative
1975 arrangements cannot be made to recover the hazardous waste in an environmentally
1976 sound manner in the United States, the hazardous waste must be returned to the country
1977 of export or exported to a third country. The provisions of paragraph (b)(6) of this section
1978 apply to any hazardous waste shipments to be exported to a third country. If the return
1979 shipment will cross any transit country, the return shipment may only occur after EPA
1980 provides notification to and obtains consent from the competent authority of the country
1981 of transit, and provides a copy of that consent to the importer.
1982
1983 **(f) Import contract requirements.** (1) Imports of hazardous waste must occur under the
1984 terms of a valid written contract, chain of contracts, or equivalent arrangements (when
1985 the movement occurs between parties controlled by the same corporate or legal entity).
1986 Such contracts or equivalent arrangements must be executed by the foreign exporter,
1987 importer, and the owner or operator of the receiving facility, and must specify
1988 responsibilities for each. Contracts or equivalent arrangements are valid for the purposes
1989 of this section only if persons assuming obligations under the contracts or equivalent
1990 arrangements have appropriate legal status to conduct the operations specified in the
1991 contract or equivalent arrangements.
1992

1993 (2) Contracts or equivalent arrangements must specify the name and EPA ID number,
1994 where available, of paragraph (f)(2)(i) through (iv) of this section:
1995
1996 (i) The foreign company from where each import shipment of hazardous waste is
1997 initiated;
1998
1999 (ii) Each person who will have physical custody of the hazardous wastes;
2000
2001 (iii) Each person who will have legal control of the hazardous wastes; and
2002
2003 (iv) The receiving facility.
2004
2005 (3) Contracts or equivalent arrangements must specify the use of a movement
2006 document in accordance with § 262.84(d).
2007
2008 (4) Contracts or equivalent arrangements must specify which party to the contract will
2009 assume responsibility for alternate management of the hazardous wastes if their
2010 disposition cannot be carried out as described in the notification of intent to export
2011 submitted by either the foreign exporter or the importer. In such cases, contracts must
2012 specify that:
2013
2014 (i) The transporter or receiving facility having actual possession or physical
2015 control over the hazardous wastes will immediately inform the foreign exporter
2016 and importer, and the competent authority where the shipment is located of the
2017 need to arrange alternate management or return; and
2018
2019 (ii) The person specified in the contract will assume responsibility for the
2020 adequate management of the hazardous wastes in compliance with applicable
2021 laws and regulations including, if necessary, arranging the return of the
2022 hazardous wastes and, as the case may be, shall provide the notification for re-
2023 export required in § 262.83(b)(7).
2024
2025 (5) Contracts must specify that the importer or the receiving facility that performed
2026 interim recycling operations R12, R13, or RC16, or interim disposal operations D13
2027 through D15 or DC15 through DC17, as appropriate, will provide the notification
2028 required in § 262.83(b)(7) prior to the re-export of hazardous wastes. The recovery
2029 and disposal operations in this paragraph are defined in § 262.81.
2030

2031 (6) Contracts or equivalent arrangements must include provisions for financial
2032 guarantees, if required by the competent authorities of any countries concerned, in
2033 accordance with applicable national or international law requirements.

2034
2035 Note to paragraph (f)(6): Financial guarantees so required are intended to
2036 provide for alternate recycling, disposal or other means of sound management of
2037 the wastes in cases where arrangements for the shipment and the recovery
2038 operations cannot be carried out as foreseen. The United States does not require
2039 such financial guarantees at this time; however, some OECD Member countries
2040 or other foreign countries do. It is the responsibility of the importer to ascertain
2041 and comply with such requirements; in some cases, persons or facilities located
2042 in those countries may refuse to enter into the necessary contracts absent
2043 specific references or certifications to financial guarantees.

2044
2045 (7) Contracts or equivalent arrangements must contain provisions requiring each
2046 contracting party to comply with all applicable requirements of this subpart.

2047
2048 (8) Upon request by EPA, importers or disposal or recovery facilities must submit to
2049 EPA copies of contracts, chain of contracts, or equivalent arrangements (when the
2050 movement occurs between parties controlled by the same corporate or legal entity).
2051 Information contained in the contracts or equivalent arrangements for which a claim of
2052 confidentiality is asserted in accordance with 40 CFR § 2.203(b) will be treated as
2053 confidential and will be disclosed by EPA only as provided in 40 CFR § 260.2.

2054
2055 (g) **Confirmation of recovery or disposal.** The receiving facility must do the following:

2056
2057 (1) Send copies of the signed and dated confirmation of recovery or disposal, as soon
2058 as possible, but no later than thirty days after completing recovery or disposal on the
2059 waste in the shipment and no later than one calendar year following receipt of the
2060 waste, to the foreign exporter, to the competent authority of the country of export, and
2061 for shipments recycled or disposed of on or after December 31, 2017, to EPA
2062 electronically using EPA's Waste Import Export Tracking System (WIETS), or its
2063 successor system.

2064
2065 (2) If the receiving facility performed any of recovery operations R12, R13, or RC16,
2066 or disposal operations D13 through D15, or DC17, the receiving facility shall promptly
2067 send copies of the confirmation of recovery or disposal that it receives from the final
2068 recovery or disposal facility within one year of shipment delivery to the final recovery
2069 or disposal facility that performed one of recovery operations R1 through R11, or
2070 RC14 to RC15, or one of disposal operations D1 through D12, or DC15 to DC16, to

2071 the competent authority of the country of export, and for confirmations received on or
2072 after December 31, 2017, to EPA electronically using EPA's Waste Import Export
2073 Tracking System (WIETS), or its successor system. The recovery and disposal
2074 operations in this paragraph are defined in § 262.81.

2075
2076 (h) **Recordkeeping.** (1) The importer shall keep the following records and provide them
2077 to EPA or authorized state personnel upon request:

2078
2079 (i) A copy of each notification that the importer sends to EPA under paragraph
2080 (b)(1) of this section and each EPA AOC it receives in response for a period of at
2081 least three (3) years from the date the hazardous waste was accepted by the
2082 initial foreign transporter; and

2083
2084 (ii) A copy of each contract or equivalent arrangement established per paragraph
2085 (f) of this section for at least three (3) years from the expiration date of the
2086 contract or equivalent arrangement.

2087
2088 (2) The receiving facility shall keep the following records:

2089
2090 (i) A copy of each confirmation of receipt (i.e., movement document) that the
2091 receiving facility sends to the foreign exporter for at least three (3) years from the
2092 date it received the hazardous waste;

2093
2094 (ii) A copy of each confirmation of recovery or disposal that the receiving facility
2095 sends to the foreign exporter for at least three (3) years from the date that it
2096 completed processing the waste shipment;

2097
2098 (iii) For the receiving facility that performed any of recovery operations R12, R13,
2099 or RC16, or disposal operations D13 through D15, or DC17 (recovery and
2100 disposal operations defined in § 262.81), a copy of each confirmation of recovery
2101 or disposal that the final recovery or disposal facility sent to it for at least three (3)
2102 years from the date that the final recovery or disposal facility completed
2103 processing the waste shipment; and

2104
2105 (iv) A copy of each contract or equivalent arrangement established per paragraph
2106 (f) of this section for at least three (3) years from the expiration date of the
2107 contract or equivalent arrangement.

2108
2109 (3) Importers and receiving facilities may satisfy these recordkeeping requirements by
2110 retaining electronically submitted documents in the importer's or receiving facility's

2111 account on EPA's Waste Import Export Tracking System (WIETS), or its successor
2112 system, provided that copies are readily available for viewing and production if
2113 requested by any EPA or authorized state inspector. No importer or receiving facility
2114 may be held liable for the inability to produce such documents for inspection under
2115 this section if the importer or receiving facility can demonstrate that the inability to
2116 produce the document is due exclusively to technical difficulty with EPA's Waste
2117 Import Export Tracking System (WIETS), or its successor system for which the
2118 importer or receiving facility bears no responsibility.

2119
2120 (4) The periods of retention referred to in this section are extended automatically
2121 during the course of any unresolved enforcement action regarding the regulated
2122 activity or as requested by the Administrator.

2123

2124

2125 **§§ 262.85-262.89 [Reserved]**

2126

2127 **§ 262.85 – Contracts.**

2128

2129 ~~(a) Transboundary movements of hazardous wastes subject to the Amber control~~
2130 ~~procedures are prohibited unless they occur under the terms of a valid written contract,~~
2131 ~~chain of contracts, or equivalent arrangements (when the movement occurs between~~
2132 ~~parties controlled by the same corporate or legal entity). Such contracts or equivalent~~
2133 ~~arrangements must be executed by the exporter and the owner or operator of the~~
2134 ~~recovery facility, and must specify responsibilities for each. Contracts or equivalent~~
2135 ~~arrangements are valid for the purposes of this section only if persons assuming~~
2136 ~~obligations under the contracts or equivalent arrangements have appropriate legal status~~
2137 ~~to conduct the operations specified in the contract or equivalent arrangements.~~

2138

2139 ~~(b) Contracts or equivalent arrangements must specify the name and EPA ID number,~~
2140 ~~where available, of paragraph (b)(1) through (b)(4) of this section:~~

2141

2142 ~~(1) The generator of each type of waste;~~

2143

2144 ~~(2) Each person who will have physical custody of the wastes;~~

2145

2146 ~~(3) Each person who will have legal control of the wastes; and~~

2147

2148 ~~(4) The recovery facility.~~

2149

2150 ~~(c) Contracts or equivalent arrangements must specify which party to the contract will~~
2151 ~~assume responsibility for alternate management of the wastes if their disposition cannot~~
2152 ~~be carried out as described in the notification of intent to export. In such cases, contracts~~
2153 ~~must specify that:~~

2154
2155 ~~(1) The person having actual possession or physical control over the wastes will~~
2156 ~~immediately inform the exporter and the competent authorities of the countries of~~
2157 ~~export and import and, if the wastes are located in a country of transit, the competent~~
2158 ~~authorities of that country; and~~

2159
2160 ~~(2) The person specified in the contract will assume responsibility for the adequate~~
2161 ~~management of the wastes in compliance with applicable laws and regulations~~
2162 ~~including, if necessary, arranging the return of wastes and, as the case may be, shall~~
2163 ~~provide the notification for re-export.~~

2164
2165 ~~(d) Contracts must specify that the importer will provide the notification required in §~~
2166 ~~262.82(c) prior to the re-export of controlled wastes to a third country.~~

2167
2168 ~~(e) Contracts or equivalent arrangements must include provisions for financial~~
2169 ~~guarantees, if required by the competent authorities of any countries concerned, in~~
2170 ~~accordance with applicable national or international law requirements.~~

2171
2172 ~~Note to paragraph (e): Financial guarantees so required are intended to provide for~~
2173 ~~alternate recycling, disposal or other means of sound management of the wastes in~~
2174 ~~cases where arrangements for the shipment and the recovery operations cannot be~~
2175 ~~carried out as foreseen.~~

2176 ~~The United States does not require such financial guarantees at this time; however,~~
2177 ~~some OECD Member countries do. It is the responsibility of the exporter to ascertain~~
2178 ~~and comply with such requirements; in some cases, transporters or importers may~~
2179 ~~refuse to enter into the necessary contracts absent specific references or~~
2180 ~~certifications to financial guarantees.~~

2181
2182 ~~(f) Contracts or equivalent arrangements must contain provisions requiring each~~
2183 ~~contracting party to comply with all applicable requirements of this subpart.~~

2184
2185 ~~(g) Upon request by EPA, U.S. exporters, importers, or recovery facilities must submit to~~
2186 ~~EPA copies of contracts, chain of contracts, or equivalent arrangements (when the~~
2187 ~~movement occurs between parties controlled by the same corporate or legal entity).~~
2188 ~~Information contained in the contracts or equivalent arrangements for which a claim of~~

2189 confidentiality is asserted accordance with 40 CFR 2.203(b) will be treated as confidential
2190 and will be disclosed by EPA only as provided in 40 CFR 260.2.

2191
2192 ~~Note to paragraph (g): Although the United States does not require routine~~
2193 ~~submission of contracts at this time, the OECD Decision allows Member countries to~~
2194 ~~impose such requirements. When other OECD Member countries require submission~~
2195 ~~of partial or complete copies of the contract as a condition to granting consent to~~
2196 ~~proposed movements, EPA will request the required information; absent submission~~
2197 ~~of such information, some OECD Member countries may deny consent for the~~
2198 ~~proposed movement.~~

2199
2200

2201 ~~§ 262.86 Provisions relating to recognized traders.~~

2202

2203 ~~(a) A recognized trader who takes physical custody of a waste and conducts recovery~~
2204 ~~operations (including storage prior to recovery) is acting as the owner or operator of a~~
2205 ~~recovery facility and must be so authorized in accordance with all applicable Federal~~
2206 ~~laws.~~

2207

2208 ~~(b) A recognized trader acting as an exporter or importer for transboundary shipments of~~
2209 ~~waste must comply with all the requirements of this subpart associated with being an~~
2210 ~~exporter or importer.~~

2211

2212

2213 ~~§ 262.87 Reporting and recordkeeping.~~

2214

2215 ~~(a) Annual reports. For all waste movements subject to this Subpart, persons (e.g.,~~
2216 ~~exporters, recognized traders) who meet the definition of primary exporter in § 262.51 or~~
2217 ~~who initiate the movement document under § 262.84 shall file an annual report with the~~
2218 ~~Office of Enforcement and Compliance Assurance, Office of Federal Activities,~~
2219 ~~International Compliance Assurance Division (2254A), Environmental Protection Agency,~~
2220 ~~1200 Pennsylvania Avenue, NW., Washington, DC 20460, no later than March 1 of each~~
2221 ~~year summarizing the types, quantities, frequency, and ultimate destination of all such~~
2222 ~~hazardous waste exported during the previous calendar year. (If the primary exporter or~~
2223 ~~the person who initiates the movement document under § 262.84 is required to file an~~
2224 ~~annual report for waste exports that are not covered under this Subpart, he/she may~~
2225 ~~include all export information in one report provided the following information on exports~~
2226 ~~of waste destined for recovery within the designated OECD Member countries is~~
2227 ~~contained in a separate section). Such reports shall include all of the following~~
2228 ~~paragraphs (a)(1) through (a)(6) of this section specified as follows:~~

2229
2230 ~~(1) The EPA identification number, name, and mailing and site address of the~~
2231 ~~exporter filing the report;~~
2232
2233 ~~(2) The calendar year covered by the report;~~
2234
2235 ~~(3) The name and site address of each final recovery facility;~~
2236
2237 ~~(4) By final recovery facility, for each hazardous waste exported, a description of the~~
2238 ~~hazardous waste, the EPA hazardous waste number (from Part 261, Subpart C or D),~~
2239 ~~designation of waste type(s) and applicable waste codes from the appropriate OECD~~
2240 ~~waste list incorporated by reference in § 262.89(d), DOT hazard class, the name and~~
2241 ~~U.S. EPA identification number (where applicable) for each transporter used, the total~~
2242 ~~amount of hazardous waste shipped pursuant to this Subpart, and number of~~
2243 ~~shipments pursuant to each notification;~~
2244
2245 ~~(5) In even numbered years, for each hazardous waste exported, except for~~
2246 ~~hazardous waste produced by exporters of greater than 100 kg but less than 1,000 kg~~
2247 ~~in a calendar month, and except for hazardous waste for which information was~~
2248 ~~already provided pursuant to § 262.41:~~
2249
2250 ~~(i) A description of the efforts undertaken during the year to reduce the volume~~
2251 ~~and toxicity of waste generated; and~~
2252
2253 ~~(ii) A description of the changes in volume and toxicity of the waste actually~~
2254 ~~achieved during the year in comparison to previous years to the extent such~~
2255 ~~information is available for years prior to 1984; and~~
2256
2257 ~~(6) A certification signed by the person acting as primary exporter or initiator of the~~
2258 ~~movement document under § 262.84 that states:~~
2259
2260 ~~I certify under penalty of law that I have personally examined and am familiar with~~
2261 ~~the information submitted in this and all attached documents, and that based on~~
2262 ~~my inquiry of those individuals immediately responsible for obtaining the~~
2263 ~~information, I believe that the submitted information is true, accurate, and~~
2264 ~~complete. I am aware that there are significant penalties for submitting false~~
2265 ~~information including the possibility of fine and imprisonment.~~
2266
2267 ~~(b) **Exception reports.** Any person who meets the definition of primary exporter in §~~
2268 ~~262.51 or who initiates the movement document under § 262.84 must file an exception~~

2269 ~~report in lieu of the requirements of § 262.42 (if applicable) with the Office of Enforcement~~
2270 ~~and Compliance Assurance, Office of Federal Activities, International Compliance~~
2271 ~~Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania~~
2272 ~~Avenue, NW., Washington, DC 20460, if any of the following occurs:~~

2273
2274 ~~(1) He/she has not received a copy of the RCRA hazardous waste manifest (if~~
2275 ~~applicable) signed by the transporter identifying the point of departure of the waste~~
2276 ~~from the United States, within forty five (45) days from the date it was accepted by the~~
2277 ~~initial transporter;~~

2278
2279 ~~(2) Within ninety (90) days from the date the waste was accepted by the initial~~
2280 ~~transporter, the exporter has not received written confirmation from the recovery~~
2281 ~~facility that the hazardous waste was received;~~

2282
2283 ~~(3) The waste is returned to the United States.~~

2284
2285 ~~(c) **Recordkeeping.** (1) Persons who meet the definition of primary exporter in § 262.51~~
2286 ~~or who initiate the movement document under § 262.84 shall keep the following records~~
2287 ~~in paragraphs (c)(1)(i) through (c)(1)(iv) of this section:~~

2288
2289 ~~(i) A copy of each notification of intent to export and all written consents obtained~~
2290 ~~from the competent authorities of countries concerned for a period of at least~~
2291 ~~three (3) years from the date the hazardous waste was accepted by the initial~~
2292 ~~transporter;~~

2293
2294 ~~(ii) A copy of each annual report for a period of at least three (3) years from the~~
2295 ~~due date of the report;~~

2296
2297 ~~(iii) A copy of any exception reports and a copy of each confirmation of delivery~~
2298 ~~(i.e., movement document) sent by the recovery facility to the exporter for at least~~
2299 ~~three (3) years from the date the hazardous waste was accepted by the initial~~
2300 ~~transporter or received by the recovery facility, whichever is applicable; and~~

2301
2302 ~~(iv) A copy of each certificate of recovery sent by the recovery facility to the~~
2303 ~~exporter for at least three (3) years from the date that the recovery facility~~
2304 ~~completed processing the waste shipment.~~

2305
2306 ~~(2) The periods of retention referred to in this section are extended automatically~~
2307 ~~during the course of any unresolved enforcement action regarding the regulated~~
2308 ~~activity or as requested by the Administrator.~~

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~~§ 262.88 Pre approval for U.S. recovery facilities (Reserved).~~

~~§ 262.89 OECD waste lists.~~

~~(a) General. For the purposes of this subpart, a waste is considered hazardous under U.S. national procedures, and hence subject to this subpart, if the waste:~~

~~(1) Meets the Federal definition of hazardous waste in 40 CFR 261.3; and~~

~~(2) Is subject to either the Federal RCRA manifesting requirements at 40 CFR Part 262, Subpart B, the universal waste management standards of 40 CFR Part 273, the universal waste management standards of Part 273 of these regulations, the export requirements in the spent lead-acid battery management standards of 40 CFR part 266, subpart G, or the export requirements in the spent lead-acid battery management standards in Part 267, Subpart G of these regulations.~~

~~(b) If a waste is hazardous under paragraph (a) of this section, it is subject to the Amber control procedures, regardless of whether it appears in Appendix 4 of the OECD Decision, as defined in § 262.81.~~

~~(c) The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in § 262.82.~~

~~(d) The OECD waste lists, as set forth in Annex B ("Green List") and Annex C ("Amber List") (collectively "OECD waste lists") of the 2009 "Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations," are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is incorporated as it exists on the date of the approval and a notice of any change in these materials will be published in the Federal Register. The materials are available for inspection at: the U.S. Environmental Protection Agency, Docket Center Public Reading Room, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004 (Docket EPA-HQ-RCRA-2005-0018) or at the National Archives and Records Administration (NARA), and may be obtained from the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue Andr[eacute] Pascal, F-75775 Paris Cedex 16, France. For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal>~~

2349 ~~register/cfr/ibr-locations.html. To contact the EPA Docket Center Public Reading Room,~~
2350 ~~call (202) 566-1744. To contact the OECD, call +33 (0) 1 45 24 81 67. These materials~~
2351 ~~are also available for review at the Colorado Department of Public Health and~~
2352 ~~Environment (See § 260.2(b)) and at the State Publications Depository Libraries.~~
2353
2354

2355 **12) The Appendix to Part 262 is amended by revising the text of Item 16**
2356 **(International Shipments) in Section II (Instructions for International**
2357 **Shipment Block) to read as follows:**

2358
2359

2360 **II. Instructions for International Shipment Block**

2361

2362 **Item 16. International Shipments**

2363

2364 For export shipments, the primary exporter must check the export box, and enter the
2365 point of exit (city and state) from the United States. For import shipments, the importer
2366 must check the import box and enter the point of entry (city and state) into the United
2367 States. For exports, the transporter must sign and date the manifest to indicate the day
2368 the shipment left the United States. ~~Transporters of hazardous waste shipments must~~
2369 ~~deliver a copy of the manifest to the U.S. Customs when exporting the waste across U.S.~~
2370 ~~borders.~~

2371

2372

2373 **13) Section 263.10 is amended by revising paragraph (d) to read as**
2374 **follows:**

2375

2376 **§ 263.10 Scope.**

2377

2378 *****

2379

2380 (d) A transporter of hazardous waste ~~subject to the Federal manifesting requirements of~~
2381 ~~40 CFR Part 262, or subject to the waste management standards of 40 CFR Part 273, or~~
2382 ~~subject to the waste management standards of Part 273 of these regulations,~~ that is
2383 being imported from or exported to ~~any of the countries listed in § 262.58(a)(1)~~ any other
2384 country for purposes of recovery or disposal is subject to this subpart and to all other
2385 relevant requirements of Subpart H of Part 262, including, but not limited to, § 262.83(d)
2386 and § 262.84(d) for movement documents.
2387

2388 *****

2389

2390

2391 **14) Section 263.20 is amended by revising paragraphs (a)(2), (c), (e)(2),**
2392 **(f)(2) and (g) to read as follows:**

2393

2394 **§ 263.20 The manifest system.**

2395

2396 (a)(1) **Manifest requirements.** A transporter may not accept hazardous waste from a
2397 generator unless the transporter is also provided with a manifest signed in accordance
2398 with the provisions of § 262.23.

2399

2400 (2) **Exports.** ~~In the case of exports other than those subject to Subpart H of Part 262,~~
2401 ~~a transporter may not accept such waste from a primary exporter or other person: (1)~~
2402 ~~if he/she knows the shipment does not conform to the EPA Acknowledgment of~~
2403 ~~Consent; and (2) unless, in addition to a manifest signed by the generator as provided~~
2404 ~~in this section, the transporter shall also be provided with an EPA Acknowledgment of~~
2405 ~~Consent which, except for shipments by rail, is attached to the manifest (or shipping~~
2406 ~~paper for exports by water (bulk shipment)).~~ For exports of hazardous waste subject
2407 to the requirements of Subpart H of Part 262, a transporter may not accept hazardous
2408 waste without a ~~tracking document that includes all information required by §~~
2409 ~~262.84.~~ manifest signed by the generator in accordance with this section, as
2410 appropriate, and for exports occurring under the terms of a consent issued by EPA on
2411 or after December 31, 2016, a movement document that includes all information
2412 required by § 262.83(d).

2413

2414 *****

2415

2416 *****

2417

2418 (c) The transporter must ensure that the manifest accompanies the hazardous waste. In
2419 the case of exports, ~~the transporter must ensure that a copy of the EPA Acknowledgment~~
2420 ~~of Consent also accompanies the hazardous waste.~~ occurring under the terms of a
2421 consent issued by EPA to the exporter on or after December 31, 2016, the transporter
2422 must ensure that a movement document that includes all information required by §
2423 262.83(d) also accompanies the hazardous waste. In the case of imports occurring under
2424 the terms of a consent issued by EPA to the country of export or the importer on or after
2425 December 31, 2016, the transporter must ensure that a movement document that
2426 includes all information required by § 262.84(d) also accompanies the hazardous waste.

2427

2428

2429

2430 (e) The requirements of paragraphs (c), (d) and (f) of this section do not apply to water
2431 (bulk shipment) transporters if:

2432

2433

(1) *****

2434

2435 (2) A shipping paper containing all the information required on the manifest (excluding
2436 the EPA identification numbers, generator certification, and signatures) and, for
2437 exports, an EPA Acknowledgment of Consent or imports occurring under the terms of
2438 a consent issued by EPA on or after December 31, 2016, a movement document that
2439 includes all information required by § 262.83(d) or § 262.84(d) accompanies the
2440 hazardous waste; and

2441

2442

2443

2444 (f) For shipments involving rail transportation, the requirements of paragraphs (c) and (d)
2445 do not apply and the following requirements do apply:

2446

2447

(1) *****

2448

2449

2450

2451 (2) Rail transporters must ensure that a shipping paper containing all the information
2452 required on the manifest (excluding the EPA identification numbers, generator
2453 certification, and signatures) and, for exports an EPA Acknowledgment of Consent or
2454 imports occurring under the terms of a consent issued by EPA on or after December
2455 31, 2016, a movement document that includes all information required by § 262.83(d)
2456 or § 262.84(d) accompanies the hazardous waste at all times. ~~Intermediate rail~~
2457 ~~transporters are not required to sign either the manifest or shipping paper.~~

2458

2459

Note to paragraph (f)(2): Intermediate rail transporters are not required to sign the
2460 manifest, movement document, or shipping paper.

2461

2462

2463

(g) Transporters who transport hazardous waste out of the United States must:

2464

2465

2466

2467 (4) ~~Give a copy of the manifest to a U.S. Customs official at the point of departure~~
2468 ~~from the United States. For paper manifests only,~~

2469
2470 (i) Send a copy of the manifest to the e-Manifest system in accordance with the
2471 allowable methods specified in § 264.71(a)(2)(v); and

2472
2473 (ii) For shipments initiated prior to December 31, 2017, when instructed by the
2474 exporter to do so, give a copy of the manifest to a U.S. Customs official at the
2475 point of departure from the United States.

2476
2477 *****

2478
2479
2480 **15) Section 264.12 is amended by revising paragraph (a) to read as follows:**

2481 **§ 264.12 Required notices.**

2482
2483
2484 (a) ~~(1) The owner or operator of a facility that is arranging or~~ has arranged to receive
2485 hazardous waste subject to Part 262, Subpart H from a foreign source must submit the
2486 following required notices: notify the Regional Administrator in writing at least four weeks
2487 in advance of the date the waste is expected to arrive at the facility. Notice of
2488 subsequent shipments of the same waste from the same foreign source is not required.

2489
2490 ~~(2) The owner or operator of a recovery facility that has arranged to receive~~
2491 ~~hazardous waste subject to Part 262, Subpart H must provide a copy of the~~
2492 ~~movement document bearing all required signatures to the foreign exporter, to the~~
2493 ~~Office of Enforcement and Compliance Assurance, Office of Federal Activities,~~
2494 ~~International Compliance Assurance Division (2254A), Environmental Protection~~
2495 ~~Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to the~~
2496 ~~competent authorities of all other countries concerned within three (3) working days of~~
2497 ~~receipt of the shipment. The original of the signed movement document must be~~
2498 ~~maintained at the facility for at least three (3) years. In addition, such owner or~~
2499 ~~operator shall, as soon as possible, but no later than thirty (30) days after the~~
2500 ~~completion of recovery and no later than one (1) calendar year following the receipt of~~
2501 ~~the hazardous waste, send a certificate of recovery to the foreign exporter and to the~~
2502 ~~competent authority of the country of export and to EPA's Office of Enforcement and~~
2503 ~~Compliance Assurance at the above address by mail, e-mail without a digital~~
2504 ~~signature followed by mail, or fax followed by mail.~~

2505

2506 (1) As per § 262.84(b), for imports where the competent authority of the country of
2507 export does not require the foreign exporter to submit to it a notification proposing
2508 export and obtain consent from EPA and the competent authorities for the countries
2509 of transit, such owner or operator of the facility, if acting as the importer, must provide
2510 notification of the proposed transboundary movement in English to EPA using the
2511 allowable methods listed in § 262.84(b)(1) at least 60 days before the first shipment is
2512 expected to depart the country of export. The notification may cover up to one year of
2513 shipments of wastes having similar physical and chemical characteristics, the same
2514 United Nations classification, the same RCRA waste codes and OECD waste codes,
2515 and being sent from the same foreign exporter.

2516
2517 (2) As per § 262.84(d)(2)(xv), a copy of the movement document bearing all required
2518 signatures within three (3) working days of receipt of the shipment to the foreign
2519 exporter; to the competent authorities of the countries of export and transit that control
2520 the shipment as an export and transit shipment of hazardous waste respectively; and
2521 on or after December 31, 2017, to EPA electronically using EPA's Waste Import
2522 Export Tracking System (WIETS), or its successor system. The original of the signed
2523 movement document must be maintained at the facility for at least three (3) years.
2524 The owner or operator of a facility may satisfy this recordkeeping requirement by
2525 retaining electronically submitted documents in the facility's account on EPA's Waste
2526 Import Export Tracking System (WIETS), or its successor system, provided that
2527 copies are readily available for viewing and production if requested by any EPA or
2528 authorized state inspector. No owner or operator of a facility may be held liable for the
2529 inability to produce the documents for inspection under this section if the owner or
2530 operator of a facility can demonstrate that the inability to produce the document is due
2531 exclusively to technical difficulty with EPA's Waste Import Export Tracking System
2532 (WIETS), or its successor system for which the owner or operator of a facility bears
2533 no responsibility.

2534
2535 (3) As per § 262.84(f)(4), if the facility has physical control of the waste and it must be
2536 sent to an alternate facility or returned to the country of export, such owner or
2537 operator of the facility must inform EPA, using the allowable methods listed in §
2538 262.84(b)(1) of the need to return or arrange alternate management of the shipment.

2539
2540 (4) As per § 262.84(g), such owner or operator shall:

2541
2542 (i) Send copies of the signed and dated confirmation of recovery or disposal, as
2543 soon as possible, but no later than thirty days after completing recovery or
2544 disposal on the waste in the shipment and no later than one calendar year
2545 following receipt of the waste, to the foreign exporter, to the competent authority

2546 of the country of export that controls the shipment as an export of hazardous
2547 waste, and for shipments recycled or disposed of on or after December 31, 2017,
2548 to EPA electronically using EPA's Waste Import Export Tracking System
2549 (WIETS), or its successor system.

2550
2551 (ii) If the facility performed any of recovery operations R12, R13, or RC16, or
2552 disposal operations D13 through D15, or DC17, promptly send copies of the
2553 confirmation of recovery or disposal that it receives from the final recovery or
2554 disposal facility within one year of shipment delivery to the final recovery or
2555 disposal facility that performed one of recovery operations R1 through R11, or
2556 RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the
2557 competent authority of the country of export that controls the shipment as an
2558 export of hazardous waste, and on or after December 31, 2017, to EPA
2559 electronically using EPA's Waste Import Export Tracking System (WIETS), or its
2560 successor system. The recovery and disposal operations in this paragraph are
2561 defined in § 262.81

2562
2563 *****

2564
2565
2566 **16) Section 264.71 is amended by renumbering paragraph (a) as (a)(1), and**
2567 **revising paragraphs (a)(3) and (d) to read as follows:**

2568
2569 **§ 264.71 Use of manifest system.**

2570
2571 (a)(1) If a facility receives hazardous waste accompanied by a manifest, the owner,
2572 operator or his/her agent must sign and date the manifest as indicated in paragraph
2573 (a)(2) of this section to certify that the hazardous waste covered by the manifest was
2574 received, that the hazardous waste was received except as noted in the discrepancy
2575 space of the manifest, or that the hazardous waste was rejected as noted in the manifest
2576 discrepancy space.

2577
2578 *****

2579
2580 ~~(3) If a facility receives hazardous waste imported from a foreign source, the receiving~~
2581 ~~facility must mail a copy of the manifest and documentation confirming EPA's consent~~
2582 ~~to the import of hazardous waste to the following address within thirty (30) days of~~
2583 ~~delivery: Office of Enforcement and Compliance Assurance, Office of Federal~~
2584 ~~Activities, International Compliance Assurance Division (2254A), Environmental~~

2585 Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The
2586 owner or operator of a facility receiving hazardous waste subject to Part 262, Subpart
2587 H from a foreign source must:

2588
2589 (i) Additionally list the relevant consent number from consent documentation
2590 supplied by EPA to the facility for each waste listed on the manifest, matched to
2591 the relevant list number for the waste from block 9b. If additional space is
2592 needed, the owner or operator should use a Continuation Sheet(s) (EPA Form
2593 8700-22A); and

2594
2595 (ii) Send a copy of the manifest within thirty (30) days of delivery to EPA using the
2596 addresses listed in § 262.82(e) until the facility can submit such a copy to the e-
2597 Manifest system per paragraph (a)(2)(v) of this section.

2598
2599 *****

2600
2601 (d) Within three (3) working days of the receipt of a shipment subject to Part 262, Subpart
2602 H, the owner or operator of the facility must provide a copy of the movement document
2603 bearing all required signatures to the exporter, to the Office of Enforcement and
2604 Compliance Assurance, Office of Federal Activities, International Compliance Assurance
2605 Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW.,
2606 Washington, DC 20460, and to competent authorities of all other concerned countries.
2607 The original copy of the movement document must be maintained at the facility for at
2608 least three (3) years from the date of signature. As per § 262.84(d)(2)(xv), within three (3)
2609 working days of the receipt of a shipment subject to Part 262, Subpart H, the owner or
2610 operator of a facility must provide a copy of the movement document bearing all required
2611 signatures to the foreign exporter; to the competent authorities of the countries of export
2612 and transit that control the shipment as an export and transit of hazardous waste
2613 respectively; and on or after December 31, 2017, to EPA electronically using EPA's
2614 Waste Import Export Tracking System (WIETS), or its successor system. The original
2615 copy of the movement document must be maintained at the facility for at least three (3)
2616 years from the date of signature. The owner or operator of a facility may satisfy this
2617 recordkeeping requirement by retaining electronically submitted documents in the
2618 facility's account on EPA's Waste Import Export Tracking System (WIETS), or its
2619 successor system, provided that copies are readily available for viewing and production if
2620 requested by any EPA or authorized state inspector. No owner or operator of a facility
2621 may be held liable for the inability to produce the documents for inspection under this
2622 section if the owner or operator of a facility can demonstrate that the inability to produce
2623 the document is due exclusively to technical difficulty with EPA's Waste Import Export

2624 Tracking System (WIETS), or its successor system, for which the owner or operator of a
2625 facility bears no responsibility.

2626
2627 *****

2628
2629
2630 **17) Section 265.12 is amended by revising paragraph (a) to read as**
2631 **follows:**

2632
2633 **§ 265.12 Required notices.**

2634
2635 (a)~~(4)~~ The owner or operator of a facility that is arranging or has arranged to receive
2636 hazardous waste subject to Part 262, Subpart H from a foreign source must submit the
2637 following required notices: notify the Regional Administrator in writing at least four weeks
2638 in advance of the date the waste is expected to arrive at the facility. Notice of
2639 subsequent shipments of the same waste from the same foreign source is not required.

2640
2641 ~~(2) The owner or operator of a recovery facility that has arranged to receive~~
2642 ~~hazardous waste subject to Part 262, Subpart H must provide a copy of the~~
2643 ~~movement document bearing all required signatures to the foreign exporter, to the~~
2644 ~~Office of Enforcement and Compliance Assurance, Office of Federal Activities,~~
2645 ~~International Compliance Assurance Division (2254A), Environmental Protection~~
2646 ~~Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 and to the~~
2647 ~~competent authorities of all other countries concerned within three (3) working days of~~
2648 ~~receipt of the shipment. The original of the signed movement document must be~~
2649 ~~maintained at the facility for at least three (3) years. In addition, such owner or~~
2650 ~~operator shall, as soon as possible, but no later than thirty (30) days after the~~
2651 ~~completion of recovery and no later than one (1) calendar year following the receipt of~~
2652 ~~the hazardous waste, send a certificate of recovery to the foreign exporter and to the~~
2653 ~~competent authority of the country of export and to EPA's Office of Enforcement and~~
2654 ~~Compliance Assurance at the above address by mail, e-mail without a digital~~
2655 ~~signature followed by mail, or fax followed by mail.~~

2656
2657 (1) As per § 262.84(b), for imports where the competent authority of the country of
2658 export does not require the foreign exporter to submit to it a notification proposing
2659 export and obtain consent from EPA and the competent authorities for the countries
2660 of transit, such owner or operator of the facility, if acting as the importer, must provide
2661 notification of the proposed transboundary movement in English to EPA using the
2662 allowable methods listed in § 262.84(b)(1) at least 60 days before the first shipment is

2663 expected to depart the country of export. The notification may cover up to one year of
2664 shipments of wastes having similar physical and chemical characteristics, the same
2665 United Nations classification, the same RCRA waste codes and OECD waste codes,
2666 and being sent from the same foreign exporter.

2667
2668 (2) As per § 262.84(d)(2)(xv), a copy of the movement document bearing all required
2669 signatures within three (3) working days of receipt of the shipment to the foreign
2670 exporter; to the competent authorities of the countries of export and transit that control
2671 the shipment as an export and transit shipment of hazardous waste respectively; and
2672 on or after December 31, 2017, to EPA electronically using EPA's Waste Import
2673 Export Tracking System (WIETS), or its successor system. The original of the signed
2674 movement document must be maintained at the facility for at least three (3) years.
2675 The owner or operator of a facility may satisfy this recordkeeping requirement by
2676 retaining electronically submitted documents in the facility's account on EPA's Waste
2677 Import Export Tracking System (WIETS), or its successor system, provided that
2678 copies are readily available for viewing and production if requested by any EPA or
2679 authorized state inspector. No owner or operator of a facility may be held liable for the
2680 inability to produce the documents for inspection under this section if the owner or
2681 operator of a facility can demonstrate that the inability to produce the document is due
2682 exclusively to technical difficulty with EPA's Waste Import Export Tracking System
2683 (WIETS), or its successor system, for which the owner or operator of a facility bears
2684 no responsibility.

2685
2686 (3) As per § 262.84(f)(4), if the facility has physical control of the waste and it must be
2687 sent to an alternate facility or returned to the country of export, such owner or
2688 operator of the facility must inform EPA, using the allowable methods listed in §
2689 262.84(b)(1) of the need to return or arrange alternate management of the shipment.

2690
2691 (4) As per § 262.84(g), such owner or operator shall:

2692
2693 (i) Send copies of the signed and dated confirmation of recovery or disposal, as
2694 soon as possible, but no later than thirty days after completing recovery or
2695 disposal on the waste in the shipment and no later than one calendar year
2696 following receipt of the waste, to the foreign exporter, to the competent authority
2697 of the country of export that controls the shipment as an export of hazardous
2698 waste, and on or after December 31, 2017, to EPA electronically using EPA's
2699 Waste Import Export Tracking System (WIETS), or its successor system.

2700
2701 (ii) If the facility performed any of recovery operations R12, R13, or RC16, or
2702 disposal operations D13 through D15, or DC17, promptly send copies of the

2703 confirmation of recovery or disposal that it receives from the final recovery or
2704 disposal facility within one year of shipment delivery to the final recovery or
2705 disposal facility that performed one of recovery operations R1 through R11, or
2706 RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the
2707 competent authority of the country of export that controls the shipment as an
2708 export of hazardous waste, and on or after December 31, 2107, to EPA
2709 electronically using EPA's Waste Import Export Tracking System (WIETS), or its
2710 successor system. The recovery and disposal operations in this paragraph are
2711 defined in § 262.81.

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2713 *****

2714
2715

2716 **18) Section 265.71 is amended by renumbering paragraph (a) as (a)(1), and**
2717 **revising paragraphs (a)(3) and (d) to read as follows:**

2718

2719 **§ 265.71 Use of manifest system.**

2720

2721 (a)(1) If a facility receives hazardous waste accompanied by a manifest, the owner,
2722 operator or his/her agent must sign and date the manifest as indicated in paragraph
2723 (a)(2) of this section to certify that the hazardous waste covered by the manifest was
2724 received, that the hazardous waste was received except as noted in the discrepancy
2725 space of the manifest, or that the hazardous waste was rejected as noted in the manifest
2726 discrepancy space.

2727

2728 *****

2729

2730 ~~(3) If a facility receives hazardous waste imported from a foreign source, the receiving~~
2731 ~~facility must mail a copy of the manifest and documentation confirming EPA's consent~~
2732 ~~to the import of hazardous waste to the following address within thirty (30) days of~~
2733 ~~delivery: Office of Enforcement and Compliance Assurance, Office of Federal~~
2734 ~~Activities, International Compliance Assurance Division (2254A), Environmental~~
2735 ~~Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The~~
2736 ~~owner or operator of a facility that receives hazardous waste subject to Part 262,~~
2737 ~~Subpart H from a foreign source must:~~

2738

2739 (i) Additionally list the relevant consent number from consent documentation
2740 supplied by EPA to the facility for each waste listed on the manifest, matched to
2741 the relevant list number for the waste from block 9b. If additional space is

2742 needed, the owner or operator should use a Continuation Sheet(s) (EPA Form
2743 8700-22A); and

2744
2745 (ii) Send a copy of the manifest to EPA using the addresses listed in § 262.82(e)
2746 within thirty (30) days of delivery until the facility can submit such a copy to the e-
2747 Manifest system per paragraph (a)(2)(v) of this section.

2748
2749 *****

2750
2751 (d) Within three (3) working days of the receipt of a shipment subject to Part 262, Subpart
2752 H, the owner or operator of the facility must provide a copy of the movement document
2753 bearing all required signatures to the exporter, to the Office of Enforcement and
2754 Compliance Assurance, Office of Federal Activities, International Compliance Assurance
2755 Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW.,
2756 Washington, DC 20460, and to competent authorities of all other concerned countries.
2757 The original copy of the movement document must be maintained at the facility for at
2758 least three (3) years from the date of signature. As per § 262.84(d)(2)(xv), within three (3)
2759 working days of the receipt of a shipment subject to Part 262, Subpart H, the owner or
2760 operator of a facility must provide a copy of the movement document bearing all required
2761 signatures to the foreign exporter; to the competent authorities of the countries of export
2762 and transit that control the shipment as an export and transit shipment of hazardous
2763 waste respectively; and on or after December 31, 2017, to EPA electronically using
2764 EPA's Waste Import Export Tracking System (WIETS), or its successor system. The
2765 original copy of the movement document must be maintained at the facility for at least
2766 three (3) years from the date of signature. The owner or operator of a facility may satisfy
2767 this recordkeeping requirement by retaining electronically submitted documents in the
2768 facility's account on EPA's Waste Import Export Tracking System (WIETS), or its
2769 successor system, provided that copies are readily available for viewing and production if
2770 requested by any EPA or authorized state inspector. No owner or operator of a facility
2771 may be held liable for the inability to produce the documents for inspection under this
2772 section if the owner or operator of a facility can demonstrate that the inability to produce
2773 the document is due exclusively to technical difficulty with EPA's Waste Import Export
2774 Tracking System (WIETS), or its successor system, for which the owner or operator of a
2775 facility bears no responsibility.

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19) Section 267.70 is amended by revising paragraph (b)(3) to read as follows:

§ 267.70 Applicability and requirements.

(b) Persons who generate, transport, or store recyclable materials that are regulated under this subpart are subject to the following requirements:

(3) For precious metals exported to or imported from ~~designated OECD member countries for recovery, persons who generate, transport or store recyclable materials are subject to other countries for recovery.~~ Subpart H of Part 262 and § 265.12(a)(2) of these regulations. ~~For precious metals exported to or imported from non OECD countries for recovery, persons who generate, transport or store recyclable materials are subject to Subparts E and F of Part 262.~~

20) Section 267.80 is amended by revising paragraphs (a)(6) and (a)(7), and adding paragraphs (a)(8), (a)(9) and (a)(10) of the Table to read as follows:

§ 267.80 Applicability and requirements.

(a) **Are spent lead-acid batteries exempt from hazardous waste management requirements?** If you generate, collect, transport, store, or regenerate lead-acid batteries for reclamation purposes, you may be exempt from certain hazardous waste management requirements. Use the following table to determine which requirements apply to you. Alternatively, you may choose to manage your spent lead-acid batteries under the "Universal Waste" rule in Part 273 of these regulations.

If your batteries * * *	And if you * * *	Then you * * *	And you * * *
*****	*****	*****	*****
<p>(6) Will be reclaimed through regeneration or any other means.</p>	<p>export these batteries for reclamation in a foreign country.</p>	<p>are exempt from Parts <u>262 (except for § 262.11, § 262.12, and Subpart H)</u>, 263, 264, 265, 267, 268 and Part 100 of these regulations, and the notification requirements of Part 99 of these regulations. You are also exempt from Part 262 (except for § 262.11), and except for the applicable requirements in either: (1) Part 262, Subpart H; or</p> <p>(2) § 262.53 “Notification of Intent to Export, § 262.56(a)(1) through (4), (6) and (b) “Annual Reports,” and § 262.57 “Recordkeeping”.</p>	<p>are subject to Part 261, and § 262.11, <u>§ 262.12</u>, and either must comply with Part 262, Subpart H, (if shipping to one of the OECD countries specified in § 262.58(a)(1)), or must: (a) Comply with the requirements applicable to a primary exporter in § 262.53, § 262.56(a)(1) through (4), (6), and (b) and § 262.57; and</p> <p>(b) Export these batteries only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in Subpart E of Part 262 of these regulations; and</p> <p>(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.</p>
<p>(7) Will be reclaimed through regeneration or any other means.</p>	<p>transport these batteries in the U.S. to export them for reclamation in a foreign country.</p>	<p>are exempt from Parts 263, 264, 265, 267, 268 and Part 100 of these regulations, and the notification requirements of Part 99 of these regulations.</p>	<p>must comply with applicable requirements in Part 262, Subpart H, (if shipping to one of the OECD countries specified in § 262.58(a)(1)), or must comply with the following:</p> <p>(a) you may not accept a shipment if you know the shipment does not conform to the EPA Acknowledgment of</p>

If your batteries * * *	And if you * * *	Then you * * *	And you * * *
			<p>Consent;</p> <p>(b) you must ensure that a copy of the EPA Acknowledgement of Consent accompanies the shipment; and</p> <p>(c) you must ensure that the shipment is delivered to the facility designated by the person initiating the shipment.</p>
<p><u>(8) Will be reclaimed other than through regeneration.</u></p>	<p><u>Import these batteries from foreign country and store these batteries but you aren't the re-claimer.</u></p>	<p><u>are exempt from Parts 262 (except for § 262.11, § 262.12, and Subpart H), 263, 264, 265, 267, 268 and Part 100 of these regulations, and the notification requirements of Part 99 of these regulations.</u></p>	<p><u>are subject to Part 261, § 262.11, § 262.12, Part 262 Subpart H, and applicable provisions under Part 268.</u></p>
<p><u>(9) Will be reclaimed other than through regeneration.</u></p>	<p><u>Import these batteries from foreign country and store these batteries before you reclaim them.</u></p>	<p><u>must comply with Part 267.80(b) and as appropriate other regulatory provisions described in § 267.80(b).</u></p>	<p><u>are subject to Part 261, § 262.11, § 262.12, Part 262 Subpart H, and applicable provisions under Part 268.</u></p>
<p><u>(10) Will be reclaimed other than through regeneration.</u></p>	<p><u>Import these batteries from foreign country and don't store these batteries before you reclaim them.</u></p>	<p><u>Are exempt from Parts 262 (except for § 262.11, § 262.12, and Subpart H), 263, 264, 265, 267, and Part 100 of these regulations, and the notification requirements of Part 99 of these regulations.</u></p>	<p><u>are subject to Part 261, § 262.11, § 262.12, Part 262 Subpart H, and applicable provisions under Part 268.</u></p>

21) Part 273 is amended by revising Section 273.20 to read as follows:

§ 273.20 Exports.

A small quantity handler of universal waste who sends universal waste to a foreign destination ~~other than to those OECD countries specified in § 262.58(a)(1) (in which case the handler~~ is subject to the requirements of Part 262, Subpart H.) ~~must:~~

~~(a) Comply with the requirements applicable to a primary exporter in § 262.53, § 262.56(a)(1) through (4), (6), and (b) and § 262.57;~~

~~(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in Subpart E of Part 262 of these regulations; and~~

~~(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.~~

22) Section 273.39 is amended by revising the introductory text of paragraphs (a) and (b) to read as follows:

§ 273.39 Tracking universal waste shipments.

(a) **Receipt of shipments.** A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document or other shipping document. The record for each shipment of universal waste received must include the following information:

(b) **Shipments off-site.** A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading, movement document or other shipping document. The record for each shipment of universal waste sent must include the following information:

23) Part 273 is amended by revising Section 273.40 to read as follows:

§ 273.40 Exports.

A large quantity handler of universal waste who sends universal waste to a foreign destination ~~other than to those OECD countries specified in § 262.58(a)(1) (in which case the handler~~ is subject to the requirements of Part 262, Subpart H.) ~~must:~~

~~(a) Comply with the requirements applicable to a primary exporter in § 262.53, § 262.56(a)(1) through (4), (6), and (b) and § 262.57;~~

~~(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in Subpart E of Part 262 of these regulations; and~~

~~(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.~~

24) Part 273 is amended by revising Section 273.56 to read as follows:

§ 273.56 Exports.

A universal waste transporter transporting a shipment of universal waste to a foreign destination ~~other than to those OECD countries specified in § 262.58(a)(1) (in which case the handler is subject to the requirements of Part 262, Subpart H.) may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:~~

~~(a) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and~~

~~(b) The shipment is delivered to the facility designated by the person initiating the shipment.~~

25) Section 273.62 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 273.62 Tracking universal waste shipments.

(a) The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document or other shipping document. The record for each shipment of universal waste received must include the following information:

26) Part 273 is amended by revising Section 273.70 to read as follows:

§ 273.70 Imports.

Persons managing universal waste that is imported from a foreign country into the United States are subject to the requirements of Part 262, Subpart H and the applicable requirements of this part, immediately after the waste enters the United States, as indicated in paragraphs (a) through (c) of this section:

(a) A universal waste transporter is subject to the universal waste transporter requirements of Subpart D of this part.

(b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of Subparts B or C, as applicable.

(c) An owner or operator of a destination facility is subject to the destination facility requirements of Subpart E of this part.

~~(d) Persons managing universal waste that is imported from an OECD country as specified in § 262.58(a)(1) are subject to paragraphs (a) through (c) of this section, in addition to the requirements of Part 262, Subpart H.~~

27) Section 8.89 {Statement of Basis and Purpose for the Rulemaking Hearing of October 17, 2017} is added to Part 8 of the Regulations to read as follows:

**Statement of Basis and Purpose
Rulemaking Hearing of October 17, 2017**

8.89 Basis and Purpose.

These amendments to 6 CCR 1007-3, Parts 260, 261, 262, 263, 264, 265, 267, and 273 are made pursuant to the authority granted to the Solid and Hazardous Waste Commission in § 25-15-302(2), C.R.S.

Hazardous Waste Export-Import Revisions

This rule amends existing regulations of the Colorado Hazardous Waste Regulations (6 CCR 1007-3) regarding the export and import of hazardous waste from and into the United States. These amendments correspond to the Environmental Protection Agency (EPA) rule published in the Federal Register on November 28, 2016 {81 FR 85696-85729} and became effective in all states on December 31, 2016, since import and export requirements are administered by the Federal government as a foreign policy matter.

Because of the federal government's special role in matters of foreign policy, EPA does not authorize States to administer Federal import/export functions in any section of the RCRA hazardous waste regulations. This approach of having Federal, rather than State, administering of the import/export functions promotes national coordination, uniformity and the expeditious transmission of information between the United States and foreign countries.

The provisions of this rule took effect in all States on the December 31, 2016 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.

Although States do not receive authorization to administer the Federal government's export functions in 40 CFR part 262 subpart E, import functions in 40 CFR part 262 subpart F, import/export functions in 40 CFR part 262 subpart H, or the import/export relation functions in any other section of the RCRA hazardous waste regulations, State programs are still required to adopt the provisions in this rule to maintain their equivalency with the Federal program (see 40 CFR 271.10(e) which will also be amended in this rule).

This rule contains many amendments to Part 262 Subpart H, both for clarity and organization, and replaces the regulations that are currently in Part 262 Subparts E and F with the more stringent Part 262 Subpart H regulations. The rule also contains conforming import and export-related amendments to Parts 260, 261, 262, 263, 264, 265, 266, 267, 271 and 273, almost all of which are more stringent.

The new requirements finalized in this rule will provide greater protection to human health and the environment by providing increased transparency, data sharing and more efficient compliance monitoring. Specifically, the changes to the existing regulations will:

- consolidate and streamline some of the requirements to minimize burden where possible;

- increase tracking of the transportation and disposition of individual imported and exported shipments of hazardous wastes and other materials, improving the Agency's ability to monitor compliance with applicable legal requirements;
- enable regulated parties and the government to benefit from the electronic submission of data; and
- consolidate under a unified regulation the process of notification with foreign governments, increasing efficiency and ensuring the process is consistent with the requirements of the OECD controlling transboundary movements of hazardous waste.

Colorado is not adopting the amendments to 40 CFR § 261.39 (Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling), or the amendments to 40 CFR Part 267 (Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit), as Colorado has not adopted state analogs to these optional federal provisions.

This Basis and Purpose incorporates by reference the applicable portions of the preamble language for the EPA regulations as published in the Federal Register at 81 FR 85696-85729, November 28, 2016, as amended at 82 FR 41015-41016, August 29, 2017.