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## 262 - STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

### Subpart A - General

#### 262.10 Purpose, scope, and applicability

(a) These regulations establish standards for generators of hazardous waste.

(b) R.61-79.261.5(c) and (d) must be used to determine the applicability of provisions of this part that are dependent on calculations of the quantity of hazardous waste generated per month. (5/96)

(c) A generator who treats, stores, or disposes of hazardous waste onsite must only comply with the following sections of this part with respect to that waste: Section 262.11 for determining whether or not he has a hazardous waste, 262.12 for obtaining an EPA identification number, 262.34 for accumulation of hazardous waste, 262.40 (c) and (d) for recordkeeping, 262.43 for additional reporting, and if applicable, 262.70 for farmers. (11/90, 12/92; 5/96)

(d) Any person who exports or imports hazardous waste subject to the Federal manifesting requirements of part 262, or subject to the universal waste management standards of 273, to or from the countries listed in 262.58(a)(1) for recovery must comply with subpart H of this part. (9/98)

(e) Any person who imports hazardous waste into the United States must comply with the standards applicable to generators established in this part.

(f) A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of 262.70 is not required to comply with other standards in this part or R.61-79.270, R.61-79.264, or R.61-79.265 or .268 with respect to such pesticides.

(g) A person who generates a hazardous waste as defined by R.61-79.261 is subject to the compliance requirements and penalties prescribed in the South Carolina Hazardous Waste Management Act, section 44-56-140 of the Code of Laws of 1976 as amended, and section 3008 of the Act if he does not comply with the requirements of this part.

(h) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in this part.

(i) Persons responding to an explosives or munitions emergency in accordance with 264.1(g)(8)(i)(D) or (iv) or 265.1(c)(11)(i)(D) or (iv), and 270.1(c)(3)(i)(D) or (iii) are not required to comply with the standards of this part. (9/98)

Note 1: The provisions of 262.34 are applicable to the onsite accumulation of hazardous waste by

generators. Therefore, the provisions of 262.34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

Note 2: A generator who treats, stores, or disposes of hazardous waste onsite must comply with the applicable standards and permit requirements set forth in parts 264, 265, 266, 268, and 270.

#### 262.11 Hazardous waste determination

A person who generates a solid waste, as defined in R.61-79.261.2 must accurately determine if that waste is a hazardous waste using the following method: (6/95)

(a) He should first determine if the waste is excluded from regulation under R.61-79.261.4.

(b) He must then determine if the waste is listed as a hazardous waste in subpart D of R.61-79.261.

Note: Even if the waste is listed, the generator still has an opportunity under 260.22 to demonstrate to the Department that the waste from his particular facility or operation is not a hazardous waste. (12/92)

(c) For purposes of compliance with 268, or if the waste is not listed in subpart D of R.61-79.261, the generator must then determine whether the waste is identified in subpart C of R.61-79.261 by either: (12/92)

(1) Testing the waste according to the methods set forth in subpart C of R.61-79.261, or according to an equivalent method approved by the Department under R.61-79.260.21; or

(2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

(d) If the waste is determined to be hazardous, the generator must refer to parts 261, 264, 265, 266, 268 and 273 for possible exclusions or restrictions pertaining to management of the specific waste. (11/90; 5/96)

(e) Finally, he must make a determination if the waste is listed in Appendix XI of R.61-79.261 (moved 11/90).

#### 262.12 Identification Numbers

(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Department. (12/92)

(b) A generator who has not received an EPA identification number may obtain one by submitting the Notification Form required under 262.13. Upon receipt of the completed form the Department will assign an EPA identification number to the generator.

(c) A generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number and a Department permit. A facility which has

interim status is deemed permitted until issuance of a permit is made by the Department.

### **262.13 Notification Requirements upon Generators.**

(a) Every generator within the State who produces a hazardous waste and has not previously done so shall file with the Department a Notification Form for that waste within thirty (30) days of the effective date of this regulation.

(b) Every generator within the State who produces a new hazardous waste shall file with the Department a revised or new Notification Form for that waste within thirty (30) days after such waste is first produced.

(c) Every generator within the State who produces a hazardous waste which is classified or listed for the first time by a revision of R.61-79.261 shall file with the Department a revised or new Notification Form for that waste within ninety (90) days after the effective date of such revision.

(d) The notification shall be on a form designated by the Department, shall be completed as required by the instructions supplied with such forms. The information to be furnished on the form shall include but not be limited to the location and general description of such activity, the identified or listed hazardous wastes handled by such person and, if applicable, a description of the production of energy recovery activity carried out at the facility and such other information as the Department deems necessary. A generator shall file a revised or new Notification form whenever the information previously provided becomes outdated or inaccurate. (5/93)

(e) Persons engaged in the following activities are required to make a separate notification:

(1) Producers of fuels from:

(i) Any hazardous waste identified or listed in R.61-79.261,

(ii) Used oil, and

(iii) Used oil and any other material.

(2) Burners (other than a single or two-family residence) for purposes of energy recovery any fuel produced as identified in paragraph 1.

(3) Distributors or marketers of any fuel as identified in paragraph 1.

(f) Every generator within the State who no longer produces any hazardous waste shall file with the Department one subsequent Notification form. (6/95)

## **Subpart B - The Manifest**

### **262.20 General requirements**

(a) A generator who transports, or offers for transportation, hazardous waste for offsite treatment, storage, or disposal must prepare a manifest on the Department form DHEC 1988 and if necessary DHEC 1988A according to the instruction included on the reverse side of these forms or a Manifest OMB control

### **262.21 Required information**

number 2050-0039 on EPA form 8700-22, and if necessary, EPA form 8700-22A, according to the instructions listed in the appendix to 40 CFR 262 and provisions of R.61-79.262.21(a)(9) before transporting the waste offsite. (11/90, 6/97)

(b) A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest.

(c) A generator may also designate on the manifest one alternate facility which is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.

(d) If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste.

(e) The requirements of this subpart do not apply to hazardous waste produced by generators of greater than 100 kg but less than 1000 kg in a calendar month where:

(1) The waste is reclaimed under a contractual agreement pursuant to which:

(i) The type of waste and frequency of shipments are specified in the agreement,

(ii) The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste, and

(2) The generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement. (12/96)

(f) The requirements of this subpart and 262.32(b) do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding 263.10(a), the generator or transporter must comply with the requirements for transporters set forth in 263.30 and 263.31 in the event of a discharge of hazardous waste on a public or private right-of-way. (9/98)

(g) A generator shipping hazardous waste offsite must either be permitted to transport or utilize a transporter permitted pursuant to R.61-79.263. (6/89; moved 12/96)

### **262.21 Required information**

(a) The manifest shall be on a form designated in 262.20 (a), shall be completed as required by the instructions, and must contain all of the following information:

(1) A manifest document number which is the same on all copies for each hazardous waste shipment:

(2) The generator's name, mailing address, telephone number, and EPA identification number;

(3) The name and EPA identification number of each transporter;

(4) The name, address and EPA identification number of the designated facility and an alternate facility, if any;

(5) The description of the waste(s) (e.g., proper shipping name, etc.) required by regulations of the U. S. Department of Transportation in 49 CFR 172.101, 172.202, and 172.203;

(6) The total quantity of each hazardous waste by units of weight and the type and number of containers as loaded into or onto, the transport vehicle;

(7) Be of such content and in such form as required by the laws and regulations applicable to hazardous waste manifests in the state where the waste is designated for treatment, storage, or disposal; or

(8) If the state in which the waste is designated to be treated, stored, or disposed does not require its own hazardous waste manifest, a Hazardous Waste Manifest designated by the Department shall be completed for the shipment; (11/90)

(9) For generators using a Manifest OMB control number 2050-0039 on EPA form 8700-22, and if necessary, EPA form 8700-22A, the following additional information must be completed on the manifest: (6/97)

(i) Items 19 and 35: Discrepancy Indication Space - The treatment, storage, or disposal facility must enter the actual weight in pounds in this space if the amount varies any from that specified by the generator in item 13 or if the generator uses a unit of measure other than pounds.

(ii) The following statement must be included with each Uniform Hazardous Waste Manifest, either on the form, in the instructions to the form, or accompanying the form:

Public reporting burden for this collection of information is estimated to average: 37 minutes for generators, 15 minutes for transporters, and 10 minutes for treatment, storage and disposal facilities. This includes time for reviewing instructions, gathering data, and completing and reviewing the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to: Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

(iii) Complete items A-K and L-T according to the instructions listed on the reverse of DHEC forms 1988 and 1988A.

(b) The South Carolina generator's certification must appear on the manifest. (11/90)

### 262.22 Number of copies

The manifest consists of at least the number of copies which will provide the generator, each transporter and the owner or operator of the designated facility with one copy each for their records and copies to be returned to the generator from the facility. (6/97)

### 262.23 Use of the manifest

(a) The generator must:

(1) Sign the manifest certification by hand; and

(2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(3) Retain one copy, in accordance with 262.40(a). (6/97)

(b) The generator must give the transporter the remaining copies of the manifest.

(c) For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter. (11/90, 12/92)

(d) For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to: (11/90)

(1) The next non-rail transporter, if any; or

(2) The designated facility if transported solely by rail; or

(3) The last rail transporter to handle the waste in the United States if exported by rail. (12/92; 12/93)

(e) For shipments of hazardous waste to a designated facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility. (11/90; 12/94)

Note: See 263.20(e) and (f) for special provisions for rail or water (bulk shipment) transporters.

## Subpart C - Pre-transport Requirements

### 262.30 Packaging

Before transporting hazardous waste or offering hazardous waste for transportation offsite, a generator must package the waste in accordance with the applicable Department of Transportation regulations on packaging under 49 CFR parts 173, 178, and 179 and the S.C. Public Service Commissions.

### 262.31 Labeling

Before transporting or offering hazardous waste for transportation offsite, a generator must label each package in accordance with the applicable S. C. Public Service Commission regulations and Department of Transportation regulations on hazardous materials under 49 CFR part 172.

### 262.32 Marking

(a) Before transporting or offering hazardous waste for transportation offsite, a generator must mark each package of hazardous waste in accordance with the applicable S. C. Public Service Commission regulations and Department of Transportation regulations on hazardous materials under 49 CFR part 172;

(b) Before transporting hazardous waste or offering hazardous waste for transportation offsite, a generator must mark each container of 110 gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of 49 CFR 172.304: (5/93, 6/97)

HAZARDOUS WASTE - federal law prohibits improper disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Generator's Name and Address \_\_\_\_\_  
Manifest Document # \_\_\_\_\_  
Date (accumulation start date) \_\_\_\_\_  
EPA Hazardous Waste # \_\_\_\_\_

### 262.33 Placarding

Before transporting hazardous waste or offering hazardous waste for transportation offsite, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR Part 172, subpart F and the S.C. Public Service Commission. (12/92)

### 262.34 Accumulation time

(a) Except as provided in paragraphs (d), and (f) of this section, a generator may accumulate hazardous waste onsite for 90 days or less without a permit or without having interim status, provided that: (5/93)

(1) The waste is placed:

#### 262.34 Accumulation time

(i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 265; and/or (8/00)

(ii) In tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 265 except 265.197(c) and 265.200; and/or (8/00)

(iii) On drip pads and the generator complies with subpart W of part 265 and maintains the following records at the facility: (9/98)

(A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

(iv) The waste is placed in containment buildings and the generator complies with subpart DD of 265, has placed its professional engineer certification that the building complies with the design standards specified in 265.1101 in the facility's operating record no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility: (12/93)

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the 90 day limit, and documentation that the procedures are complied with; or (12/93)

(B) Documentation that the unit is emptied at least once every 90 days.

(v) In addition, such a generator is exempt from all the requirements in subparts G and H of R.61-79.265, except for 265.111 and 265.114.

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container. (5/93, 5/95, 6/97)

(3) While being accumulated onsite, each container and tank is labeled or marked clearly with the EPA Hazardous Waste Number and the words: "Hazardous Waste - federal laws prohibit improper disposal." (6/95, 6/97)

(4) The generator complies with the requirements for owners or operators in subparts C and D in R.61-79.265, with 265.15(d) and 265.16, and with 268.7(a)(5). (10/01)

(5) A generator may not stack containers of hazardous waste more than two containers high without first obtaining written approval from the Department.

This requirement will become effective 90 days after publication in the State Register. (6/95)

(b) A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of R.61-79.264 and R.61-79.265 (6/89) and the permit requirements of R.61-79.270 unless he has been granted an extension to the 90-day period. Such extension may be granted by the Department if hazardous wastes must remain onsite for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Department on a case-by-case basis. (12/92)

(c) (12/92; 5/93; 6/95)

(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in R.61-79.261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) of this section provided he: (6/95, 6/97)

(i) Complies with R.61-79.265.171, 265.172, and 265.173(a); and

(ii) Marks his containers either with the words: "HAZARDOUS WASTE " or with other words that identify the contents of the container.

(iii) Complies with R.61-79.265.16(a) (1) and (d)(4). The requirements of R.61-79.265.16(a) must be repeated as necessary when there is a change in the hazardous waste being accumulated.

(2) A generator who accumulates either hazardous waste or acutely hazardous waste listed in R.61-79.261.33(e) in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of this section or other applicable provisions. During the three-day period the generator must continue to comply with paragraphs (c)(1)(i) through (ii) of this section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(d) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste onsite for 180 days or less without a permit or without having interim status provided that: (6/89, 12/92)

(1) The quantity of waste accumulated onsite never exceeds 6000 kilograms;

(2) The generator complies with the requirements of subpart I of R.61-79.265, except 265.175, .176, and .178; (6/95, 9/98)

(3) The generator complies with the requirements of subpart J, R.61-79.265.201.

(4) The generator complies with the requirements of paragraphs (a)(2) and (a)(3) of this section, the requirements of subpart C of R.61-79.265, the requirements of 268.7(a)(5); and (8/00)

(5) The generator complies with the following requirements:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in paragraph (d)(5)(iv) of this section. This employee is the emergency coordinator. (11/90)

(ii) The generator must post the following information next to the telephone:

(A) The name and telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(B) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil;

(C) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the National Response Center (using their 24-hour toll free number 800/424-8802) and the Department emergency response number 803-253-6488. The report must include the following information:

(1) The name, address, and U.S. EPA Identification Number of the generator;

(2) Date, time, and type of incident (e.g., spill or fire);

(3) Quantity and type of hazardous waste involved in the incident;

(4) Extent of injuries, if any; and

(5) Estimated quantity and disposition of recovered materials, if any.

(6) The generator complies with R.61-79.262.34(c) except for 262.34(c)(1)(iii). (6/95)

(e) (Reserved).

(f) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6000 kg or accumulates hazardous waste for more than 180 days is an operator of a storage facility and is subject to the requirements of R.61-79.264 and R.61-79.265 and the permit requirements of R.61-79.270 unless he has been granted an extension to the 180-day period. Such extension may be granted by the Department if hazardous wastes must remain onsite for longer than 180 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Department on a case-by-case basis. (11/90)

(g) A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that: (10/01)

(1) The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants or contaminants entering F006 or otherwise released to the environment prior to its recycling;

(2) The F006 waste is legitimately recycled through metals recovery;

(3) No more than 20,000 kilograms of F006 waste is accumulated on-site at any one time; and

(4) The F006 waste is managed in accordance with the following:

(i) The F006 waste is placed:

(A) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of part 265; and/or

(B) In tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of part 265, except 265.197(c) and 265.200; and/or 262.34(g)(4)(i)(C)

(C) In containment buildings and the generator complies with subpart DD of part 265, and has placed its professional engineer certification that the building complies with the design standards specified in 265.1101 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

(1) A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or

(2) Documentation that the unit is emptied at least once every 180 days.

(ii) In addition, such a generator is exempt from all the requirements in subparts G and H of part 265, except for 265.111 and 265.114.

(iii) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(iv) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste;" and

(v) The generator complies with the requirements for owners or operators in subparts C and D in part 265, with 265.16, and with 268.7(a)(5).

(h) [Reserved 9/01]

(i) A generator accumulating F006 in accordance with paragraphs (g) and (h) of this section who accumulates F006 waste on-site for more than 180 days, or who accumulates more than 20,000 kilograms of F006 waste on-site is an operator of a storage facility and is subject to the requirements of parts 264 and 265 and the permit requirements of part 270 unless the generator has been granted an extension to the 180-day period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted if F006 waste must remain on-site for longer than 180 days or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the Bureau on a case-by-case basis. (10/01)

## 262.35 [Reserved 6/97]

### Subpart D - Recordkeeping And Reporting

#### 262.40 Recordkeeping

(a) A generator must keep a copy of each manifest signed in accordance with section 262.23(a) onsite for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter. (5/93)

(b) A generator must keep a copy of each Quarterly Report and Exception Report onsite for a period of at least three years from the due date of the report as set by the Department. (5/93)

(c) A generator must keep records onsite of any test results, waste analyses, or other determinations made in accordance with R.61-79.262.11 for at least three years from the date that the waste was last sent to onsite or offsite treatment, storage, or disposal. (5/93)

(d) The periods or retention referred to in this section are extended automatically during the course of any

#### 262.44 Special requirements for generators of between 100 and 1000 kg/mo

unresolved enforcement action regarding the regulated activity or as requested by the Department.

(e) Reserved 6/97

#### 262.41 Quarterly reporting (12/93)

(a) Each generator of more than 1000 kg/mo of hazardous waste who ships any hazardous waste offsite to a treatment, storage or disposal facility within the United States must prepare and, no later than thirty (30) days after the end of each calendar quarter, submit a written report to the Department including, but not limited to, the following information unless otherwise indicated (11/90).

(1) The EPA identification number, name, and address of the generator;

(2) The calendar quarter covered by the report;

(3) The EPA identification number, name, and address for each offsite treatment, storage, or disposal facility in the United States to which waste was shipped during the quarter.

(4) The name and EPA identification number of each transporter used during the reporting quarter for shipments to a treatment, storage or disposal facility within the United States;

(5) A description, the EPA hazardous waste number [from R.61-79.261 Subpart C or D], DOT hazardous class, and quantity of each hazardous waste shipped offsite for shipments to a treatment, storage, or disposal facility within the United States. This information must be listed by the EPA identification number of each such facility to which waste was shipped. (12/92, 6/95, 6/97)

(6) The types and quantities of such wastes shipped for offsite treatment and disposal;

(7) The types and quantities of such wastes remaining in storage at the end of the reporting period; and

(8) Certification of information signed by the generator or his authorized representative.

(b) Any generator must submit the information required by paragraph (a) on a form designated by the Department and according to the instructions included with such form. Reporting for exports of hazardous waste is not required on the Report form. A separate annual report requirement is set forth at 262.56. (10/01)

#### 262.42 Exception reporting (12/92)

(a) (1) A generator of greater than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

(2) A generator of greater than 1000 kilograms of hazardous waste in a calendar month must submit an Exception Report to the Department if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery;

(ii) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(b) A generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the Department. (12/92)

Note: The submission need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received. (12/92)

#### 262.43 Additional reporting

(a) Any generator within the State who treats or disposes or stores hazardous wastes onsite for more than ninety (90) days shall also comply with the reporting requirements of R.61-79.264.75 or R.61-79.265.75.

(b) The Department may require, as deemed necessary, generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in R.61-79.261 (12/93).

(c) With the fourth quarter's report, a description of the efforts undertaken during the year to reduce the volume and toxicity of wastes generated; (moved 12/93)

(d) With the fourth quarter's report, a description of the changes in volume and toxicity of wastes actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984. (moved 12/93)

#### 262.44 Special requirements for generators of between 100 and 1000 kg/mo

A generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month is subject only to the following requirements in this subpart (6/89):

(a) Section 262.40(a), (c), and (d), recordkeeping;

(b) Annual declaration: must declare status annually on or before January 31 by submission of a completed form as designated by the Department on which he



certifies that he is a small quantity generator and provisionally exempt from full regulation and that should his status change during the calendar year he will comply fully with all requirements including quarterly reporting; (6/89, 11/90; moved 12/92 from 261.5(k))

- (c) Section 262.42, exception reporting; and
- (d) Section 262.43, additional reporting.

#### **262.45 Hazardous waste contingency fund fees**

The Department will notify each in-State generator the fee to be paid for his wastes which are land filled or other means of land disposal in this State. A check made payable to the Department [See 44-56-170 and 44-56-510] of fees of \$34.00 per ton of hazardous waste and \$13.70 per ton of nonhazardous wastes. \$10 per ton of hazardous waste incinerated must be paid to the facility receiving the waste and remitted to the Department. (moved 12/93)

### **Subpart E - Special Conditions - Exports of Hazardous Waste (12/92)**

#### **262.50 Applicability**

This subpart establishes requirements applicable to exports of hazardous waste. Except to the extent 262.58 provides otherwise, a primary exporter of hazardous waste must comply with the special requirements of this subpart and a transporter transporting hazardous waste for export must comply with applicable requirements of R.61-79.263. Section 262.58 sets forth the requirements of international agreements between the United States and receiving countries which establish different notice, export, and enforcement procedures for the transportation, treatment, storage and disposal of hazardous waste for shipments between the United States and those countries.

#### **262.51 Definitions**

In addition to the definitions set forth at R.61-79.260.10, the following definitions apply to this subpart:

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

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

"Primary Exporter" means any person who is required to originate the manifest for a shipment of hazardous waste in accordance with R.61-79.262, subpart B, which specifies a treatment, storage, or disposal facility in a receiving country as the facility to

#### **262.53 Notification of intent to export**

which the hazardous waste will be sent and any intermediary arranging for the export.

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

"Transit Country" means any foreign country, other than a receiving country, through which a hazardous waste is transported.

#### **262.52 General requirements**

Exports of hazardous waste are prohibited except in compliance with the applicable requirements of this subpart and R.61-79.263. Exports of hazardous waste are prohibited unless:

(a) Notification in accordance with 262.53 has been provided;

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

(c) A copy of the EPA Acknowledgement of Consent to the shipment accompanies the hazardous waste shipment and, unless exported by rail, is attached to the manifest [or shipping paper for exports by water (bulk shipment)].

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

#### **262.53 Notification of intent to export**

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

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

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

(i) A description of the hazardous waste and the EPA hazardous waste number (from R.61-79.261, subparts C and D), U.S. DOT proper shipping name, hazard class and ID number (UN/NA) for each hazardous waste as identified in 49 CFR parts 171 through 177;

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

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

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

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

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

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

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

(b) Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, Ariel Rios Bldg., 12th St., and Pennsylvania Ave., NW., Washington, DC. In both cases, the following shall be prominently displayed on the front of the envelope: Attention: Notification of Intent to Export. @ (12/93, 9/98)

(c) Except for changes to the telephone number in paragraph (a)(1) of this section, changes to paragraph (a)(2)(v) of this section and decreases in the quantity indicated pursuant to paragraph (a)(2)(iii) of this section when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification), the primary exporter must provide EPA and the Department with a written renotification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to paragraph (a)(2)(viii) of this section and in the ports of entry to and departure from transit countries pursuant to paragraph (a)(2)(iv) of this section) has been obtained and the primary exporter receives an EPA Acknowledgment of Consent reflecting the receiving country's consent to the changes. (12/92)

(d) Upon request by either EPA or the Department, a primary exporter shall furnish to EPA and the Department any additional information which a

receiving country requests in order to respond to a notification.

(e) In conjunction with the Department of State, EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA and the Department receive a notification which EPA determines satisfies the requirements of paragraph (a) of this section. Where a claim of confidentiality is asserted with respect to any notification information required by paragraph (a) of this section, EPA may find the notification not complete until any such claim is resolved in accordance with R.61-79.260.2.

(f) Where the receiving country consents to the receipt of the hazardous waste, EPA will forward an EPA Acknowledgment of Consent to the primary exporter for purposes of 262.54(h). Where the receiving country objects to receipt of the hazardous waste or withdraws a prior consent, EPA will notify the primary exporter in writing. EPA will also notify the primary exporter of any responses from transit countries. (11/90)

#### 262.54 Special manifest requirements

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

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

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

(c) In Special Handling Instructions and Additional Information, the primary exporter must identify the point of departure from the United States;

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

(e) In lieu of the requirements of 262.21, the primary exporter must obtain the manifest form from the Department;

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

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

(1) Renotify EPA and the Department of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with 262.53(c) and obtain an EPA Acknowledgment of Consent prior to delivery; (11/90) or

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

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

(h) The primary exporter must attach a copy of the EPA Acknowledgment of Consent to the shipment to the manifest which must accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter must provide the transporter with an EPA Acknowledgment 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 copy of the EPA Acknowledgment of Consent to the shipping paper.

(i) The primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with R.61-79.263.20(g)(4).

### 262.55 Exception reports

In lieu of the requirements of 262.42, a primary exporter must file an exception report with the EPA Administrator and the Department if: (11/90)

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

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

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

### 262.56 Annual reports

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

- (1) The EPA identification number, name, and mailing and site address of the exporter;
- (2) The calendar year covered by the report;
- (3) The name and site address of each consignee;
- (4) By consignee, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from part 261, subpart C or D), DOT hazard class, the name and US EPA ID number (where applicable) for each transporter used,

the total amount of waste shipped and number of shipments pursuant to each notification; (12/92)

(5) Except for hazardous waste produced by exporters of greater than 100 kg but less than 1000 kg in a calendar month, unless provided pursuant to 262.41 (quarterly reporting), in even numbered years: (6/89, 12/92)

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

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

(6) A certification signed by the primary exporter which states: I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

(b) Reports shall be sent to the following mailing addresses: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 and the Bureau of Land and Waste Management, Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. (11/90; 12/93, 9/98)

### 262.57 Recordkeeping

(a) For all exports a primary exporter must:

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

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

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

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

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

**262.58 International agreements (9/98)**

(a) Any person who exports or imports hazardous waste subject to manifest requirements of Part 262, or subject to the universal waste management standards of 273, to or from designated member countries of the Organization for Economic Cooperation and Development (OECD) as defined in paragraph (a)(1) of this section for purposes of recovery is subject to Subpart H of this part. The requirements of Subparts E and F do not apply.

(1) For the purposes of this Subpart, the designated OECD countries consist of Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States.

(2) For the purposes of this Subpart, Canada and Mexico are considered OECD member countries only for the purpose of transit.

(b) Any person who exports hazardous waste to or imports hazardous waste from: a designated OECD member country for purposes other than recovery (e.g., incineration, disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of subparts E and F of this part.

**Subpart F - Imports of Hazardous Waste****262.60 Imports of hazardous waste**

(a) Any person who imports hazardous waste from a foreign country into this State must comply with the requirements of this part and the special requirements of this subpart.

(b) When importing hazardous waste, a person must meet all the requirements of subpart B for the manifest except that:

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

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

(c) A person who imports hazardous waste must obtain the manifest form from this State.

**Subpart G - Farmers****262.70 Farmers**

A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this part or other standards in R.61-79.270, R.61-79.264, R.61-79.265, R.61-79.266 or R.61-79.268 for those wastes provided he triple rinses each emptied pesticide container in accordance

with R.61-79.261.7(b)(3) and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label. (11/90; 12/93)

**Subpart H - Transfrontier Shipments Of Hazardous Waste for Recovery Within the OECD****262.80 Applicability (9/98)**

(a) The requirements of this subpart apply to imports and exports of wastes that are considered hazardous under U.S. national procedures and are destined for recovery operations in the countries listed in 262.58(a)(1). A waste is considered hazardous under U.S. national procedures if it meets the federal definition of hazardous waste in 261.3 and it is subject to either the federal manifesting requirements at 262, Subpart B, or to the universal waste management standards of 273.

(b) Any person (notifier, consignee, or recovery facility operator) who mixes two or more wastes (including hazardous and nonhazardous wastes) or otherwise subjects two or more wastes (including hazardous and nonhazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under RCRA and any notifier duties, if applicable, under this subpart.

**262.81 Definitions (9/98)**

The following definitions apply to this subpart.

(a) "Competent authorities" means the regulatory authorities of concerned countries having jurisdiction over transfrontier movements of wastes destined for recovery operations.

(b) "Concerned countries" means the exporting and importing OECD member countries and any OECD member countries of transit.

(c) "Consignee" means the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the importing country.

(d) "Country of transit" means any designated OECD country in 262.58(a)(1) and (a)(2) other than the exporting or importing country across which a transfrontier movement of wastes is planned or takes place.

(e) "Exporting country" means any designated OECD member country in 262.58(a)(1) from which a transfrontier movement of wastes is planned or has commenced.

(f) "Importing country" means any designated OECD country in 262.58(a)(1) to which a transfrontier movement of wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.

(g) "Notifier" means the person under the jurisdiction of the exporting country who has, or will have at the time the planned transfrontier movement commences, possession or other forms of legal control of the wastes and who proposes their transfrontier movement for the ultimate purpose of submitting them to recovery operations. When the United States (U.S.) is the exporting country, notifier is interpreted to mean a person domiciled in the U.S.

(h) "OECD area" means all land or marine areas under the national jurisdiction of any designated OECD member country in 262.58. When the regulations refer to shipments to or from an OECD country, this means OECD area.

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

(j) "Recovery facility" means an entity which, under applicable domestic law, is operating or is authorized to operate in the importing country to receive wastes and to perform recovery operations on them.

(k) "Recovery operations" means activities leading to resource recovery, recycling, reclamation, direct reuse or alternative uses as listed in Table 2.B of the Annex of OECD Council Decision C(88)90(Final) of 27 May 1988, (available from the Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson Davis Highway, first floor, Arlington, VA 22203 (Docket # F-94-IEHF-FFFFF) and the Organisation for Economic Cooperation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France) which include:

- R1 Use as a fuel (other than in direct incineration) or other means to generate energy
- R2 Solvent reclamation/regeneration
- R3 Recycling/reclamation of organic substances which are not used as solvents
- R4 Recycling/reclamation of metals and metal compounds
- R5 Recycling/reclamation of other inorganic materials
- R6 Regeneration of acids or bases
- R7 Recovery of components used for pollution control
- R8 Recovery of components from catalysts
- R9 Used oil rerefining or other reuses of previously used oil
- R10 Land treatment resulting in benefit to agriculture or ecological improvement
- R11 Uses of residual materials obtained from any of the operations numbered R1 to R10
- R12 Exchange of wastes for submission to any of the operations numbered R1 to R11

R13 Accumulation of material intended for any operation in Table 2.B.

(l) "Transfrontier movement" means any shipment of wastes destined for recovery operations from an area under the national jurisdiction of one OECD member country to an area under the national jurisdiction of another OECD member country.

### 262.82 General conditions (9/98)

(a) Scope. The level of control for exports and imports of waste is indicated by assignment of the waste to a green, amber, or red list and by U.S. national procedures as defined in 262.80(a). The green, amber, and red lists are incorporated by reference in 262.89(e).

(1) Wastes on the green list are subject to existing controls normally applied to commercial transactions, except as provided below:

(i) Greenlist wastes that are considered hazardous under U.S. national procedures are subject to amberlist controls.

(ii) Greenlist waste that are sufficiently contaminated or mixed with amberlist wastes, such that the waste or waste mixture is considered hazardous under U.S. national procedures, are subject to amberlist controls.

(iii) Greenlist wastes that are sufficiently contaminated or mixed with other wastes subject to redlist controls such that the waste or waste mixture is considered hazardous under U.S. national procedures must be handled in accordance with the redlist controls.

(2) Wastes on the amber list that are considered hazardous under U.S. national procedures as defined in 262.80(a) are subject to the amberlist controls of this Subpart.

(i) If amberlist wastes are sufficiently contaminated or mixed with other wastes subject to redlist controls such that the waste or waste mixture is considered hazardous under U.S. national procedures, the wastes must be handled in accordance with the redlist controls.

(ii) [Reserved].

(3) Wastes on the red list that are considered hazardous under U.S. national procedures as defined in 262.80(a) are subject to the redlist controls of this subpart.

Note to paragraph (a)(3): Some wastes on the amber or red lists are not listed or otherwise identified as hazardous under RCRA (e.g., polychlorinated biphenyls) and therefore are not subject to the amber or redlist controls of this subpart. Regardless of the status of the waste under RCRA, however, other federal environmental statutes (e.g., the Toxic Substances Control Act) may restrict certain waste imports or exports. Such restrictions continue to apply without regard to this Subpart.

(4) Wastes not yet assigned to a list are eligible for transfrontier movements, as follows:

(i) If such wastes are considered hazardous under U.S. national procedures as defined in 262.80(a), these wastes are subject to the redlist controls; or

(ii) If such wastes are not considered hazardous under U.S. national procedures as defined in 262.80(a), such wastes may move as though they appeared on the green list.

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

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

(2) The transfrontier 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 waste through a non-OECD member country 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 amberlist control system from the U.S., as the importing country, to a third country listed in 262.58(a)(1) may occur only after a notifier in the U.S. provides notification to and obtains consent of the competent authorities in the third country, the original exporting country, and new transit countries. The notification must comply with the notice and consent procedures in 262.83 for all concerned countries and the original exporting country. The competent authorities of the original exporting country as well as the competent authorities of all other concerned countries have 30 days to object to the proposed movement.

(i) The 30-day period begins once the competent authorities of both the initial exporting country and new importing country issue Acknowledgments of Receipt of the notification.

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

(2) Re-export of waste subject to the redlist control system from the original importing country to a third country listed in 262.58(a)(1) may occur only following notification of the competent authorities of the third country, the original exporting country, and new transit countries by a notifier in the original importing country in accordance with 262.83. The transfrontier movement may not proceed until receipt

by the original importing country of written consent from the competent authorities of the third country, the original exporting country, and new transit countries.

(3) In the case of re-export of amber or redlist wastes to a country other than those in 262.58(a)(1), notification to and consent of the competent authorities of the original OECD member country of export and any OECD member countries of transit is required as specified in paragraphs (c)(1) and (c)(2) of this section in addition to compliance with all international agreements and arrangements to which the first importing OECD member country is a party and all applicable regulatory requirements for exports from the first importing country.

### 262.83 Notification and consent. (9/98)

(a) Applicability. Consent must be obtained from the competent authorities of the relevant OECD importing and transit countries prior to exporting hazardous waste destined for recovery operations subject to this Subpart. Hazardous wastes subject to amberlist controls are subject to the requirements of paragraph (b) of this section; hazardous wastes subject to redlist controls are subject to the requirements of paragraph (c) of this section; and wastes not identified on any list are subject to the requirements of paragraph (d) of this section.

(b) Amberlist wastes. The export from the U.S. of hazardous wastes as described in 262.80(a) that appear on the amber list is prohibited unless the notification and consent requirements of paragraph (b)(1) or paragraph (b)(2) of this section are met.

(1) Transactions requiring specific consent:

(i) Notification. At least 45 days prior to commencement of the transfrontier movement, the notifier must provide written notification in English of the proposed transfrontier movement to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, with the words Attention: OECD Export Notification@ prominently displayed on the envelope. This notification must include all of the information identified in paragraph (e) of this section. In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, and the same RCRA waste codes are to be sent periodically to the same recovery facility by the same notifier, the notifier may submit one notification of intent to export these wastes in multiple shipments during a period of up to one year.

(ii) Tacit consent. If no objection has been lodged by any concerned country (i.e., exporting, importing, or transit countries) to a notification provided pursuant to paragraph (b)(1)(i) of this section within 30 days after the date of issuance of the Acknowledgment of Receipt of notification by the

competent authority of the importing country, the transfrontier movement may commence. Tacit consent expires one calendar year after the close of the 30 day period; renotification and renewal of all consents is required for exports after that date.

(iii) Written consent. If the competent authorities of all the relevant OECD importing and transit countries provide written consent in a period less than 30 days, the transfrontier movement may commence immediately after all necessary consents are received. Written consent expires for each relevant OECD importing and transit country one calendar year after the date of that country's consent unless otherwise specified; renotification and renewal of each expired consent is required for exports after that date.

(2) Shipments to facilities preapproved by the competent authorities of the importing countries to accept specific wastes for recovery:

(i) The notifier must provide EPA the information identified in paragraph (e) of this section in English, at least 10 days in advance of commencing shipment to a preapproved facility. The notification should indicate that the recovery facility is preapproved, and may apply to a single specific shipment or to multiple shipments as described in paragraph (b)(1)(i) of this section. This information must be sent to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, with the words **AOECD Export Notification Preapproved Facility**@prominently displayed on the envelope.

(ii) Shipments may commence after the notification required in paragraph (b)(1)(i) of this section has been received by the competent authorities of all concerned countries, unless the notifier has received information indicating that the competent authorities of one or more concerned countries objects to the shipment.

(c) Redlist wastes. The export from the U.S. of hazardous wastes as described in 262.80(a) that appear on the red list is prohibited unless notice is given pursuant to paragraph (b)(1)(i) of this section and the notifier receives written consent from the importing country and any transit countries prior to commencement of the transfrontier movement.

(d) Unlisted wastes. Wastes not assigned to the green, amber, or red list that are considered hazardous under U.S. national procedures as defined in 262.80(a) are subject to the notification and consent requirements established for redlist wastes in accordance with paragraph (c) of this section. Unlisted wastes that are not considered hazardous under U.S. national procedures as defined in 262.80(a) are not subject to amber or red controls when exported or imported.

(e) Notification information. Notifications submitted under this section must include:

(1) Serial number or other accepted identifier of the notification form;

(2) Notifier name and EPA identification number (if applicable), address, and telephone and telefax numbers;

(3) Importing recovery facility name, address, telephone and telefax numbers, and technologies employed;

(4) Consignee name (if not the owner or operator of the recovery facility) address, and telephone and telefax numbers; whether the consignee will engage in waste exchange or storage prior to delivering the waste to the final recovery facility and identification of recovery operations to be employed at the final recovery facility;

(5) Intended transporters and/or their agents;

(6) Country of export and relevant competent authority, and point of departure;

(7) Countries of transit and relevant competent authorities and points of entry and departure;

(8) Country of import and relevant competent authority, and point of entry;

(9) Statement of whether the notification is a single notification or a general notification. If general, include period of validity requested;

(10) Date foreseen for commencement of transfrontier movement;

(11) Designation of waste type(s) from the appropriate list (amber or red and waste list code), descriptions of each waste type, estimated total quantity of each, RCRA waste code, and United Nations number for each waste type; and

(12) Certification/Declaration signed by the notifier 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 guarantees are or shall be in force covering the transfrontier movement.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Note to paragraph (e)(12): The U.S. does not currently require financial assurance; however, U.S. exporters may be asked by other governments to provide and certify to such assurance as a condition of obtaining consent to a proposed movement.

#### **262.84 Tracking document. (9/98)**

(a) All U.S. parties subject to the contract provisions of 262.85 must ensure that a tracking document meeting the conditions of 262.84(b) accompanies each transfrontier shipment of wastes subject to amberlist or redlist controls from the initiation of the shipment until it reaches the final recovery facility, including cases in which the waste is stored and/or exchanged by the

consignee prior to shipment to the final recovery facility, except as provided in 262.84(a)(1) and (2).

(1) For shipments of hazardous waste within the U.S. solely by water (bulk shipments only) the generator must forward the tracking document with the manifest to the last water (bulk shipment) transporter to handle the waste in the U.S. if exported by water, (in accordance with the manifest routing procedures at 262.23(c).

(2) For rail shipments of hazardous waste within the U.S. which originate at the site of generation, the generator must forward the tracking document with the manifest (in accordance with the routing procedures for the manifest in 262.23(d)) to the next nonrail transporter, if any, or the last rail transporter to handle the waste in the U.S. if exported by rail.

(b) The tracking document must include all information required under 262.83 (for notification), and the following:

(1) Date shipment commenced.

(2) Name (if not notifier), address, and telephone and telefax numbers of primary exporter.

(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.

(5) Any special precautions to be taken by transporters.

(6) Certification/declaration signed by notifier 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 transfrontier 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 concerned countries within the 30 day tacit consent period; or

3. The shipment is directed at a recovery facility preauthorized 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 concerned countries. (delete sentences that are not applicable)

Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

(c) Notifiers also must comply with the special manifest requirements of 262.54(a), (b), (c), (e), and (i)

and consignees must comply with the import requirements of 262, subpart F.

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

(e) Within 3 working days of the receipt of imports subject to this Subpart, the owner or operator of the U.S. recovery facility must send signed copies of the tracking document to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and to the competent authorities of the exporting and transit countries.

### 262.85 Contracts. (9/98)

(a) Transfrontier movements of hazardous wastes subject to amber or red control procedures are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent arrangements must be executed by the notifier and the owner or operator of the recovery facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this section only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangement.

(b) Contracts or equivalent arrangements must specify the name and EPA ID number, where available, of:

(1) The generator of each type of waste;

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

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

(4) The recovery facility.

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

(1) The person having actual possession or physical control over the wastes will immediately inform the notifier and the competent authorities of the exporting and importing countries and, if the wastes are located in a country of transit, the competent authorities of that country; and

(2) The person specified in the contract will assume responsibility for the adequate management of



the wastes in compliance with applicable laws and regulations including, if necessary, arranging their return to the original country of export.

(d) Contracts must specify that the consignee will provide the notification required in 262.82(c) prior to reexport of controlled wastes to a third country.

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

Note to paragraph (e): Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The U.S. does not require such financial guarantees at this time; however, some OECD countries do. It is the responsibility of the notifier to ascertain and comply with such requirements; in some cases, transporters or consignees may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

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

(g) Upon request by EPA, U.S. notifiers, consignees, or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted accordance with 30-4-10 et. seq and 40 CFR 2.203(b) will be treated as confidential and will be disclosed only as provided in 260.2.

Note to paragraph (g): Although the U.S. does not require routine submission of contracts at this time, OECD Council Decision C(92)39/FINAL allows members to impose such requirements. When other OECD countries require submission of partial or complete copies of the contract as a condition to granting consent to proposed movements, EPA will request the required information; absent submission of such information, some OECD countries may deny consent for the proposed movement.

### **262.86 Provisions relating to recognized traders (9/98)**

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

(b) A recognized trader acting as a notifier or consignee for transfrontier shipments of waste must

comply with all the requirements of this Subpart associated with being a notifier or consignee.

### **262.87 Reporting and recordkeeping (9/98)**

(a) Annual reports. For all waste movements subject to this Subpart, persons (e.g., notifiers, recognized traders) who meet the definition of primary exporter in 262.51 shall file an annual report with the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter is required to file an annual report for waste exports that are not covered under this Subpart, he may include all export information in one report provided the following information on exports of waste destined for recovery within the designated OECD member countries is contained in a separate section). Such reports shall include the following:

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

(2) The calendar year covered by the report;

(3) The name and site address of each final recovery facility;

(4) By final recovery facility, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from part 261, subpart C or D), designation of waste type(s) from OECD waste list and applicable waste code from the OECD lists, DOT hazard class, the name and U.S. EPA identification number (where applicable) for each transporter used, the total amount of hazardous waste shipped pursuant to this Subpart, and number of shipments pursuant to each notification;

(5) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than 100kg but less than 1000kg in a calendar month, and except for hazardous waste for which information was already provided pursuant to 262.41:

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

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

(6) A certification signed by the person acting as primary exporter that states: I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the

information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

(b) Exception reports. Any person who meets the definition of primary exporter in 262.51 must file an exception report in lieu of the requirements of 262.42 with the Department if any of the following occurs:

(1) He has not received a copy of the tracking documentation signed by the transporter stating point of departure of the waste from the United States, within forty-five (45) days from the date it was accepted by the initial transporter;

(2) Within ninety (90) days from the date the waste was accepted by the initial transporter, the notifier has not received written confirmation from the recovery facility that the hazardous waste was received;

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

(c) Recordkeeping.

(1) Persons who meet the definition of primary exporter in 262.51 shall keep the following records:

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

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

(iii) A copy of any exception reports and a copy of each confirmation of delivery (i.e., tracking documentation) sent by the recovery facility to the notifier for at least three years from the date the hazardous waste was accepted by the initial transporter or received by the recovery facility, whichever is applicable.

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

#### **262.88 Preapproval for U.S. Recovery Facilities [Reserved 9/98]**

#### **262.89 OECD Waste Lists (9/98)**

(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 261.3; and

(2) Is subject to either the Federal RCRA manifesting requirements at 262, subpart B, to the universal waste management standards of 273.

(b) If a waste is hazardous under paragraph (a) of this section and it appears on the amber or red list, it is subject to amber or redlist requirements respectively;

(c) If a waste is hazardous under paragraph (a) of this section and it does not appear on either amber or red lists, it is subject to redlist requirements.

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

(e) The OECD Green List of Wastes (revised May 1994), Amber List of Wastes and Red List of Wastes (both revised May 1993) as set forth in Appendix 3, Appendix 4 and Appendix 5, respectively, to the OECD Council Decision C(92)39/FINAL (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) are incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 on July 11, 1996. These materials are incorporated as they exist 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC; the U.S. Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson Davis Highway, first floor, Arlington, VA 22203 (Docket # F-94-IEHF-FFFFF) and may be obtained from the Organisation for Economic Cooperation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France.

#### **Subpart I - Hazardous Waste Discharge Reporting**

##### **262.90 Discharge clean up (5/93, 9/98)**

A generator must clean up any hazardous waste discharge that occurs during generation or processing or storage and take such other action as may be required or approved by Federal, State or local officials so that the hazardous waste discharge no longer presents a hazard to human health or the environment. See also 262.34(a)(4) and 265 Subpart D.

#### **Appendix to 262 - Manifest Forms**