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**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

CHAPTER 61

Statutory Authority: 1976 Code Section 44‑56‑30

61‑79. Hazardous Waste Management Regulations.

**Synopsis:**

The Department of Health and Environmental Control (“Department”) amends R.61‑79, Hazardous Waste Management Regulations, to adopt the “Imports and Exports of Hazardous Waste Rule” published on November 28, 2016, at 81 FR 85696‑85729 and on August 29, 2017, at 82 FR 41015‑41016 by the United States Environmental Protection Agency (“EPA”). The amendments support the Department’s goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. The amendments make existing import‑ and export‑related requirements more consistent with the current import‑export requirements for shipments between members of the Organization for Economic Cooperation and Development, enable electronic submittal to the EPA of all import and export‑related documents (e.g., export notices, export annual reports), and enable electronic validation of consent in the Automated Export System (“AES”) for export shipments subject to the Resource Conservation and Recovery Act (“RCRA”) export consent requirements prior to exit.

The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), has exempted these amendments from General Assembly review, as the Department promulgated the amendments for compliance with federal law.

The Department had a Notice of Drafting published in the April 27, 2018, *South Carolina State Register*.

Section‑by‑Section Discussion of Amendment:

260.10 Definitions. Add, in alphabetical order, the following new definitions: “AES filing compliance date,” “Electronic import‑export reporting compliance date,” and “Recognized trader.”

261.4(d)(1). Revise item to insert “and (4)” after “paragraph (d)(2).”

261.4(d)(4). Add new item (4) to adopt language that describes how, in order to qualify for the exemption in 261.4(d)(1)(i) and (ii), the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed twenty‑five (25) kilograms.

261.4(e)(1). Revise item to read, “Except as provided in paragraph (e)(2) and (4) of this section, persons who generate or collect samples for the purpose of conducting treatability studies as defined in R.61‑79.260.10, are not subject to any requirement of R.61‑79.261 through 263 or to the notification requirements of SC Hazardous Waste Management Act 44‑56‑120 and Section 3010 of RCRA, nor are such samples included in the quantity determinations of R.61‑79.262.13 when:.”

261.4(e)(4). Add new item (4) to adopt language that describes how, in order to qualify for the exemption in 261.4(e)(1)(i), the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source must additionally not exceed twenty‑five (25) kilograms.

261.6(a)(3)(i). Revise item to replace “, unless provided otherwise in an international agreement as specified in 262.58:” with “exports and imports of such recyclable materials must comply with the requirements of R.61‑79.262 subpart H.”

261.6(a)(5). Revise item to read, “Hazardous waste that is exported or imported for purpose of recovery is subject to the requirements of R.61‑79.262 subpart H.”

261.39(a)(5)(ii). Revise item to read, “Notifications must be submitted electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system.”

261.39(a)(5)(v). Revise item to read, “The export of CRTs is prohibited unless all of the following occur:.”

261.39(a)(5)(v)(A). Add new item (5)(v)(A) to adopt language that describes how the receiving country must consent to the intended export.

261.39(a)(5)(v)(B). Add new item (5)(v)(B) to adopt language that introduces the requirements of the exporter or a U.S. authorized agent for the export of CRTs.

261.39(a)(5)(v)(B)*(1).* Add new item (v)(B)*(1)* to adopt language that describes how the exporter must submit 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).

261.39(a)(5)(v)(B)*(2).* Add new item (v)(B)*(2)* and items (v)(B)(*2)*(*i*) to (v)(B)(*2*)(*vii*) to adopt language that describes how the exporter or U.S. authorized agent must include the following specific items in the EEI, along with the other information required under 15 CFR 30.6: EPA license code; commodity classification code; EPA consent number; country of ultimate destination; date of export; quantity of waste in the shipment; and EPA net quantity reported in kilogram.

261.39(a)(5)(vi). Revise first sentence to read, “When the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change using the allowable methods listed in paragraph (a)(5)(ii) of this section, except for changes to the telephone number in paragraph (a)(5)(i)(A) of this section and decreases in the quantity indicated pursuant to paragraph (a)(5)(i)(C) of this section.” Revise the second sentence to replace “(a)(5)(i)” with “(H).”

261.39(a)(5)(ix). Revise item to add text to specify recordkeeping requirements.

261.39(a)(5)(xi). Revise item to remove the first sentence and adopt new language that describes annual report requirements.

262.10(d). Revise subsection to read, “Any person who exports or imports hazardous wastes must comply with R.61‑79.262.18 and R.61‑79.262 subpart H.”

262.41(c). Revise last sentence to read, “A separate annual report requirement is set forth at section 262.83(g) for hazardous waste exporters.”

262 Subpart E. Remove and reserve subpart.

262 Subpart F. Remove and reserve subpart.

262 Subpart H. Revise section title to read, “Transboundary Movements of Hazardous Waste for Recovery and Disposal.”

262.80(a). Revise subsection to read, “The requirements of this subpart apply to transboundary movements of hazardous wastes.”

262.80(b). Revise subsection to read, “Any person (including exporter, importer, disposal facility operator, or recovery facility operator) who mixes two or more wastes (including hazardous and non‑hazardous wastes) or otherwise subjects two or more wastes (including hazardous and non‑hazardous 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 the SC Hazardous Waste Management Act and any exporter duties, if applicable, under this subpart.”

262.81 Definitions. Revise section to clarify and revise the following existing definitions: “Competent authority,” “Countries concerned,” “Country of export,” “Country of import,” “Country of transit,” “Exporter,” “Importer,” “OECD area,” “Recovery operations,” and “Transboundary movement.” Add, in alphabetical order, the following definitions: “Disposal operations,” “EPA Acknowledgment of Consent,” “Export,” “Foreign exporter,” “Foreign importer,” “Foreign receiving facility,” “Import,” “OECD Member country,” and “Receiving facility.” Remove the definitions for: “Recognized trader” and “Recovery facility.”

262.82(a). Revise first sentence to replace “by the national procedures of the United States, as defined in 262.80(a)” with “whether the waste is or is not hazardous waste.” Revise the second sentence to replace “262.89(d)” with “in R.61‑79.260.11.”

262.82(a)(1). Revise item to describe green list wastes that are subject to the requirements of this subpart.

262.82(a)(2). Revise item to describe amber list wastes that are subject to the requirements of this subpart.

262.82(a)(3). Revise item to describe mixtures of wastes that are subject to the requirements of this subpart.

262.82(a)(4)(i). Revise item to read, “If such wastes are hazardous wastes, such wastes are subject to the requirements of this subpart.”

262.82(a)(4)(ii). Revise item to read, “If such wastes are not hazardous wastes, such wastes are not subject to the requirements of this subpart.”

262.82(b)(1). Revise item to read, “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 country of import;.”

262.82(b)(2). Revise item to remove the phrase “and the transboundary movement must be in compliance with applicable international transport agreements;.” Add note to paragraph (b)(2) to adopt language that describes how these international agreements include, but are not limited to, the Chicago Convention (1994), ADR (1957), ADNR (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).

262.82(b)(3). Revise item to read, “Any transit of hazardous waste through one or more countries must be conducted in compliance with all applicable international and national laws and regulations.”

262.82(c). Revise subsection to describe the duty to return wastes subject to the Amber control procedures during transit through the United States.

262.82(d). Revise subsection to read, “Laboratory analysis exemption. Export or import of a hazardous waste sample is exempt from the requirements of this subpart if the sample is destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery or disposal operations, does not exceed twenty‑five (25) kilograms in quantity, is appropriately packaged and labeled, and complies with the conditions of R.61‑79.261.4(d) or (e).”

262.82(e). Revise subsection to read, “EPA Address for submittals by postal mail or hand delivery. Submittals required in this subpart to be made by postal mail or hand delivery should be sent to the following addresses:.”

262.82(e)(1). Revise item to read, “For postal mail delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460.”

262.82(e)(2). Revise item to read, “For hand delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch, Environmental Protection Agency, William Jefferson Clinton South Bldg., Room 6144, 1200 Pennsylvania Ave., NW., Washington, DC 20004.”

262.83. Revise title to read, “Exports of hazardous waste.”

262.83(a). Revise subsection to read, “General export requirements. Except as provided in paragraphs (a)(5) and (6) of this section, exporters that have received an AOC from EPA before December 31, 2016 are subject to that approval and the requirements listed in the AOC that existed at the time of that approval until such time the approval period expires. All other exports of hazardous waste are prohibited unless:.” Add new items (1) through (6) to adopt language that describes the general export requirements.

262.83(b). Revise heading to read, “Notifications—.”

262.83(b)(1). Revise item to describe and clarify general notifications of hazardous waste shipments and state what information is required in the notifications.

262.83(b)(2). Revise item to clarify export requirements to pre‑consented recovery facilities in OECD Member countries. Remove items (2)(i) and (ii).

262.83(b)(3). Add new item (3) to adopt language that describes how notifications must list interim recycling operations or interim disposal operations.

262.83(b)(4). Add new item (4) to adopt language that describes how 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 262.83(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.

262.83(b)(5). Add new item (5) to adopt language that describes EPA coordination for countries of import and recovery or disposal operations not covered under the international agreement.

262.83(b)(6). Add new item (6) to adopt language that describes where the countries of import and transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the exporter documenting the countries’ consents. Where any of the countries of import and transit objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the exporter.

262.83(b)(7). Add new item (7) to adopt language that describes how U.S. exporters must comply with the export requirements in section 262.83.

262.83(b)(8). Add new item (8) to adopt language that describes how upon request by EPA, the exporter must furnish to EPA any additional information which the country of import requests in order to respond to a notification.

262.83(c). Revise subsection to read, “RCRA manifest instructions for export shipments. The exporter must comply with the manifest requirements of sections 262.20 through 262.23 except that:.”

262.83(c)(1). Add new item (1) to adopt language that describes how the exporter must enter the name and site address of the foreign receiving facility in lieu of the name, site address, and EPA number of the designated permitted facility.

262.83(c)(2). Add new item (2) to adopt language that describes how the exporter must check the export box and enter the U.S. port of exit from the United States.

262.83(c)(3). Add new item (3) to adopt language that describes how the exporter must list the consent number from the AOC for each hazardous waste listed on the manifest, matched to the relevant list number for the hazardous waste from block 9b. If additional space is needed, the exporter should use a Continuation Sheet(s) (EPA Form 8700–22A).

262.83(c)(4). Add new item (4) to adopt language that describes how the exporter may obtain the manifest from any source that is registered with the U.S. EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

262.83(d). Revise subsection to read, “Movement document requirements for export shipments:.” Remove items (3) through (14) and note to (d)(14).

262.83(d)(1). Revise item to read, “All exporters must ensure that a movement document meeting the conditions of paragraph (d)(2) of this section accompanies each transboundary movement of hazardous wastes from the initiation of the shipment until it reaches the foreign receiving facility, including cases in which the hazardous waste is stored and/or sorted by the foreign importer prior to shipment to the foreign receiving facility, except as provided in paragraphs (d)(1)(i) and (ii) of this section.” Add new items (1)(i) and (ii) to adopt language that describes the exceptions of paragraph (d)(1).

262.83(d)(2). Revise item to read, “The movement document must include the following paragraphs (d)(2)(i) through (xv) of this section:.” Add new items (2)(i) through (xv) to adopt language that describes each requirement in the movement document.

262.83(e). Revise subsection to clarify the duty to return hazardous waste to the United States or re‑export hazardous waste to a third country.

262.83(f). Add new subsection (f) titled, “Export contract requirements,” and items (1) through (9) to adopt language that describes the exports of hazardous waste contract requirements.

262.83(g). Add new subsection (g) to adopt language that describes annual reports required by the exporters, and new items (1) through (6) to adopt language that describes the required content within the annual report.

262.83(h). Add new subsection (h) titled, “Exception reports,” and new items (1) and (2) to adopt language that describes the required content within the exception reports.

262.83(i). Add new subsection (i) titled, “Recordkeeping,” and new items (1) through (3) to adopt language that describes the recordkeeping requirements for exporters.

262.84. Revise section title to read, “Imports of hazardous waste.”

262.84(a). Revise subsection heading to read, “General import requirements.”

262.84(a)(1). Revise item to read, “With the exception of paragraph (a)(5) of this section, importers of shipments covered under a consent from EPA to the country of export issued before December 31, 2016, are subject to that approval and the requirements that existed at the time of that approval until such time the approval period expires. Otherwise, any other person who imports hazardous waste from a foreign country into the United States must comply with the requirements of this part and the special requirements of this subpart.”

262.84(a)(2). Revise item to read, “In cases where the country of export does not require the foreign exporter to submit a notification and obtain consent to the export prior to shipment, the importer must submit a notification to EPA in accordance with paragraph (b) of this section.”

262.84(a)(3). Add new item (3) to adopt language that describes how the importer must comply with the contract requirements in 262.84(f).

262.84(a)(4). Add new item (4) to adopt language that describes how the importer must ensure compliance with the movement documents requirements in 262.84(d).

262.84(a)(5). Add new item (5) to adopt language that describes how the importer must ensure compliance with the manifest instructions for import shipments in 262.84(c).

262.84(b). Revise subsection to read, “Notifications. In cases where the competent authority of the country of export does not regulate the waste as hazardous waste and, thus, does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, but EPA does regulate the waste as hazardous waste.”

262.84(b)(1). Revise item to remove “Date movement commenced;” and adopt language that describes how the importer is required to provide notification of the transboundary movement of hazardous waste.

262.84(b)(2). Revise item to read, “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 and fax numbers, e‑mail address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, will be employed at the final recovery or disposal facility. The recovery and disposal operations in this paragraph are defined in section 262.81.”

262.84(b)(3). Revise item to read, “Renotifications. When the foreign exporter wishes to change any of the conditions 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 importer 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 EPA and the countries of transit consent to the changes and the importer receives an EPA AOC letter documenting the consents to the changes.”

262.84(b)(4). Revise item to read, “A notification is complete when EPA determines the notification satisfies the requirements of paragraph (b)(1)(i) through (xiii) of this section.”

262.84(b)(5). Revise item to read, “Where EPA and the countries of transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the importer documenting the countries’ consents and EPA’s consent. Where any of the countries of transit or EPA objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the importer.”

262.84(b)(6). Revise item to read, “Export of hazardous wastes originally imported into the United States. Export of hazardous wastes that were originally imported into the United States for recycling or disposal operations is prohibited unless an exporter in the United States complies with the export requirements in section 262.83(b)(7).”

262.81(b)(7). Remove item (7).

262.84(c). Revise subsection title to read, “RCRA Manifest instructions for import shipments.” Add new items (1) through (5) to adopt language that describes the importer manifest requirements.

262.84(d). Revise subsection title to read, “Movement document requirements for import shipments.”

262.84(d)(1). Add new item (1) and items (1)(i) and (ii) to adopt language that describes how the importer must ensure that a movement document accompanies each transboundary movement of hazardous wastes.

262.84(d)(2). Add new item (2) and items (2)(i) through (xv) to adopt language that describes the requirements to be included in the movement document.

262.84(e). Revise to read, “Duty to return or export hazardous wastes. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s), the provisions of paragraph (f)(4) of this section apply. If alternative arrangements cannot be made to recover the hazardous waste in an environmentally sound manner in the United States, the hazardous waste must be returned to the country of export or exported to a third country. The provisions of paragraph (b)(6) of this section apply to any hazardous waste shipments to be exported to a third country. If the return shipment will cross any transit country, the return shipment may only occur after EPA provides notification to and obtains consent from the competent authority of the country of transit, and provides a copy of that consent to the importer.”

262.84(f). Add new subsection (f) titled, “Import contract requirements.”

262.84(f)(1). Add new item (1) to adopt language that describes how the imports of hazardous waste must 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 foreign exporter, importer, and the owner or operator of the receiving 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 arrangements.

262.84(f)(2). Add new item (2) to adopt language that describes how the contracts or equivalent arrangements must specify the name and EPA ID number, where available, of 262.84(f)(2)(i) through (iv), which include: the foreign company from where each import shipment of hazardous waste is initiated; each person who will have physical custody of the hazardous wastes; each person who will have legal control of the hazardous wastes; and the receiving facility.

262.84(f)(3). Add new item (3) to adopt language that describes how contracts or equivalent arrangements must specify the use of a movement document in accordance with 262.84(d).

262.84(f)(4). Add new item (4) to adopt language that describes how contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the hazardous wastes. Add items (4)(i) and (4)(ii) to adopt language that describes what the contracts must specify.

262.84(f)(5). Add new item (5) to adopt language that describes how contracts must specify that the importer or the receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC15 through DC17, as appropriate, will provide the notification required in section 262.83(b)(7) prior to the re‑export of hazardous wastes. The recovery and disposal operations in this paragraph are defined in section 262.81.

262.84(f)(6). Add new item (6) to adopt new language that describes how contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any countries concerned, in accordance with applicable national or international law requirements. Add new note to item (f)(6) that describes why financial guarantees are required.

262.84(f)(7). Add new item (7) to adopt new language that describes how contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of Subpart F 262.

262.84(f)(8). Add new item (8) to adopt new language that describes how importers or disposal 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).

262.84(g). Add new subsection (g) to read, “Confirmation of recovery or disposal. The receiving facility must do the following:” to introduce receiving facility requirements. Add new items (1) and (2) to adopt language that describe the requirements of the receiving facility.

262.84(h). Add new subsection (h) titled, “Recordkeeping.”

262.84(h)(1). Add new item (1) and items (i) and (ii) to adopt language that describes the records the importer must keep and provide upon request.

262.84(h)(2). Add new item (2) and items (i) through (iv) to adopt language that describes the records the receiving facility must keep.

262.84(h)(3). Add new item (3) to adopt language that describes how importers and receiving facilities must satisfy the described recordkeeping requirements.

262.84(h)(4). Add new item (4) to adopt language that describes how 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.

262.85. Remove and reserve subpart.

262.86. Remove and reserve subpart.

262.87. Remove and reserve subpart.

262.88. Add and reserve subpart.

262.89. Remove and reserve subpart.

Appendix to Part 262. Revise II Part 262, Item 16, Instructions for International Shipment Block, to remove the last sentence.

263.10(d). Revise subsection to read, “A transporter of hazardous waste that is being imported from or exported to any other country for purposes of recovery or disposal is subject to this subpart and to all other relevant requirements of R.61‑79.262 subpart H, including, but not limited to, R.61‑79.262.83(d) and 262.84(d) for movement documents.”

263.20(a)(2). Revise item to read, “Exports. For exports of hazardous waste subject to the requirements of part 262 subpart H, a transporter may not accept hazardous waste without a manifest signed by the generator in accordance with this section, as appropriate, and for exports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by section 262.83(d).”

263.20(c). Revise subsection to clarify manifest transport requirements.

263.20(e)(2). Revise item to read, “A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by sections 262.83(d) or 262.84(d) accompanies the hazardous waste; and.”

263.20(f)(2). Revise item to read, “Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by sections 262.83(d) or 262.84(d) accompanies the hazardous waste at all times..” Revise the note to remove “either” and add “, movement document,” after “manifest.”

263.20(g)(4). Revise item to remove the first sentence and add “For paper manifests only,.” Add new items (g)(4)(i) and (g)(4)(ii) to adopt language that describes how transporters must send a copy of the manifest to the e‑Manifest system in accordance with the allowable methods specified in section 264.71(a)(2)(v), and, for shipments initiated prior to the AES filing compliance date, when instructed by the exporter to do so, give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

264.12(a). Revise subsection to read, “The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to part 262 subpart H from a foreign source must submit the following required notices:.”

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

264.12(a)(2). Revise item to adopt language that describes the requirements of keeping a copy of the movement document.

264.12(a)(3). Add new item (3) to adopt language that describes how, as per section 262.84(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in section 262.84(b)(1) of the need to return or arrange alternate management of the shipment.

264.12(a)(4). Add new item (4) to adopt language that describes how, as per section 262.84(g), such owner or operator of a facility to receive hazardous waste from a foreign source must abide by (a)(4)(i) and (a)(4)(ii).

264.12(a)(4)(i). Add new item (4)(i) to adopt language that describes how the owner or operator shall send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty (30) days after completing recovery or disposal on the waste in the shipment and no later than one (1) calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and for shipments recycled or disposed of on or after the electronic import‑export reporting compliance date, to EPA electronically using WIETS, or its successor system.

264.12(a)(4)(ii). Add new item (4)(ii) to adopt language that describes how the owner or operator shall send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one (1) year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s WIETS, or its successor system. The recovery and disposal operations in this paragraph are defined in 40 CFR 262.81 if the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17.

264.71(a)(3). Revise item to remove previous language and insert, “The owner or operator of a facility receiving hazardous waste subject to part 262 subpart H, from a foreign source must:.”

264.71(a)(3)(i). Add new item (3)(i) to adopt language that describes how the owner or operator of a facility receiving hazardous waste lists the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet(s) (EPA Form 8700‑22A).

264.71(a)(3)(ii). Add new item (3)(ii) to adopt language that describes how the owner or operator of a facility receiving hazardous waste sends a copy of the manifest within thirty (30) days of delivery to EPA using the addresses listed in section 262.82(e) until the facility can submit such a copy to the e‑Manifest system per 264.71(a)(2)(v).

264.71(d). Revise subsection to adopt language that describes the requirements of keeping the movement document.

265.12(a). Revise subsection to read, “The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to part 262 subpart H, from a foreign source must submit the following required notices.”

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

265.12(a)(2). Revise item to read, “As per section 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s WIETS, or its successor system. The original of the signed movement document must be maintained at the facility for at least three (3) years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility’s account on WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system, for which the owner or operator of a facility bears no responsibility.”

265.12(a)(3). Add new item (a)(3) to adopt language that describes how, if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in section 262.84(b)(1) of the need to return or arrange alternate management of the shipment, as per section 262.84(f)(4).

265.12(a)(4). Add new item (a)(4) and items (a)(4)(i) and (ii) to adopt language that describes how the owner or operator of a facility receiving hazardous waste from a foreign source must submit notices of confirmation of recovery or disposal.

265.71(a)(3). Revise item to read, “The owner or operator of a facility that receives hazardous waste subject to part 262 subpart H from a foreign source must:.”

265.71(a)(3)(i). Add new item (3)(i) to adopt language that describes how the owner or operator must list the relevant consent number from consent document supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet(s) (EPA Form 8700‑22A).

265.71(a)(3)(ii). Add new item (3)(ii) to adopt language that describes how the owner or operator must send a copy of the manifest to EPA using the addresses listed in section 262.82(e) within thirty (30) days of delivery until the facility can submit such a copy to the e‑Manifest system per 265.71(a)(2)(v).

265.71(d). Revise subsection to adopt language that describes the requirements of the owner or operator of a facility for the movement document.

266.70(b)(1). Revise item to clarify notification requirements.

266.70(b)(3). Revise item to read, “For precious metals exported to or imported from other countries for recovery, part 262, subpart H and 265.12.”

266.80(a)(6) Table 1‑266.80 Applicability and requirements. Revise item, third column, to read, “are exempt from R.61‑79.262 (except for R.61‑79.262.11, 262.18 and subpart H), 263, 264, 265, 266, 268, 270, 124, and the notification requirements at the SC Hazardous Waste Management Act 44‑56‑120 and section 3010 of RCRA.” Revise fourth column to read, “are subject to R.61‑79.261, 262.11, 262.18, and R.61‑79.262 subpart H.” Remove items (6)(a) through (6)(c).

266.80(a)(7) Table 1‑266.80 Applicability and requirements. Revise third column to read, “are exempt from R.61‑79.263, 264, 265, 266, 268, 270, 124, and the notification requirements at the SC Hazardous Waste Management Act 44‑56‑120 and section 3010 of RCRA.” Revise fourth column to read, “must comply with applicable requirements in R.61‑79.262, subpart H.” Remove items (7)(a) through (7)(c).

266.80(a)(8) Table 1‑266.80 Applicability and requirements. Add new item (8) into Table 1‑266.80 Applicability and requirements. Adopt new language in the first column to read, “Will be reclaimed other than through regeneration”; second column to read, “Import these batteries from foreign country and store these batteries but you aren’t the reclaimer”; third column to read, “are exempt from R.61‑79.262 (except for R.61‑79.262.11, 262.18 and subpart H), 263, 264, 265, 266, 270, 124, and the notification requirements at SC Hazardous Waste Management Act 44‑56‑120 and section 3010 of RCRA”; and fourth column to read, “are subject to R.61‑79.261, 262.11, 262.18, 262 subpart H, and applicable provisions under R.61‑79.268.”

266.80(a)(9) Table 1‑266.80 Applicability and requirements. Add new item (9) into Table 1‑266.80 Applicability and requirements. Adopt new language in the first column to read, “Will be reclaimed other than through regeneration”; second column to read, “Import these batteries from foreign country and store these batteries before you reclaim them”; third column to read, “must comply with 266.80(b) and as appropriate other regulatory provisions described in 266.80(b)”; and fourth column to read, “are subject to parts 261, section 262.11, section 262.18, part 262 subpart H, and applicable provisions under part 268.”

266.80(a)(10) Table 1‑266.80 Applicability and requirements. Add new item (10) into Table 1‑266.80 Applicability and requirements. Adopt new language in the first column to read, “Will be reclaimed other than through regeneration”; second column to read, “Import these batteries from foreign country and don’t store these batteries before you reclaim them”; third column to read, “are exempt from parts 262 (except for section 262.11, section 262.18 and subpart H), 263, 264, 265, 266, 270, 124, and the notification requirements at SC Hazardous Waste Management Act 44‑56‑120 and section 3010 of RCRA”; and fourth column to read, “are subject to parts 261, section 262.11, section 262.18, part 262 subpart H, and applicable provisions under part 268.”

273.20. Revise sentence to read, “A small quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of part 262, subpart H.”

273.39(a). Revise subsection to insert “, movement document” after “manifest, bill of lading.”

273.39(b). Revise subsection to insert “, movement document” after “manifest, bill of lading.”

273.40. Revise sentence to read, “A large quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of part 262, subpart H.”

273.56. Revise sentence to read, “A universal waste transporter transporting a shipment of universal waste to a foreign destination is subject to the requirements of part 262, subpart H.”

273.62(a). Revise subsection to insert “, movement document” after “manifest, bill of lading.”

273.70. Revise section to insert “the requirements of part 262 subpart H and” after “the United States are subject to.”

**Instructions:**

Amend R.61-79 with each individual instruction provided with the text of the amendments below:

**Text:**

61‑79. Hazardous Waste Management Regulations.

Statutory Authority: 1976 Code Section 44‑56‑30

**Revise 61‑79.260.10 to add the following definitions in alphabetical order within this section:**

 ***“*AES filing compliance date”** means December 31, 2017, which is the date that EPA announced in the Federal Register, on or after which exporters of hazardous waste and exporters of cathode ray tubes for recycling are required to file EPA information in the Automated Export System or its successor system, under the International Trade Data System (ITDS) platform.

 **“Electronic import‑export reporting compliance date”** means the date that EPA announces in the Federal Register, on or after which exporters, importers, and receiving facilities are required to submit certain export and import related documents to EPA using EPA’s Waste Import Export Tracking System, or its successor system.

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

**Revise 61‑79.261.4(d)(1) to read:**

(1) Except as provided in paragraph (d)(2) and (4) of this section, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this part or parts 262 through 268 or part 270 or part 124 of this chapter or to the notification requirements of section 3010 of RCRA and the South Carolina Hazardous Waste Management Act 44‑56‑120 when:

**Revise 61‑79.261.4(d)(4) to read:**

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

**Revise 61‑79.261.4(e)(1) to read:**

 (1) Except as provided in paragraph (e)(2) and (4) of this section, persons who generate or collect samples for the purpose of conducting treatability studies as defined in R.61‑79.260.10, are not subject to any requirement of R.61‑79.261 through 263 or to the notification requirements of SC Hazardous Waste Management Act 44‑56‑120 and Section 3010 of RCRA, nor are such samples included in the quantity determinations of R.61‑79.262.13 when:

**Revise 61‑79.261.4(e)(4) to read:**

 (4) In order to qualify for the exemption in R.61‑79.261.4(e)(1)(i), the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source must additionally not exceed twenty‑five (25) kilograms.

**Revise 61‑79.261.6(a)(3)(i) to read:**

(i) Industrial ethyl alcohol that is reclaimed except that exports and imports of such recyclable materials must comply with the requirements of R.61‑79.262 subpart H.

**Revise 61‑79.261.6(a)(5) to read:**

 (5) Hazardous waste that is exported or imported for purpose of recovery is subject to the requirements of R.61‑79.262 subpart H.

**Revise 61‑79.261.39(a)(5)(ii) to read:**

 (ii) Notifications must be submitted electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system.

**Revise 61‑79.261.39(a)(5)(v) to read:**

 (v) The export of CRTs is prohibited unless all of the following occur: (A) The receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, EPA will forward an Acknowledgement of Consent to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, EPA will notify the exporter in writing. EPA will also notify the exporter of any responses from transit countries.

 (B) On or after the AES filing compliance date, the exporter or a U.S. authorized agent must:

 (1) Submit 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).

 (2) Include the following items in the EEI, along with the other information required under 15 CFR 30.6:

 (i) EPA license code;

 (ii) Commodity classification code per 15 CFR 30.6(a)(12);

 (iii) EPA consent number;

 (iv) Country of ultimate destination per 15 CFR 30.6(a)(5);

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

 (vi) Quantity of 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

 (vii) EPA net quantity reported in units of kilograms, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

**Revise 61‑79.261.39(a)(5)(vi) to read:**

 (vi) When the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change using the allowable methods listed in paragraph (a)(5)(ii) of this section, except for changes to the telephone number in paragraph (a)(5)(i)(A) of this section and decreases in the quantity indicated pursuant to paragraph (a)(5)(i)(C) of this section. The shipment cannot take place until consent of the receiving country to the changes has been obtained (except for changes to information about points of entry and departure and transit countries pursuant to paragraphs (a)(5)(i)(D) and (H) of this section) and the exporter of CRTs receives from EPA a copy of the Acknowledgment of Consent to Export CRTs reflecting the receiving country’s consent to the changes.

**Revise 61‑79.261.39(a)(5)(ix) to read:**

 (ix) Exporters must keep copies of notifications and Acknowledgments of Consent to Export CRTs for a period of three years following receipt of the Acknowledgment. Exporters may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in the CRT exporter’s account on EPA’s Waste Import Export Tracking System (WIETS), or its successor system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce a notification or Acknowledgement for inspection under this section if the CRT exporter can demonstrate that the inability to produce such copies is due exclusively to technical difficulty with WIETS, or its successor system for which the CRT exporter bears no responsibility.

**Revise 61‑79.261.39(a)(5)(xi) to read:**

 (xi) Prior to one (1) year after the AES filing compliance date, annual reports must be sent to the following mailing address: Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand‑delivered annual reports on used CRTs exported during 2016 should be sent to: Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, William Jefferson Clinton South Building, Room 6144, 1200 Pennsylvania Ave. NW, Washington, DC 20004. Subsequently, annual reports must be submitted to the office listed using the allowable methods specified in paragraph (a)(5)(ii) of this section. Exporters must keep copies of each annual report for a period of at least three (3) years from the due date of the report. Exporters may satisfy this recordkeeping requirement by retaining electronically submitted annual reports in the CRT exporter’s account on EPA’s Waste Import Export Tracking System (WIETS), or its successor system, provided that a copy is readily available for viewing and production if requested by any EPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce an annual report for inspection under this section if the CRT exporter can demonstrate that the inability to produce the annual report is due exclusively to technical difficulty with WIETS, or its successor system for which the CRT exporter bears no responsibility.

**Revise 61‑79.262.10(d) to read:**

 (d) Any person who exports or imports hazardous wastes must comply with R.61‑79.262.18 and R.61‑79.262 subpart H.

**Revise 61‑79.262.41(b) to read:**

 (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 section 262.83(g) for hazardous waste exporters.

**Revise 61‑79.262 Subpart E to remove and reserve:**

**SUBPART E:** [Reserved]

**Revise 61‑79.262 Subpart F to remove and reserve:**

**SUBPART F:** [Reserved]

**Revise 61‑79.262 Subpart H title to read:**

Subpart H: Transboundary Movements of Hazardous Waste for Recovery and Disposal

**Revise 61‑79.262.80(a) to read:**

(a) The requirements of this subpart apply to transboundary movements of hazardous wastes.

**Revise 61‑79.262.80(b) to read:**

 (b) Any person (including exporter, importer, disposal facility operator, 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 the SC Hazardous Waste Management Act and any exporter duties, if applicable, under this subpart.

**Revise 61‑79.262.81 to read:**

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

 **"Competent authority"** means the regulatory authority or authorities of concerned countries having jurisdiction over transboundary movements of wastes.

 **"Countries concerned"** means the countries of export or import and any countries of transit.

 **"Country of export"** means any country from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated.

 **"Country of import"** means any country to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of submitting the wastes to recovery or disposal operations therein.

 **"Country of transit"** means any country other than the country of export or country of import across which a transboundary movement of hazardous wastes is planned or takes place.

 **“Disposal operations”** means activities which do not lead to the possibility of resource recovery, recycling, reclamation, direct re‑use or alternate uses, which include:

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

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

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

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

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

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

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

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

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

 (10) D10 Incineration on land.

 (11) D11 Incineration at sea.

 (12) D12 Permanent storage.

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

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

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

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

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

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

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

 **"Exporter"**, also known as primary exporter on the RCRA hazardous waste manifest, means the person domiciled in the United States who is required to originate the movement document in accordance with R.61‑79.262.83(d) or the manifest for a shipment of hazardous waste in accordance with R.61‑79.262 subpart B of this part, or equivalent state provision, which specifies a foreign receiving facility as the facility to which the hazardous wastes will be sent, or any recognized trader who proposes export of the hazardous wastes for recovery or disposal operations in the country of import.

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

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

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

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

 **"Importer"** means the person to whom possession or other form of legal control of the hazardous waste is assigned at the time the imported hazardous waste is received in the United States.

 **"OECD"** means the Organization for Economic Cooperation and Development.

 **"OECD area"** means all land or marine areas under the national jurisdiction of any OECD Member country. When the regulations refer to shipments to or from an OECD Member country, this means OECD area.

 **“OECD Member country”** means the countries that are members of the OECD and participate in the Amended 2001 OECD Decision. (EPA provides a list of OECD Member countries at [https://www.epa.gov/hwgenerators/international‑agreements‑transboundary‑shipments‑waste](https://www.epa.gov/hwgenerators/international-agreements-transboundary-shipments-waste)).

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

 **"Recovery operations"** means activities leading to resource recovery, recycling, reclamation, direct reuse or alternative uses, which include:

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

 (2) R2 Solvent reclamation/regeneration.

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

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

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

 (6) R6 Regeneration of acids or bases.

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

 (8) R8 Recovery of components used from catalysts.

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

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

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

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

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

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

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

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

 **"Transboundary movement"** means any movement of hazardous wastes from an area under the national jurisdiction of one country to an area under the national jurisdiction of another country.

**Revise 61‑79.262.82 to read:**

 (a) Scope. The level of control for exports and imports of waste is indicated by assignment of the waste to either a list of wastes subject to the Green control procedures or a list of wastes subject to the Amber control procedures and whether the waste is or is not hazardous waste. The OECD Green and Amber lists are incorporated by reference in R.61‑79.260.11.

 (1) Green list wastes.

 (i) Green wastes that are not hazardous wastes are subject to existing controls normally applied to commercial transactions, and are not subject to the requirements of this subpart.

 (ii) Green wastes that are hazardous wastes are subject to the requirements of this subpart.

 (2) Amber list wastes.

 (i) Amber wastes that are hazardous wastes are subject to the requirements of this subpart, even if they are imported to or exported from a country that does not consider the waste to be hazardous or control the transboundary shipment as a hazardous waste import or export.

 (A) For exports, the exporter must comply with R.61‑79.262.83.

 (B) For imports, the recovery or disposal facility and the importer must comply with section 262.84.

 (ii) Amber wastes that are not hazardous wastes, but are considered hazardous by the other country are subject to the Amber control procedures in the country that considers the waste hazardous, and are not subject to the requirements of this subpart. All responsibilities of the importer or exporter shift to the foreign importer or foreign exporter in the other country that considers the waste hazardous unless the parties make other arrangements through contracts.

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

 (3) Mixtures of wastes.

 (i) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not hazardous waste is not subject to the requirements of this subpart.

**Note to Paragraph (a)(3)(i):** The regulated community should note that some 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 hazardous waste is subject to the requirements of this subpart.

**Note to Paragraph (a)(3)(ii):** The regulated community should note that some 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 hazardous wastes, such wastes are subject to the requirements of this subpart.

 (ii) If such wastes are not hazardous wastes, such wastes are not subject to the 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 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), ADNR (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).

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

 (c) Duty to return wastes subject to the Amber control procedures during transit through the United States*.* When a transboundary movement of hazardous wastes transiting the United States and subject to the Amber control procedures does not comply with the requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if alternative arrangements cannot be made to recover or dispose of these wastes in an environmentally sound manner, the waste must be returned to the country of export. The U.S. transporter must inform EPA at the specified mailing address in paragraph (e) of this section of the need to return the shipment. EPA will then inform the competent authority of the country of export, citing the reason(s) for returning the waste. The U.S. transporter must complete the return within ninety (90) days from the time EPA informs the country of export of the need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the concerned countries.

 (d) Laboratory analysis exemption.Export or import of a hazardous waste sample is exempt from the requirements of this subpart if the sample is destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery or disposal operations, does not exceed twenty‑five (25) kilograms in quantity, is appropriately packaged and labeled, and complies with the conditions of R.61‑79.261.4(d) or (e).

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

 (1) For postal mail delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

 (2) For hand delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch, Environmental Protection Agency, William Jefferson Clinton South Bldg., Room 6144, 1200 Pennsylvania Ave., NW., Washington, DC 20004.”

**Revise 61‑79.262.83 title to read:**

**262.83. Exports of hazardous waste.**

**Revise 61‑79.262.83(a) and add items 262.83(a)(1) to 262.83(a)(6) to read:**

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

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

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

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

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

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

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

 (i) For shipments initiated prior to the AES filing compliance date, does one of the following:

 (A) 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:

 (1) EPA license code;

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

 (3) EPA consent number for each hazardous waste;

 (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 40 CFR 263.20(g)(4)(ii).

 (ii) For shipments initiated on or after the AES filing compliance date, 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:

 (A) EPA license code;

 (B) Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);

 (C) EPA consent number for each hazardous waste;

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

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

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

 (G) 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

 (H) 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.

**Revise 61‑79.262.83(b) and add items 262.83(b)(1)(iv) to 262.83(b)(1)(xiii) and remove items 262.83(b)(2)(i) to 262.83(b)(2)(ii) to read:**

 (b) Notifications*—*

 (1) General notifications.At least sixty (60) days before the first shipment of hazardous waste is expected to leave the United States, the exporter must provide notification in English to EPA of the proposed transboundary movement. Notifications must be submitted electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one (1) year of shipments of one or more hazardous wastes being sent to the same recovery or disposal facility, and must include all of the following information:

 (i) Exporter name and EPA identification number, address, telephone and fax numbers, and e‑mail address;

 (ii) Foreign receiving facility name, address, telephone and fax numbers, e‑mail address, technologies employed, and the applicable recovery or disposal operations as defined in R.61‑79.262.81;

 (iii) Foreign importer name (if not the owner or operator of the foreign receiving facility), address, telephone and fax numbers, and e‑mail address;

 (iv) Intended transporter(s) and/or their agent(s); address, telephone and fax numbers, and e‑mail address;

 (v) “U.S.” as the country of export name, “USA01” as the relevant competent authority code, and the intended U.S. port(s) of exit;

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

 (vii) The ISO standard 3166 country name 2‑digit code, OECD/Basel competent authority code, and port of entry for the country of import;

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

 (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 the state equivalent, spent lead‑acid batteries being exported for recovery of lead under 40 CFR part 266, subpart G, or the state equivalent, or industrial ethyl alcohol being exported for reclamation under 40 CFR 261.6(a)(3)(i), or the state equivalent, estimated total quantity of each waste in either metric tons or cubic meters, the applicable RCRA waste code(s) for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in 40 CFR 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each waste;

 (xii) Specification of the recovery or disposal operation(s) as defined in section 262.81.

 (xiii) Certification/Declaration signed by the exporter 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (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 (3) 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 (10) days before the first shipment is expected to leave the United States.

**Revise 61‑79.262.83(b) to add items 262.83(b)(3) to 262.83(b)(8) to read:**

 (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 and fax numbers, e‑mail 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 R.61‑79.262.81.

 (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.

 (5) For cases where the proposed country of import and recovery or disposal operations are not covered under an international agreement to which both the United States and the country of import are parties, EPA will coordinate with the Department of State to provide the complete notification to the country of import and any countries of transit. In all other cases, EPA will provide the notification directly to the country of import and any countries of transit. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of paragraph (b)(1)(i) through (b)(1)(xiii) of this section.

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

 (7) Export of hazardous wastes for recycling or disposal operations that were originally imported into the United States for recycling or disposal operations in a third country is prohibited unless an exporter in the United States complies with the export requirements in R.61‑79.262.83, including providing notification to EPA in accordance with paragraph (b)(1) of this section. In addition to listing all required information in paragraphs (b)(1)(i) through (b)(1)(xiii) of this section, the exporter must provide the original consent number issued for the initial import of the wastes in the notification, and receive an AOC from EPA documenting the consent of the competent authorities in the new country of import, the original country of export, and any transit countries prior to re‑export.

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

**Revise 61‑79.262.83(c) and add items 262.83(c)(1) to 262.83(c)(4) to read:**

(c) RCRA manifest instructions for export shipments*.* The exporter must comply with the manifest requirements of R.61‑79.262.20 through 262.23 except that:

 (1) In lieu of the name, site address and EPA identification number of the designated permitted facility, the exporter must enter the name and site address of the foreign receiving facility;

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

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

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

**Revise 61‑79.262.83(d) and add items 262.83(d)(1)(i) to 262.83(d)(2)(xv) and remove 262.83(d)(3) through (14) to read:**

(d) Movement document requirements for export shipments.

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

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

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

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

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

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

 (iii) Exporter name and EPA identification number, address, telephone and fax numbers, and e‑mail address;

 (iv) Foreign receiving facility name, address, telephone and fax numbers, e‑mail address, technologies employed, and the applicable recovery or disposal operations as defined in R.61‑79.262.81;

 (v) Foreign importer name (if not the owner or operator of the foreign receiving facility), address, telephone and fax numbers, and e‑mail address;

 (vi) Description(s) of each hazardous waste, quantity of each hazardous waste in the shipment, applicable RCRA hazardous waste code(s) for each hazardous waste, applicable OECD waste code for each hazardous waste from the lists incorporated by reference in 40 CFR 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

 (vii) Date movement commenced;

 (viii) Name (if not exporter), address, telephone and fax numbers, and e‑mail address of company originating the shipment;

 (ix) Company name, EPA identification number, address, telephone and fax numbers, and e‑mail address of all transporters;

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

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

 (xii) Certification/declaration signed and dated by the exporter that the information in the movement document is complete and correct;

 (xiii) Appropriate signatures for each custody transfer (e.g., transporter, importer, and owner or operator of the foreign receiving facility);

 (xiv) Each U.S. person that has physical custody of the hazardous waste from the time the movement commences until it arrives at the foreign receiving facility must sign the movement document (e.g., transporter, foreign importer, and owner or operator of the foreign receiving facility); and

 (xv) As part of the contract requirements per paragraph (f) of this section, the exporter must require 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, to the competent authorities of the countries of import and transit, and for shipments occurring on or after the electronic import‑export reporting compliance date, the exporter must additionally require that the foreign receiving facility send a copy to the EPA at the same time using the allowable methods listed in paragraph (b)(1) of this section.

**Revise 61‑79.262.83(e) to read:**

(e) Duty to return or re‑export hazardous waste. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s) and alternative arrangements cannot be made to recover or dispose of the waste in an environmentally sound manner in the country of import, the exporter must ensure that the hazardous waste is returned to the United States or re‑exported to a third country. If the waste must be returned, the exporter must provide for the return of the hazardous waste shipment within ninety (90) days from the time the country of import informs EPA of the need to return the waste or such other period of time as the concerned countries agree. In all cases, the exporter must submit an exception report to EPA in accordance with paragraph (h) of this section.

**Revise 61‑79.262.83 to add subsections 262.83(f), 262.83(g), 262.83(h), and 262.83(i) to read:**

(f) Export contract requirements.

 (1) Exports of hazardous waste 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 exporter, foreign importer (if different from the foreign receiving facility), and the owner or operator of the foreign receiving 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 arrangements.

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

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

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

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

 (iv) The foreign receiving facility.

 (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 (3) 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 the electronic import‑export reporting compliance date, 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 (30) days after completing recovery or disposal on the waste in the shipment and no later than one (1) 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 the electronic import‑export reporting compliance date, 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.

 (6) Contracts must specify that the foreign importer or the foreign receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC17, (recovery and disposal operations defined in 40 CFR 262.81), as appropriate, will:

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

 (ii) Promptly send copies of the confirmation of recovery or disposal that it receives from the final foreign recovery or disposal facility within one (1) year of shipment delivery to the final foreign recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, DC15, or DC16 to the competent authority of the country of import. For contracts that will be in effect on or after the electronic import‑export reporting compliance date, the contracts must additionally specify that the foreign facility send copies to EPA at the same time using the allowable method listed in paragraph (b)(1) of this section on or after that date.

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

 **Note to Paragraph (f)(7):** 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 United States does not require such financial guarantees at this time; however, some OECD Member countries and other foreign countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, persons or facilities located in those OECD Member countries or other foreign countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

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

 (9) Upon request by EPA, U.S. exporters, importers, 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).

 (g) Annual reports.The exporter shall file an annual report with EPA 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. Prior to one (1) year after the AES filing compliance date, the exporter must mail or hand‑deliver annual reports to EPA using one of the addresses specified in section 262.82(e), or submit to EPA using the allowable methods specified in paragraph (b)(1) of this section if the exporter has electronically filed EPA information in AES, or its successor system, per paragraph (a)(6)(i)(A) of this section for all shipments made the previous calendar year. Subsequently, the exporter must submit annual reports to EPA using the allowable methods specified in paragraph (b)(1) of this section. The annual report must include all of the following paragraphs (g)(1) through (6) of this section specified as follows:

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

 (2) The calendar year covered by the report;

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

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

 (i) A description of the hazardous waste;

 (ii) The applicable EPA hazardous waste code(s) (from R.61‑79.261 subpart C or D) for each waste;

 (iii) The applicable waste code from the appropriate OECD waste list incorporated by reference in 40 CFR 260.11;

 (iv) The applicable DOT ID number;

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

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

 (5) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than one hundred (100) kilograms but less than one thousand (1,000) kilograms in a calendar month, and except for hazardous waste for which information was already provided pursuant to R.61‑79.262.41:

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

 (h) Exception reports.

 (1) The exporter must file an exception report in lieu of the requirements of section 262.42 (if applicable) with EPA if any of the following occurs:

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

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

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

 (2) Prior to the electronic import‑export reporting compliance date, exception reports must be mailed or hand delivered to EPA using the addresses listed in R.61‑79.262.82(e). Subsequently, exception reports must be submitted to EPA using the allowable methods listed in paragraph (b)(1) of this section.

 (i) Recordkeeping.

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

 (i) A copy of each notification of intent to export and each EPA AOC for a period of at least three (3) 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 (3) years from the due date of the report;

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

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

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

 (2) Exporters may satisfy these recordkeeping requirements by retaining electronically submitted documents in the exporter’s account on EPA’s Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No exporter may be held liable for the inability to produce such documents for inspection under this section if the exporter can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system, for which the exporter bears no responsibility.

 (3) 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.

**Revise 61‑79.262.84 title to read:**

**262.84. Imports of hazardous waste.**

**Revise 61‑79.262.84(a) and add items 262.84(a)(3) to 262.84(a)(5) read:**

(a) General import requirements.

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

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

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

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

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

**Revise 61‑79.262.84(b) to read:**

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

**Revise 61‑79.262.84(b)(1) and add items 262.84(b)(1)(i) to 262.84(b)(1)(xiii) to read:**

(1) The importer is required to provide notification in English to EPA of the proposed transboundary movement of hazardous waste at least sixty (60) days before the first shipment is expected to depart the country of export. Notifications submitted prior to the electronic import‑export reporting compliance date must be mailed or hand delivered to EPA at the addresses specified in section 262.82(e). Notifications submitted on or after the electronic import‑export reporting compliance date must be submitted electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one (1) year of shipments of one (1) or more hazardous wastes being sent from the same foreign exporter, and must include all of the following information:

 (i) Foreign exporter name, address, telephone and fax numbers, and e‑mail address;

 (ii) Receiving facility name, EPA identification number, address, telephone and fax numbers, e‑mail address, technologies employed, and the applicable recovery or disposal operations as defined in section 262.81;

 (iii) Importer name (if not the owner or operator of the receiving facility), EPA identification number, address, telephone and fax numbers, and e‑mail address;

 (iv) Intended transporter(s) and/or their agent(s); address, telephone and fax numbers, and e‑mail address;

 (v) “U.S.” as the country of import, “USA01” as the relevant competent authority code, and the intended U.S. port(s) of entry;

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

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

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

 (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 the state equivalent, spent lead‑acid batteries being exported for recovery of lead under 40 CFR part 266, subpart G, or the state equivalent, or industrial ethyl alcohol being exported for reclamation under 40 CFR 261.6(a)(3)(i), or the state equivalent, estimated total quantity of each hazardous waste, the applicable RCRA hazardous waste(s) for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in 40 CFR 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 section 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.

**Revise 61‑79.262.84(b)(2) to 262.84(b)(6) and remove 262.84(b)(7) to read:**

(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 and fax numbers, e‑mail address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, will be employed at the final recovery or disposal facility. The recovery and disposal operations in this paragraph are defined in 262.81.

 (3) Renotifications. When the foreign exporter wishes to change any of the conditions 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 importer 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 EPA and the countries of transit consent to the changes and the importer receives an EPA AOC letter documenting the consents to the changes.

 (4) A notification is complete when EPA determines the notification satisfies the requirements of paragraph (b)(1)(i) through (xiii) of this section.

 (5) Where EPA and the countries of transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the importer documenting the countries’ consents and EPA’s consent. Where any of the countries of transit or EPA objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the importer.

 (6) Export of hazardous wastes originally imported into the United States. Export of hazardous wastes that were originally imported into the United States for recycling or disposal operations is prohibited unless an exporter in the United States complies with the export requirements in section 262.83(b)(7).

**Revise 61‑79.262.84(c) and add items 262.84(c)(1) to 262.84(c)(5) to read:**

(c) RCRA Manifest instructions for import shipments.

 (1) When importing hazardous waste, the importer must meet all the requirements of section 262.20 for the manifest except that:

 (i) 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.

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

 (2) The importer may obtain the manifest form from any source that is registered with the EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

 (3) In the International Shipments block, the importer must check the import box and enter the point of entry (city and state) into the United States.

 (4) The importer must provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to U.S. EPA in accordance with R.61‑79.264.71(a)(3) and 265.71(a)(3).

 (5) In lieu of the requirements of R.61‑79.262.20(d), where a shipment cannot be delivered for any reason to the receiving facility, the importer must instruct the transporter in writing via fax, e‑mail or mail to:

 (i) Return the hazardous waste to the foreign exporter or designate another facility within the United States; and

 (ii) Revise the manifest in accordance with the importer’s instructions.

**Revise 61‑79.262.84(d) and add items 262.84(d)(1) and 262.84(d)(2) to read:**

 (d) Movement document requirements for import shipments.

 (1) The importer must ensure that a movement document meeting the conditions of paragraph (d)(2) of this section accompanies each transboundary movement of hazardous wastes from the initiation of the shipment in the country of export until it reaches the receiving facility, including cases in which the hazardous waste is stored and/or sorted by the importer prior to shipment to the receiving facility, except as provided in paragraphs (d)(1)(i) and (ii) of this section.

 (i) For shipments of hazardous waste within the United States by water (bulk shipments only), the importer must forward the movement document to the last water (bulk shipment) transporter to handle the hazardous waste in the United States if imported by water.

 (ii) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment, the importer must forward the movement document to the next non‑rail transporter, if any, or the last rail transporter to handle the hazardous waste in the United States if imported by rail.

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

 (i) The corresponding AOC number(s) and waste number(s) for the listed waste;

 (ii) The shipment number and the total number of shipments under the AOC number;

 (iii) Foreign exporter name, address, telephone and fax numbers, and e‑mail address;

 (iv) Receiving facility name, EPA identification number, address, telephone and fax numbers, e‑mail address, technologies employed, and the applicable recovery or disposal operations as defined in section 262.81;

 (v) Importer name (if not the owner or operator of the receiving facility), EPA identification number, address, telephone and fax numbers, and e‑mail address;

 (vi) Description(s) of each hazardous waste, quantity of each hazardous waste in the shipment, applicable RCRA hazardous waste code(s) for each hazardous waste, the applicable OECD waste code for each hazardous waste from the lists incorporated by reference in 40 CFR 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

 (vii) Date movement commenced;

 (viii) Name (if not the foreign exporter), address, telephone and fax numbers, and e‑mail of the foreign company originating the shipment;

 (ix) Company name, EPA identification number, address, telephone and fax numbers, and e‑mail address of all transporters;

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

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

 (xii) Certification/declaration signed and dated by the foreign exporter that the information in the movement document is complete and correct;

 (xiii) Appropriate signatures for each custody transfer (e.g., transporter, importer, and owner or operator of the receiving facility);

 (xiv) Each person that has physical custody of the waste from the time the movement commences until it arrives at the receiving facility must sign the movement document (e.g., transporter, importer, and owner or operator of the receiving facility); and

 (xv) The receiving facility must send a copy of the signed movement document to confirm receipt within three (3) working days of shipment delivery to the foreign exporter, to the competent authorities of the countries of export and transit, and for shipments received on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system.

**Revise 61‑79.262.84(e) to read:**

(e) Duty to return or export hazardous wastes. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s), the provisions of paragraph (f)(4) of this section apply. If alternative arrangements cannot be made to recover the hazardous waste in an environmentally sound manner in the United States, the hazardous waste must be returned to the country of export or exported to a third country. The provisions of paragraph (b)(6) of this section apply to any hazardous waste shipments to be exported to a third country. If the return shipment will cross any transit country, the return shipment may only occur after EPA provides notification to and obtains consent from the competent authority of the country of transit and provides a copy of that consent to the importer.

**Revise 61‑79.262.84 to add subsections 262.84(f), 262.84(g), and 262.84(h) to read:**

(f) Import contract requirements.

 (1) Imports of hazardous waste must 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 foreign exporter, importer, and the owner or operator of the receiving 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 arrangements.

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

 (i) The foreign company from where each import shipment of hazardous waste is initiated;

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

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

 (iv) The receiving facility.

 (3) Contracts or equivalent arrangements must specify the use of a movement document in accordance with section 262.84(d).

 (4) 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 submitted by either the foreign exporter or the importer. In such cases, contracts must specify that:

 (i) The transporter or receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the foreign exporter and importer, and the competent authority where the shipment is located of the need to arrange alternate management or return; 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 the hazardous wastes and, as the case may be, shall provide the notification for re‑export required in section 262.83(b)(7).

 (5) Contracts must specify that the importer or the receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC15 through DC17, as appropriate, will provide the notification required in section 262.83(b)(7) prior to the re‑export of hazardous wastes. The recovery and disposal operations in this paragraph are defined in section 262.81.

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

 **Note to paragraph (f)(6):** 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 United States does not require such financial guarantees at this time; however, some OECD Member countries or other foreign countries do. It is the responsibility of the importer to ascertain and comply with such requirements; in some cases, persons or facilities located in those countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

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

 (8) Upon request by EPA, importers or disposal 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).

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

 (1) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty (30) days after completing recovery or disposal on the waste in the shipment and no later than one (1) calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export, and for shipments recycled or disposed of on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system.

 (2) If the receiving facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, the receiving facility shall promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one (1) year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC14 to RC15, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export, and for confirmations received on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in this paragraph are defined in R.61‑79.262.81.

 (h) Recordkeeping*.*

 (1) The importer shall keep the following records and provide them to EPA or authorized state personnel upon request:

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

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

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

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

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

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

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

 (3) Importers and receiving facilities may satisfy these recordkeeping requirements by retaining electronically submitted documents in the importer’s or receiving facility’s account on EPA’s Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No importer or receiving facility may be held liable for the inability to produce such documents for inspection under this section if the importer or receiving facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system for which the importer or receiving facility bears no responsibility.

 (4) 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.

**Revise 61‑79.262.85 to remove and reserve:**

**262.85.** [Reserved]

**Revise 61‑79.262.86 to remove and reserve:**

**262.86.** [Reserved]

**Revise 61‑79.262.87 to remove and reserve:**

**262.87.** [Reserved]

**Add 61‑79.262.88 and reserve:**

**262.88.** [Reserved]

**Revise 61‑79.262.89 to remove and reserve:**

**262.89.** [Reserved]

**Revise 61‑79.262 Appendix to Part 262 II Item 16 to read:**

 For export shipments, the primary exporter must check the export box, and enter the point of exit (city and state) from the United States. For import shipments, the importer must check the import box and enter the point of entry (city and state) into the United States. For exports, the transporter must sign and date the manifest to indicate the day the shipment left the United States. **Revise 61‑79.263.10(d) to read:**

(d) A transporter of hazardous waste that is being imported from or exported to any other country for purposes of recovery or disposal is subject to this subpart and to all other relevant requirements of R.61‑79.262 subpart H, including, but not limited to, R.61‑79.262.83(d) and 262.84(d) for movement documents.

**Revise 61‑79.263.20(a)(2) to read:**

(2) Exports. For exports of hazardous waste subject to the requirements of part 262 subpart H, a transporter may not accept hazardous waste without a manifest signed by the generator in accordance with this section, as appropriate, and for exports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by section 262.83(d).

**Revise 61‑79.263.20(c) to read:**

 (c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports occurring under the terms of a consent issued by EPA to the exporter on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by section 262.83(d) also accompanies the hazardous waste. In the case of imports occurring under the terms of a consent issued by EPA to the country of export or the importer on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by section 262.84(d) also accompanies the hazardous waste.

**Revise 61‑79.263.20(e)(2) to read:**

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

**Revise 61‑79.263.20(f)(2) to read:**

 (2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by sections 262.83(d) or 262.84(d) accompanies the hazardous waste at all times.

 **Note**: Intermediate rail transporters are not required to sign the manifest, movement document, or shipping paper.

**Revise 61‑79.263.20(g)(4) and add items 263.20(g)(4)(i) and 263.20(g)(4)(ii) to read:**

(4) For paper manifests only,

 (i) Send a copy of the manifest to the e‑Manifest system in accordance with the allowable methods specified in section 264.71(a)(2)(v); and

 (ii) For shipments initiated prior to the AES filing compliance date, when instructed by the exporter to do so, give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

**Revise 61‑79.264.12(a) to add items 264.12(a)(3) and 264.12(a)(4) to read:**

 (a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to part 262 subpart H from a foreign source must submit the following required notices:

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

 (2) As per section 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document must be maintained at the facility for at least three (3) years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility’s account on WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system for which the owner or operator of a facility bears no responsibility.

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

 (4) As per section 262.84(g), such owner or operator shall:

 (i) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty (30) days after completing recovery or disposal on the waste in the shipment and no later than one (1) calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and for shipments recycled or disposed of on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s WIETS, or its successor system.

 (ii) If the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s WIETS, or its successor system. The recovery and disposal operations in this paragraph are defined in section 262.81.

**Revise 61‑79.264.71(a)(3) and add items 264.71(a)(3)(i) and 264.71(a)(3)(ii) to read:**

 (3) The owner or operator of a facility receiving hazardous waste subject to part 262 subpart H, from a foreign source must:

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

 (ii) Send a copy of the manifest within thirty (30) days of delivery to EPA using the addresses listed in section262.82(e) until the facility can submit such a copy to the e‑Manifest system per paragraph (a)(2)(v) of this section.

**Revise 61‑79.264.71(d) to read:**

 (d) As per section 262.84(d)(2)(xv), within three (3) working days of the receipt of a shipment subject to part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit of hazardous waste respectively; and on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s WIETS, or its successor system. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility’s account on WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system, for which the owner or operator of a facility bears no responsibility.

**Revise 61‑79.265.12(a) and add items 265.12(a)(3) and 265.12(a)(4) to read:**

 (a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to part 262 subpart H from a foreign source must submit the following required notices:

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

 (2) As per section 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s WIETS, or its successor system. The original of the signed movement document must be maintained at the facility for at least three (3) years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility’s account on WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system, for which the owner or operator of a facility bears no responsibility.

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

 (4) As per section 262.84(g), such owner or operator shall:

 (i) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty (30) days after completing recovery or disposal on the waste in the shipment and no later than one (1) calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s WIETS, or its successor system.

 (ii) If the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one (1) year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s WIETS, or its successor system. The recovery and disposal operations in this paragraph are defined in section 262.81.

**Revise 61‑79.265.71(a)(3) and add items 265.71(a)(3)(i) and 265.71(a)(3)(ii) to read:**

(3) The owner or operator of a facility that receives hazardous waste subject to part 262, subpart H, from a foreign source must:

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

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

**Revise 61‑79.265.71(d) to read:**

 (d) As per section 262.84(d)(2)(xv), within three (3) working days of the receipt of a shipment subject to part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import‑export reporting compliance date, to EPA electronically using EPA’s WIETS, or its successor system. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility’s account on WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system, for which the owner or operator of a facility bears no responsibility.

**Revise 61‑79.266.70(b) to read:**

 (1) Notification requirements under SC Hazardous Waste Management Act 44‑56‑120 and section 3010 of RCRA;

**Revise 61‑79.266.70(b)(3) to read:**

 (3) For precious metals exported to or imported from other countries for recovery, part 262 subpart H and 265.12.

**Revise 61‑79.266.80(a) to read:**

|  |
| --- |
| Table 1 – 266.80 Applicability and requirements |
| If your batteries… | And if you… | Then you… | And you… |
| (1) Will be reclaimed through regeneration (such as by electrolyte replacement) |  | are exempt from 40 CFR parts 262 (except for section 262.11), 263, 264, 265, 266, 268, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA | are subject to 261 and section 262.11. |
| (2) Will be reclaimed other than through regeneration | store these batteries but you aren’t the reclaimer. | are exempt from 262 (except for 262.11), 263, 264, 265,266, 270, 124 of this chapter, and the notification requirements of South Carolina HWMA 44‑56‑120 and at section 3010 of RCRA | are subject to 261 and 262.11, and applicable provisions under 268. |
| (3) Will be reclaimed other than through regeneration | store these batteries but you aren’t the reclaimer. | are exempt from 262 (except for 262.11), 263, 264, 265,266, 270, 124, and the provisions under notificationrequirements of South Carolina HWMA 44‑56‑120 and atsection 3010 of RCRA. | are subject to 261, 262.11, and applicable 268. |
| (4) Will be reclaimed other than through regeneration | store these batteries before you reclaim them. | must comply with 40 CFR 266.80(b) and as appropriate other regulatory provisions described in 266.80(b) | are subject to 261, 262.11, and applicable provisions under 268. |
| (5) Will be reclaimed other than through regeneration | don’t store these batteries before you reclaim them. | are exempt from 262 (except for 262.11), 263, 264, 265,266, 270, 124, and the notification requirements of SouthCarolina HWMA 44‑56‑120 and at section 3010 of RCRA | are subject to 261,262.11, and applicableprovisions under 268 |
| (6) Will be reclaimed through regeneration or any other means | export these batteries for reclamation in a foreign country | are exempt from R.61‑79.262 (except for R.61‑79.262.11, 262.18 and subpart H), 263, 264, 265, 266, 268, 270,124, and the notification requirements at the SC Hazardous Waste Management Act 44‑56‑120 and section 3010 of RCRA. | are subject to R.61‑79.261, 262.11, 262.18, and 262 subpart H. |
| (7) Will be reclaimed through regeneration or any other means | Transport these batteries in the U.S. to export them for reclamation in a foreign country | are exempt from R.61‑79.263, 264, 265, 266, 268, 270, 124, and the notification requirements at the SC Hazardous Waste Management Act 44‑56‑120 and section 3010 of RCRA  | must comply with applicable requirements in R.61‑79.262, subpart H. |
| (8) Will be reclaimed other than through regeneration | Import these batteries from foreign country and store these batteries but you aren’t the reclaimer | are exempt from R.61‑79.262 (except for R.61‑79.262.11, 262.18 and subpart H), 263, 264, 265, 266, 270, 124, and the notification requirements at the SC Hazardous Waste Management Act 44‑56‑120 and section 3010 of RCRA | are subject to R.61‑79.261, 262.11, 262.18, 262 subpart H, and applicable provisions under R.61‑79.268. |
| (9) Will be reclaimed other than through regeneration | Import these batteries from foreign country and store these batteries before you reclaim them | must comply with section 266.80(b) and as appropriate other regulatory provisions described in section 266.80(b) | are subject to R.61‑79.261, 262.11, 262.18, 262 subpart H, and applicable provisions under R.61‑79.268. |
| (10) Will be reclaimed other than through regeneration | Import these batteries from foreign country and don’t store these batteries before you reclaim them | are exempt from R.61‑79.262 (except for R.61‑79.262.11, 262.18 and subpart H), 263, 264, 265, 266, 270, 124, and the notification requirements at SC Hazardous Waste Management Act 44‑56‑120 and section 3010 of RCRA | are subject to R.61‑79.261, 262.11, 262.18, 262 subpart H, and applicable provisions under R.61‑79.268. |

**Revise 61‑79.273.20 to read:**

 A small quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of part 262, subpart H.

**Revise 61‑79.273.39(a) to read:**

 (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:

**Revise 61‑79.273.39(b) to read:**

 (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:

**Revise 61‑79.273.40 to read:**

 A large quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of part 262, subpart H.

**Revise 61‑79.273.56 to read:**

 A universal waste transporter transporting a shipment of universal waste to a foreign destination is subject to the requirements of part 262, subpart H.

**Revise 61‑79.273.62(a) to read:**

 (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:

**Revise 61‑79.273.70 to read:**

 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:

**Statement of Need and Reasonableness**

The following presents an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: 61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of the amendment is to maintain state consistency with regulations of the United States Environmental Protection Agency (EPA), which published the final rule on November 28, 2016, at 81 FR 85696-85729.

Legal Authority: 1976 Code Section 44-56-30.

Plan for Implementation: The DHEC Regulation Development Update (accessible at http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/) provides a summary of and link to this amendment. Additionally, printed copies are available for a fee from the Department’s Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendment and any associated information.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The Bureau of Land and Waste Management adopts the Imports and Exports of Hazardous Waste Rule published on November 28, 2016, at 81 FR 85696-85729. The rule amends the existing import and export of hazardous wastes regulations from and into the United States. This rule provides greater protection to human health and the environment by making existing import- and export-related requirements more consistent with the current import-export requirements for shipments between member of the Organization for Economic Cooperation and Development (OECD), enables electronic submittal to EPA of all import- and export-related documents, and enables electronic validation of consent in the Automated Export System (AES) for export shipments subject to RCRA export consent requirements prior to exit. Adoption of this rule is required to comply with federal law and brings R.61-79 into conformity with the federal regulation.

DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increased cost to the state or its political subdivisions resulting from this revision. There will likely be a slight increase in costs to the regulated community for compliance from this revision. Amendments to R.61-79 will make existing import- and export-related requirements more consistent with the current import-export requirements for shipments between members of the Organization for Economic Cooperation and Development, enable electronic submittal to the EPA of all import- and export-related

documents, and enable electronic validation of consent in the Automated Export System for export shipments to the RCRA export consent requirements prior to exit.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The revision to R.61-79 will provide continued protection of the environment and human health in accordance with updates to federal law.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

If the regulation is not implemented the EPA’s delegation of authority to the state to implement environmental protection programs would be compromised. As a delegated state program, the EPA requires that the state’s regulations be at least as stringent as, and equivalent to, the federal regulations. Adoption of these revisions ensure equivalency with federal requirements.