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Document No. 4289

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

Chapter 61

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-79. Hazardous Waste Management Regulations

**Synopsis:**

1. The Department of Health and Environmental Control (Department) has amended R.61-79, Hazardous Waste Management Regulations, by promulgating regulations to adopt three final rules published in the Federal Register by the United States Environmental Protection Agency (EPA) between July 1, 2009 and June 30, 2010, and has corrected errors and omissions in the language of the previously adopted National Manifest Final Rule:

(1) The Department has adopted the “Revisions to the Requirements for Transboundary Shipments of Hazardous Wastes Between Organization for Economic Cooperation and Development (OECD) Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reports for Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes,” Final Rule, (OECD Rule) published on January 8, 2010 at 75 FR 1236.

(2) The Department has adopted into regulation the “Withdrawal of the Emission Comparable Fuel Exclusion Under RCRA,” Final Rule, published on June 15, 2010 at 75 FR 33712.

(3) The Department has adopted parts of the “Hazardous Waste Technical Corrections and Clarifications Final Rule,” published on March 18, 2010 at 75 FR 12989.

(4) The Department has amended R.61-79 to correct errors and omissions in the previously adopted National Manifest Final Rule at 70 FR 10776 (March 4, 2005), which was published as a final regulation in the S.C. State Register on May 28, 2010 in Document 4080.

2. Adoption of these federal amendments is required to comply with federal law and will bring R.61-79 into conformity with the federal regulation. Legislative review of these amendments is not required pursuant to Section 1-23-120(H). These regulations are also exempt from the requirements of a fiscal impact statement and assessment report pursuant to Sections 1-23-110(A)(3)(e) and (f).

3. A Notice of Drafting was published in the State Register on October 28, 2011.

Section-by-Section Discussion of Revisions:

**(1) “Revisions to the Requirements for Transboundary Shipments of Hazardous Wastes Between OECD Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reportsfor Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes” Final Rule, published January 8, 2010 at 75 FR 1236.**

**262.10(d)** modify the paragraph to explain the requirements of exporting or importing wastes that are considered hazardous under U.S. national procedures to or from countries listed in 262.58(a) for recovery. The section goes on to explain how a waste is determined to be hazardous under US national procedures and what regulations and which management standards must be followed.

**262.55** modify the introductory paragraph to update the address for filing an exception report with EPA as well as who must file.

**262.58(a)** modify the paragraph to determine what exports are hazardous waste and citation of the parts of the regulation that address the requirements that must be met in order to export spent lead-acid batteries.

**262.58(a)(1)** change the name from South Korea to “the Republic of” Korea to reflect the new proper name of the country.

**262.58(b)** add the last phrase to indicate this provision is not subject to the requirements of subpart H.

**Subtitle H** modify the title of this subpart to reflect new OECD language, changing “Transfrontier shipments” to “Transboundary Movements”

**262.80(a)** modify paragraph (a) by removing text and changing the first paragraph to provide for the addition of sections (1) and (2) to break out the requirements in this part and to add language that makes the requirements clear and more understandable.

**262.80(b)** modify the paragraph by replacing the terms “notifier, consignee” with “exporter, importer” to use terms agreed upon in the OECD Cooperation and Development agreements.

**262.81** Definitions

To match the terms in the new OECD agreement, modify the definition for “Competent authority"; remove “Consignee”; change the term “countries” to "Countries concerned"; change “Exporting Country” to “Country of Export”; change “Importing Country” to “Country of Import”; add “Country of transit”; add “Exporter” and “Importer”, delete “notifier”; add a definition for “OECD”; modify “OECD area”; modify “Recognized trader”, “Recovery Facility" and “Recovery Operations”; remove the letter at the beginning of each definition and insert new or modified definitions in alphabetical order.

**R1-R6** remain the same. **Modify R7** by replacing the word “control” with the word “abatement” ; **modify R8** by adding “used” after the word “components.”

**R9-R12** remain the same. **Modify R13** by removing the words “in Table 2.B” and replacing it with “numbered R1-R12.”

**Modify (l) “Transfrontier movement”** by removing (l) and replace “transfrontier” with “transboundary” and replace “shipment” with “movement” to reflect the OECD agreement terms and remove “destined for recovery operations”.

**262.82(a)** is modified to change from the previous green, amber, or red list system to the new national procedures that include only Green and Amber lists for exporting to OECD countries.

**262.82(a)(1), and (i) through (ii)** are modified to clarify specifics of US Green control procedures and 262.80(a) provides specific guidelines to determine what is considered hazardous under US rules; (iii) is removed because it defines redlist waste which has been removed from the standards.

**262.82(a)(2), (i), (ii)** are modified; **add (A) & (B); (iii)** is modified to clarify determinations of US Amber wastes and where in the regulations specifics can be found. **Note to (a)(3) is changed to “Note to (a)(2)”** and removes redlist references.

**262.82(a)(3)** is modified**; (i), Note to (a)(3)(i), (ii),** and **Note to (a)(3)(ii)** areadded sections with procedures for handling Green wastes that are mixed with other wastes.

**262.82(a)(4)** is modified to provide guidance in determining into which list an unlisted waste would be included that is scheduled for transboundary movement. Use of the term: “transfrontier” is changed to “transboundary” throughout.

**262.82(a)(4)(i)** direct that if the wastes are considered hazardous as defined under 262.80(a) these lists are subject to Amber control.

**262.82(a)(4)(ii)** directs non hazardous wastes to be handled under Green control procedures.

**262.82(b) and (b)(2)** deals with the re-export of hazardous waste from the country of import to a third country. The first country of import becomes the new exporter and assumes all responsibilities as an exporter. This is considered a new transboundary movement of hazardous waste. Amber controls procedures are used here. The sections are modified to replace all instances of the word “transfrontier” with the term “transboundary” and to show that this movement between countries must comply with international agreements.

**262.82(c)(1), (i)-(ii), and (2)** the re-export and return provisions of the OECD Decision is set out in 262.82(c), (d) and (e). Exactly how the items are to be handled and who are the responsible parties as well as the specific requirements are set forth in these sections. The language is modified for better phrasing of the amber control procedures and to better define what those procedures require.

**262.82(c)(3)** Remove text of this section because this section was incorporated into (c)(2).

**262.82(d), (1) & (2)** add text to provide instructions on how to manage amber control shipments that cannot be completed and are returned to the country of export or are re-exported to a third country. **(d)(1)** deals with the requirements if a shipment is returned from the United States to the country of Export. The US importer must notify EPA who will in turn inform the proper authorities in the countries of export and transit. **(d)(2)** addresses the requirements if the shipment is returned from the country of import to the US.

**262.82(e), (1) & (2) and (f), (1) - (5), (i) & (ii) and (g)** add sections to provide instructions on how to manage Amber control shipments that cannot be completed and are returned from a country of transit or if the shipment does not meet shipping requirements.

**262.83(a), (b), (1)(i) through (iii), 2(i) through (ii), (c), (d)(1) through (14), note to (d)(14) and (e)** modify paragraphs to establish that consent must be received from countries of import and transit prior to shipping Amber list wastes and defines the procedures that must be followed to complete the transit of hazardous waste to OECD countries.

**262.84 (a), (1) & (2), (b), (b)(1) through (7), (c) through (e)** All U.S. parties subject to the contract provisions of 262.85 must ensure that a movement document meeting the conditions of paragraph 262.84(b) must accompany each transboundary movement of wastes subject to the Amber control procedures from the beginning of the shipment until it reaches the final recovery facility. In this section change the word “Tracking document” to “Movement document”. This section prescribes what is required of this document and how it must be used in the transport of hazardous waste in OECD countries. The movement document is described in 262.84 and is different from the RCRA hazardous waste manifest. All transporters must have a movement document before they can accept a shipment of spent lead acid batteries (SLABS) and it must remain with the shipment until it reaches the final recovery facility.

**262.85 (a)** Transboundary movement of hazardous wastes subject to Amber control procedures require a valid written contract or equivalent arrangements and persons assuming the obligations of the contracts must have legal status to conduct the operations specified in the agreements. Section 262.85 sets forth the requirements to of these contracts. To update the OECD terminology and agreement, change the terms “transfrontier” to “transboundary”, remove the reference to “red” in the control procedures, change the term “notifier” to “exporter” and make the last word of the paragraph, “arrangement” plural.

**262.85(b)** Contracts. Add the phrase “paragraph (b)(1) through (b)(4) of this section” and add a phrase at the end of the paragraph that refers to paragraphs (b)(1) through (b)(4). The items (1) through (4) defining who must meet the requirements of contracts under section (b) remain the same.

**262.85(c), (c)(1) & (2), (d) and (e) and the note to (e), parts (f) and (g) and note to (g)** further explains arrangements for import and export under OECD contracts, sets requirements to specify which party to the contract will assume responsibility for alternate management of the wastes if their disposition cannot be carried out as described in the notification of intent to export. This section sets forth the specifics of setting up a contract. Section (e) includes provisions for financial guarantees. To correct and update to the new terms of the OECD agreement, the word “notifier” is replaced with “exporter”, “exporting and importing countries” become “countries of export and import” and (c)(2) adds specifics of returning wastes under contract, and matching tenses and phrases to incorporate OECD terms and adjustments.

**262.86 Parts (a) and (b)** deal with provisions relating to recognized traders. Parts (a) and (b) define the scope of recognized traders and the requirements associated with being an exporter or importer as well as the fact that the requirements must meet federal laws.

**262.87 Parts (a), (1), (4) and (5), (i) and part (6).** Reporting and recordkeeping. Parts (a), (1) and (4) as well as (5) (i) and (ii) and part (6) provide specific requirements for traders and exporters filing annual reports.

**262.87(b), (1) - (2), (c), (1), (i) through (iv)** define exception reports for primary exporters as well as other recordkeeping requirements and where the reports must be filed, how often, within what time frame and how long the documentation must be kept. The exception report must be filed in lieu of the requirements of 262.42 with the Office of Enforcement and Compliance Assurance under the provisions listed in sections (b)(1) - (3). Sections (c)(1) and (i) - (iv) define what records the primary exporter must keep and the specifics of these records.

**262.88** Reserve this part to read:

262.88 [Reserved].

262.89 OECD Waste Lists. (a)(2) & (b) through (e) provide criteria to determine if a waste is hazardous and subject to the requirements of this subpart. Delete part (c) and renumber part (d) as part (c). The old Part (e) is revised and renumbered as part (d). The new part (d) adopts the OECD Waste List Manual of 2009 by reference and corrects the address to which reports must be sent.

**263.10(d)** transporters of hazardous waste are subject to federal manifesting requirements of 262. Revise the provision that the transporters may be subject to state requirements that are analogous to part 273 or is exporting to any of the countries listed in 262.58(a)(1) for purposes of recovery is subject to this subpart and to all other relevant requirements of subpart H of part 262, including but not limited to 262.84 for movement documents; the term “tracking” is replaced by the term “movement”.

**264.12(a)(2)** addresses the required notices. Update the terminology from “tracking” document to the OECD approved term, “movement” document and replace “notifier” with “foreign exporter”; the address to which reporting documents must be sent is updated; specific requirements for a certificate of recovery are explained and to whom the document must be sent.

**264.71(a)(3)** deals with the use of the manifest system.This section is modified to require a receiving facility of imported hazardous waste from a foreign source to confirm EPA’s consent to the import of the hazardous waste along with a copy of the RCRA hazardous waste manifest for the incoming shipment within 30 days of delivery and the address to which the report must be sent is updated.

**264.71(d)** The changes update the OECD accepted terms as well as the recordkeeping and reporting requirements and the address to which the movement document must be sent.

**265.12(a)(2)** deals with required notices.This section updates the OECD accepted terms as well as an update of the recordkeeping and reporting requirements of a certificate of recovery document and to whom this document must be sent.

**265.71(a)(3)** deals with the use of the manifest system. This section adds instructions for sending a manifest and documentation to confirm EPA’s consent to import hazardous waste along with a copy of the RCRA hazardous waste manifest for the incoming shipment. The information must be sent within 30 days and the address to which this information must be sent is corrected.

**265.71(d)** documenting the receipt of imported hazardous waste is modified by updating the terms approved in the OECD agreement and the address to which documentation must be sent. Also add the numeral (3) after the word “three” (two times).

**266.80(a)(6) and (7).** Add sections (6) and (7) to the existing table to address issues of exported batteries for reclamation and a list of parts in the regulation relating to the exporting of hazardous waste for reclamation. Parts (1) through (5) are unchanged.

**(2) “Withdrawal of the Emission Comparable Fuel Exclusion Under RCRA,” Final Rule, published on June 15, 2010 at 75 FR 33712.**

**261.4 “Exclusions” (a)(16)** remove the parenthetical statement: (i.e., comparable syngas fuels)

This rule withdraws the conditional exclusion from regulation under subtitle C of RCRA for ECF. The premise of the ECF rule was that the ECF is no more hazardous than burning fuel oil because combustion of this material will have comparable emissions. EPA decided that to ensure that the material does not pose greater risks, they must promulgate a detailed set of conditions for both the storage and combustion of ECF that exists under subtitle C to provide for the necessary review of the operation to assure storage and combustion conditions are met.

**261.38** Revise the title. “Comparable/Syngas Fuel Exclusion.” will change to: “Exclusion of Comparable Fuel and Syngas Fuel” Make changes to 261.38 (a) - (b) and add a new (c) as shown in the text of changes herein.

**Table 1 to 261.38 Detection and Detection Limit Values for Comparable Fuel Specification -** remove column two entitled: Composite value (mg/kg) and column three entitled: Heating value (BTU/lb). The rest of the table should have the numbers editedas shown in the text of changes herein. Include three (3) notes at end of table: NA - Not Applicable, ND - Nondetect, and (\*) 25 or individual halogenated organics listed below.

**(3) "Hazardous Waste Technical Corrections and Clarifications," Final Rule, published on March 18, 2010 at 75 FR 12989 as well as other minor correctoins to match federal regulation.**

**260.10** Amend the definition of “New hazardous waste management facility” from: “facilities in existence on or before October 21, 1976” to read: “New hazardous waste management facility or new facility means a facility which began operation, or for which construction commenced after November 19, 1980.” This is corrected to be more realistic and in line with the intent of RCRA.

**260 Appendix I -** Remove Appendix I because this appendix was inserted when RCRA was first developed but RCRA has had so many changes, Appendix I is no longer accurate. Removing the Appendix would minimize confusion.

**261.1(c)(10)** Correct the citation from “261.4(a)(13)” to read:“261.4(a)(14)” so the reference will correctly reference shredded circuit boards which is (14). Now it refers to (13) which is excluded scrap metal and thus is incorrect.

**261.2(c),** **Table 1** Replace “Scrap metal other than excluded scrap metal (see 261.1(c)(9))” with “Scrap metal that is not excluded under 261.4(a)(13)”

**261.3(a)(2)(iv)(A)** Insert the word “spent” before the first occurrence of theword solvents as shown which was omitted in error and is needed to indicate waste solvents rather than just solvents. The rest of the paragraph remains the same.

**261.4(a)(17)(vi)** Change the citation “(a)(7)” to “(b)(7)” which was incorrectly published in the final rule at 67 FR 11254 March 13, 2002.

**261.5(e)(1)** This section is referencing acute hazardous wastes so the reference to 261.32 needs to be removed because there are no acute hazardous wastes in 261.32

**261.5(e)(2)** This section is referencing acute hazardous wastes so the reference to 261.32 needs to be removed because there are no acute hazardous wastes in 261.32

**261.5(e)(2) Comment** **-** revise the Comment at the end of this section to correct the phrase from “generators of greater than 1,000 kg” to read: “generators of 1,000 kg or greater of hazardous waste” and to remove the redundant term “non-acutely” since this comment refers to non-acute hazardous wastes.

**261.5(f)** Change “...generator of acute hazardous wastes in quantities equal to or less than those set forth in paragraphs (e)(1) or (2) of this section...” to read: (e)(1) or (e)(2) to make sure (1) and (2) are both in part (e).

**261.5(g)** In the introduction, replace “less than 100 kilograms” with “100 kilograms or less” to clarify the requirements to be a conditionally exempt small quantity generator.

**261.5(g)(2)** Replace “between 100 kg and 1000 kg of hazardous waste” with “greater than 100 kg and less than 1000 kg of hazardous waste” to clarify the amount of hazardous waste a generator can generate in a calendar month and still be classified a small quantity generator.

**261.6(a)(2)** Revise subparts C through H” to read “subparts C through N”; add 268 to Parts 270 and 124” to clarify that the requirements of part 268 are applicable to the recycled wastes regulated under Part 266. The failure to cite 268 was an EPA oversight and this will correct that omission.

**261.6(a)(2)(ii)** Replace “for energy recovery” with “(as defined in section 266.100(a))” which expands the scope of the rule to include both energy and materials recovery. The change to include both took place in 1991 but this part failed to reflect the expanded scope of the regulations.

**261.7(b)(1)** Remove 261.32 because this reference is to acute hazardous wastes and currently there are no acute hazardous wastes listed in 261.32.

**261.7(b)(3)** Remove 261.32 because this reference is to acute hazardous wastes and currently there are no acute hazardous wastes listed in 261.32.

**261.23(a)(8)** Amend this paragraph to correct out of date cross-references to Class A and B explosives with the current DOT regulations relating to Class A and B explosives.

**261.30(d)** Remove “or 261.32” because this reference is to acute hazardous wastes and currently there are no acute hazardous wastes listed in 261.32.

**261.32(a)** **table** - Correct the misspelled chemical name “...carboxylic acid hydrazines” to read: “...carboxylic acid hydrazides”

**261.33(f)** Revise the listing for U239, “Benzene, dimethyl-(I,T) by removing the “T” because this chemical is listed only for ignitability and not for toxicity (“T”).

**261 Appendix VII** - remove the entries “K064,” “K065,” “K066,” “K090,” and “K091.” in May 1998, EPA removed these K-listed wastes from 261.32 but failed to make the changes in Appendix VII of 261. This will make that correction.

**Add all of 262.23(f), (1), (i) - (ii), (2) through (4)** for clarification in the use of the national manifest. The March 2005 manifest rule omitted requirements related to the use of a manifest in shipments of rejected hazardous wastes or non-empty containers of regulated residues as well as having an error regarding a designated facility’s preparation of a new manifest in certain returned shipment situations. The generator must confirm receipt of a returned shipment of rejected hazardous wastes by sending a copy of the final hazardous waste manifest that accompanied the shipment, whether it was a new manifest or a generator’s original manifest, to the designated facility. A shipment returned to the generator must be verified by the designated facility. To do so, the generator must send a copy of the final manifest signed and dated along with the returned shipment of rejected hazardous wastes or container residues, provide the transporter with a copy of the manifest and retain the manifest for three years. This requirement was discussed in the synopsis of the rule showing this was an intended requirement. 262.23(f)(1)-(4) sets out the specific requirements of this omission.

**262.34(a)(4)** Replace “268.7(a)(5)” with “all applicable requirements under Part 268.” This section relates to Land Disposal Restrictions (LDR). The limited reference to 268.7(a)(5) is in error because it only requires developing waste analysis plans but it needs to require large and small quantity generators to comply with all applicable regulations under Part 268.

**262.34(b)** Modify this section to clarify accumulation times.

**262.34(c)(1)** Add “264.31 or” before “261.33(e) and add “or (d)” after “(a)”. This revision clarifies that the satellite accumulation provisions for large quantity generators are also applicable to small quantity generators and that this provision applies to acutely hazardous wastes listed under 261.31. Before the revision, the requirements omitted text that made clear that the satellite accumulation provisions also are applicable to small quantity generators and to acutely hazardous waste.

**262.34(c)(2).** Add “261.31 or” before “261.33(e)” and change paragraphs (c)(1)(i) through (ii)” to read “paragraphs (c)(1)(i) and (ii). This revision clarifies that the satellite accumulation provisions for large quantity generators are also applicable to small quantity generators and that this provision applies to acutely hazardous wastes listed under 261.31.

**262.34(d)(4)** Replace 268.7(a)(5) with “all applicable requirements under Part 268.” to correct this section in the same manner as 262.34(a)(4) to require both large and small generators to comply with all applicable regulations under Part 268 and not just develop waste analysis plans.

**262.42(a)(1)** Replace “greater than 1,000 kilograms” with “1,000 kilograms or greater” - to clarify the amount of hazardous waste a generator must generate in a calendar month to be considered a large quantity generator.

**262.42(a)(2)** Replace “greater than 1,000 kilograms” with “1,000 kilograms or greater” the statement incorrectly describes the requirements applying to large quantity generators as having greater than 1000 kilograms of hazardous waste in a calendar month and it should say those generating 1000 kilograms or greater.

**262.60(b)** This section is amended to replace “Subpart B” with 262.20. This will now read that facilities transporting or importing hazardous wastes must comply all of the requirements 262.20.

**264.52(b)** Remove “or part 1510 of chapter V” because part 1510 no longer exists.

**264.56(d)(2)** Remove the parenthetical phrase “(in the applicable regional contingency plan under part 1510 of this title)” because part 1510 no longer exists.

**264.72(e)(6)** At the end of the provision add: “and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.” This is done so that when a facility forwards shipments of rejected loads or container residues under a new manifest, it is important for the facility to send the generator a copy of the new manifest with the date on which the shipment was accepted by the transporter of the rejected load. Otherwise the generator cannot determine that the alternate facility received the shipment in the time frame required to fulfill the obligations under the Manifest rule. This section corrects that omission.

**264.72(f)(1)** This section is amended to have the designated facility enter its own information (instead of the generator’s information) in Item 5 of the new manifest form when it originates the shipment of rejected hazardous waste or container residues to provide the most straightforward facility-to-generator tracking of waste shipments.

**264.72(f)(7)** When a designated facility uses the new manifest to return a full or partial load of rejected hazardous wastes or container residues, the generator must comply with the exemption reporting provisions of 262.42(a) and this paragraph will reference the requirements of (f)(8).

**264.72(f)(8)** Add a new provision at (f)(8) to require that a generator who has had a full or partial load rejected and returned requires the facility to comply with the exception reporting requirements in 262.42(a). The facility must file an exception report when a completed copy of the manifest is not received from the generator within 35 days of the date that the shipment was accepted by the initial transporter of the shipment to ensure that the shipment returned to the generator can be verified by the designated facility. This part of the Manifest rule was inadvertently omitted.

**264.195(b)** Completely revise this section by removing subparagraphs (b)(1)-(3) and incorporating the text from (b)(2) into the revised paragraph (b).

**264.314(d)** Change cross-references from “(e)(1)” to “(d)(1)” and “(e)(2)” to “(d)(2)” because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references.

**264.316(b)** Change cross-references from 264.314“(e)” to 264.314”(d)”because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references.

**264.552(a)(3)(ii)** Revise the citation from “264.314(d)” to “264.314(c)” because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references.

**264.552(a)(3)(iii)** Revise the citation 264.314(f) to read 264.314(e) because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references.

**264.552(a)(3)(iv)** Revise the citation “264.314(c)” to read “264.314(b)” and “264.314(e)” to read “264.314(d)” because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references.

**264.552(e)(4)(iv)(F)** Revise the citation from “260.11(a)(11)” to read “260.11(c)(3)(v).” The July 14, 2006 CFR corrections rule should have changed this reference to 260.11(c)(3)(v)

**265.52(b)** Remove “or part 1510 of chapter V” because part 1510 no longer exists.

**265.72(e)(6)** At the end of the provision add: “and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.” This is done so that when a facility forwards shipments of rejected loads or container residues under a new manifest, it is important for the facility to send the generator a copy of the new manifest with the date on which the shipment was accepted by the transporter of the rejected load. Otherwise the generator cannot determine that the alternate facility received the shipment in the time frame required to fulfill the obligations under the Manifest rule. This section corrects that omission.

**265.72(f)(1)** This section is being amended to have the designated facility enter its own information (instead of the generator’s information) in Item 5 of the new manifest form when it originates the shipment of rejected hazardous waste or container residues to provide the most straightforward facility-to-generator tracking of waste shipments.

**265.72(f)(7)** When a designated facility uses the new manifest to return a full or partial load of rejected hazardous wastes or container residues, the generator must comply with the exemption reporting provisions of 262.42(a) and this paragraph will reference the requirements of (f)(8).

**265.72(f)(8)** Add a new provision to correct an omission to require that a generator who has had a full or partial load rejected and returned requires the facility to comply with the exception reporting requirements in 262.42(a). The facility must file an exception report when a completed copy of the manifest is not received from the generator within 35 days of the date that the shipment was accepted by the initial transporter of the shipment to ensure that the shipment returned to the generator can be verified by the designated facility.

**265.224** a section was added defining “Response Actions” (a) - (c) and the subparts of each section all remain the same. Immediately following 265.224 “Response Actions” is a section, 265.224 marked [Reserved]. The [Reserved] status was not removed and needs to be removed since there is now information at that location and the [Reserved] is no longer correct.

**265.314(e)** Correct cross references from “(f)(1)” to “(e)(1)” and “(f)(2)” to “(e)(2)”because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references.

**265.314(f)** was renumbered from the old 265.314(g). Parts (1) and (2) were to remain the same but were inadvertently removed by the West System in the Cumulative Supplement. Therefore, the current 265.314(f)(1) and (2) need to be reinserted into the text.

**265.316(b)** Correct cross references from “265.314(f)” to “265.314(e)”because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references. This corrects that cross reference.

**266.20(b)** At the end of the paragraph add a new phrase “and the recycler complies with 268.7(b)(6).”

**268.7(b)(6)** In the first part of the first sentence, the reference 268.20(b) should be changed to 266.20(b) to correct the cross reference.

**268.40 table** “Treatment Standards for Hazardous Wastes” for each of the following waste codes, K156, K157 and K158, in the Waste Description Column insert the parenthetical sentence, “(This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)” This parenthetical sentence still exists in the table at 261.32 but was inadvertently deleted from 268.40 table for all three entries (K156 - 158).

**268.48** In the table containing Universal Treatment Standards has an entry for:

 Hexachloropropylene 1888–71–7 0.035 30

Correct the spelling of Hexachloropropylene by adding an “l” between the y and e in propylene

**270.4(a)** Redesignate the numbering of this section as follows: paragraph (a) becomes (a)(1); (a)(1) becomes (a)(1)(i); (a)(2) becomes (a)(1)(ii); (a)(3) becomes (a)(1)(iii); (a)(4) becomes (a)(1)(iv); then add paragraph (a)(2) which will reinstate information that was in a sentence that was inadvertently deleted December 1, 1987.

**270.22** in the introductory paragraph, replace “62.1210(b)” with “62.1210(d)” to correct cross reference. The rest of the paragraph following the corrected citation remains the same.

**270.25(e)(3)** Remove the word “design” after “basic control device”. The rest of the paragraph remains the same.

**270.42(k)(2)(ii)** Replace “Director” with “Department” to indicate the state program rather than the Director of the EPA.

**270.62 Introductory paragraph** Replace “63.1210(b)” with “63.1210(d)” after the first parenthetical statement to correct cross reference as shown:

**(4) The Department is proposing to amend R.61-79 to correct errors and omissions in the previously adopted National Manifest Final Rule at 70 FR 10776 (March 4, 2005), which was published as a final regulation in the S.C. State Register on May 28, 2010 in Document 4080.**

**262.21(b)(6)** Add the omitted language to provide examples of what can be used to support the qualifications of a company being chosen to print the manifest.

**262.21(c)** Add language defining EPA’s actions after reviewing an application for a printer of the manifest.

**262.21(d)(1) - (2)(i)** Add details for EPA’s approval of a printer of the manifest.

**262.21(d)(3)** Add details for continuation sheet printing.

**262.21(e)** Add details of printing requirements and how to get EPA’s approval for a company to print manifests.

**262.21(f)(1)-(6), (6)(i) and (vi)** Add language to provide details of the manifest. The rest of the section remains the same.

**262.21(h)(1)-(3)** Add instructions for updating an application and the resulting approval process.

**262.21(i)-(l)** language is added to clarify the printing requirements and approval process.

**262.21(m)(1) & (i)** Definedetails of the printing process that could result in EPA’s revocation of printing privileges.

**262.23(f)** This is an EPA correction. Insert paragraph (f) and (1) - (4) to add requirements that were inadvertently omitted in the March 2005 manifest rule. This paragraph adds requirements for shipments of rejected hazardous waste or non-empty containers containing regulated residues called “container residues”. This part also corrects an error regarding a designated facility’s preparation of a new manifest in certain returned shipment situations. **Part (f) is inserted after “Note:” that reads in part: “See 263.20(e) and (f) for special provisions ....”**

**262.32(b)** Add details of changes required for marking containers.

**262.42(c)** Add a new paragraph at (c), (c)(1) & (2) as well as Note to paragraph (c). This paragraph is added to require a generator to follow procedures with the provision that when a designated facility reships a generator’s hazardous waste shipment of rejected loads or container residues to an alternate facility under a new manifest for further hazardous waste management and the specifics of this requirement.

**264.72(e)(6)** adds instructions on how to determine to whom a copy of the certification that the waste was properly packaged and labeled should be sent.

**264.72(f)(1)** Change “generator’s” to “facility’s” name and address in three places for filling out the new manifest and add “of the new manifest” at the end of the last sentence after “in the designated space for Item 5”.

**264.72(f)(7) and (8).** Correct language to enable the addition of paragraph number (8) to paragraphs (1) through (7) that must be complied with.

**265.72(e)(6)** section is added at end of sentence to determine where on the signed copy of the new manifest to find the generator’s name that the copy is to be mailed to.

**265.72(f)(1)** Delete “generator’s” and replace with “facility’s” name throughout paragraph and add “of the new manifest” after the word “item 5.**”**

**265.72(f)(7)** Make corrections for two omissions that were made in this section: 18(a) was omitted in the first sentence after the words: “completing Item” and in the last sentence after “and (6)”; delete the “and” prior to (6) and add “, and (8)” after the (6).

**265.72(f)(8)** This whole section, (f)(8) was omitted so insert the entire section

**Instructions:** Amend R.61-79 pursuant to each individual instruction shown with the text of the amendments below:

**Text:**

**(1) OECD Requirements for the Export of Spent Lead Acid Batteries Checklist required for federal compliance.**

**262.10(d) after the phrase: “Any person who exports or imports” delete “hazardous” and add an “s” to the word “waste”; delete the phrase: “subject to the federal manifesting requirements of part 262, or subject to the universal waste management standards of 273, or subject to state requirements analogous to 273, to or from countries listed in 262.58(a)(1) for recovery” then add the phrase: “that are considered hazardous under U.S. national procedures to or from the countries listed in 262.58(a) for recovery” before the words: “must comply with subpart H of this part.” After that phrase add “A waste is considered hazardous under U.S. national procedures if the waste meets the federal definition of hazardous waste in 40 CFR 261.3 and is subject to either the Federal RCRA manifesting requirements at part 262, subpart B, the universal waste management standards of part 273, State requirements analogous to part 273, the export requirements in the spent lead-acid battery management standards of part 266, subpart G, or State requirements analogous to the export requirements analogous to the export requirements in part 266, subpart G.”**

 (d) Any person who exports or imports wastes that are considered hazardous under U.S. national procedures to or from the countries listed in 262.58(a)(1) for recovery must comply with subpart H of this part. A waste is considered hazardous under U.S. national procedures if the waste meets the federal definition of hazardous waste in 40 CFR 261.3 and is subject to either the Federal RCRA manifesting requirements at part 262, subpart B, the universal waste management standards of part 273, State requirements analogous to part 273, the export requirements in the spent lead-acid battery management standards of part 266, subpart G, or State requirements analogous to the export requirements analogous to the export requirements in part 266, subpart G.

**262.55 modify the introductory paragraph as shown to update the address for filing an exception report with EPA:**

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

**262.58(a) modify the paragraph to determine what exports are hazardous waste and modify the citation of the parts of the regulation that address the requirements that must be met in exporting spent lead-acid batteries:**

 (a) Any person who exports or imports wastes that are considered hazardous under U.S. national procedures to or from designated Member countries of the Organization for Economic Cooperation and Development (OECD) as defined in paragraph (a)(1) of this section for purposes of recovery is subject to subpart H of this part. The requirements of subparts E and F of this part do not apply to such exports and imports. A waste is considered hazardous under U.S. national procedures if the waste meets the Federal definition of hazardous waste in part 261.3 and is subject to either the Federal RCRA manifesting requirements at part 262, subpart B, the universal waste management standards of part 273, state requirements analogous to part 273, the export requirements in the spent lead-acid battery management standards of part 266, subpart G or state requirements analogous to the export requirements of part 266, subpart G.

**262.58(a)(1) modify the name of Korea from “South” to “the Republic of” as shown:**

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

**262.58(b) add the last phrase to indicate this provision is not subject to the requirements of subpart H.**

 (b) Any person who exports hazardous waste to or imports hazardous waste from: a designated OECD Member country for purposes other than recovery (e.g., incineration, disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of subparts E and F of this part and is not subject to the requirements of subpart H of this part.

**Modify the title of Subpart H to update to OECD terms as shown:**

SUBPART H - Transboundary Movements of Hazardous Waste for Recovery within the OECD

**262.80(a) modify paragraph (a) by removing text and changing the first paragraph to enable adding sections (1) and (2) to break out the requirements in this part and to add language that makes the requirements more understandable as shown:**

 (a) The requirements of this subpart apply to imports and exports of wastes that are considered hazardous under U.S. national procedures and are destined for recovery operations in the countries listed in 262.58(a)(1). A waste is considered hazardous under U.S. national procedures if the waste:

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

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

**262.80(b) modify paragraph by replacing the terms “notifier, consignee” with “exporter, importer” to use terms agreed upon in the OECD agreements as shown:**

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

**262.81 Definitions.**

**To match the terms in the new OECD agreement, modify the following definitions for “Competent authority", remove “Consignee”, change “countries” to "Countries concerned"; change “Exporting Country” to “Country of export”; change “Importing Country” to “Country of Import”, modify “Country of transit”; add “Exporter”, “Importer”; delete “notifier”; add a definition for “OECD”; modify “Recovery facility", “Recovery Operations”; remove the letter at the beginning of each definition and insert new or modified definitions in alphabetical order as shown:**

 "Competent authority" means the regulatory authority or authorities of concerned countries having jurisdiction over transboundary movements of wastes destined for recovery operations.

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

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

“Country of import” means any designated OECD Member country listed in 262.58(a)(1) to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.

 “Country of transit” means any designated OECD Member country listed in 262.58(a)(1) and (a)(2) other than the country of export or country of import across which a transboundary movement of hazardous wastes is planned or takes place.

 “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 wastes and who proposes transboundary movement of the hazardous wastes for the ultimate purpose of submitting them to recovery operations. When the United States (U.S.) is the country of export, exporter is interpreted to mean a person domiciled in the United States.

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

 “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 listed in 262.58. When the regulations refer to shipments to or from an OECD country, this means OECD area.

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

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

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

**R1-R6 remains the same. Modify R7 & R8 as shown:**

 R7 Recovery of components used for pollution abatement.

 R8 Recovery of components used from catalysts

**R9-R12 remain the same.**

**Modify R13 by removing the words “in Table 2.B” and replacing it with “numbered R1-R12.”**

 R13 Accumulation of material intended for any operation numbered R1-R12.

**Modify (l) by removing (l) and replace “transfrontier” with “transboundary” and “shipment” with “movement” to reflect the OECD agreement terms and remove “destined for recovery operations” as shown:**

 “Transboundary movement” means any movement of wastes from an area under the national jurisdiction of one OECD Member country to an area under the national jurisdiction of another OECD Member country.

**262.82(a) is modified to change to the new national procedures that include only Green and Amber lists for exporting to OECD countries as shown:**

 (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 by the national procedures of the United States, as defined in 262.80(a). The OECD Green and Amber lists are incorporated by reference in 262.89(d)

**262.82(a)(1), and (i) through (ii) are modified to clarify specifics of US Green control procedures as shown; (iii) is removed because it defines redlist waste which has been removed from the standards as shown:**

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

 (i) Green wastes that are not considered hazardous under U.S. national procedures as defined in 262.80(a) are subject to existing controls normally applied to commercial transactions.

 (ii) Green wastes that are considered hazardous under U.S. national procedures as defined in 262.80(a) are subject to the Amber control procedures set forth in this subpart.

**262.82(a)(2)(i), (ii), add (A) & (B), (iii) are modified to clarify specifics of US Amber wastes and where in the regulations to get specifics. Note to (a)(3) is changed to “Note to (a)(2)” and removes redlist wastes references.**

 (2*)* Listed wastes subject to the Ambercontrol procedures.

 (i) Amber wastes that are considered hazardous under U.S. national procedures as defined in 262.80(a) are subject to the Amber control procedures set forth in this subpart.

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

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

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

 262.82(a)(2)(iii) Amber wastes that are not considered hazardous under U.S. national procedures as defined in 262.80(a), but are considered hazardous by an OECD Member country are subject to the Amber control procedures in the OECD Member country that considers the waste hazardous. All responsibilities of the U.S. importer/exporter shift to the importer/exporter of the OECD Member country that considers the waste hazardous unless the parties make other arrangements through contracts.

 Note to paragraph (a)(2): Some wastes subject to the Amber control procedures are not listed or otherwise identified as hazardous under RCRA, and therefore are not subject to the Amber control procedures 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.

**262.82(a)(3) is modified, (i), Note to (a)(3)(i), (ii), and Note to (a)(3)(ii) are added sections with procedures for handling Green wastes that are mixed with other wastes as shown:**

262.82(a)(3) Procedures for mixtures of wastes.

 (i) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not considered hazardous under U.S. national procedures as defined in 262.80(a) shall be subject to the Green control procedures, provided the composition of this mixture does not impair its environmentally sound recovery.

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

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

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

**262.82(a)(4), (i) and (ii) are modified to provide guidance in determining into which list an unlisted waste that is scheduled for transboundary movement would be. Use of the term “transfrontier” is changed to “transboundary” throughout as shown:**

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

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

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

**262.82(b) and (b)(2) are modified to replace all instances of the word “transfrontier” with the term “transboundary” and to show that this movement between countries must comply with international agreements. Note below paragraph (b)(2) remains the same.**

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

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

**262.82(c), (1), (i)-(ii), and (2) modify language for better phrasing of the amber control procedures and to better define what those procedures require.**

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

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

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

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

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

**Remove text of 262.82(c)(3) since this text was incorporated into (c)(2).**

**262.82(d), (1) & (2) add the following text to provide instructions on how to manage amber control shipments that cannot be completed and are returned to the country of export or re-exported to a third country.**

 (d) Duty to return or re-export wastes subject to the Amber control procedures. When a transboundary movement of wastes subject to the Amber control procedures cannot be completed in accordance with the terms of the contract or the consent(s) and alternative arrangements cannot be made to recover the waste in an environmentally sound manner in the country of import, the waste must be returned to the country of export or re-exported to a third country. The provisions of paragraph (c) of this section apply to any shipments to be re-exported to a third country. The following provisions apply to shipments to be returned to the country of export as appropriate:

 (1) Return from the United States to the country of export: The U.S. importer must inform EPA at the specified address in 262.83(b)(1)(i) of the need to return the shipment. EPA will then inform the competent authorities of the countries of export and transit, citing the reason(s) for returning the waste. The U.S. importer 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 Member countries. 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 U.S. importer.

 (2) Return from the country of import to the United States: The U.S. 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 Member countries agree. The U.S. exporter must submit an exception report to EPA in accordance with 262.87(b).

**262.82(e), (1) & (2) and (f), (1) - (5), (i) & (ii) and (g) add sections to provide instructions on how to manage Amber control shipments that cannot be completed and are returned from a country of transit or if shipment does not meet shipping requirements as shown:**

 (e) Duty to return wastes subject to the Amber control procedures from a country of transit. When a transboundary movement of wastes 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 these wastes in an environmentally sound manner, the waste must be returned to the country of export. The following provisions apply as appropriate:

 (1) Return from the United States (as country of transit) to the country of export: The U.S. transporter must inform EPA at the specified address in 262.83(b)(1)(i) 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 Member countries.

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

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

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

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

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

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

 (5) When an R12/R13 recovery facility delivers wastes for recovery to an R1–R11 recovery facility located:

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

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

 (g) Laboratory analysis exemption. The transboundary movement of an Amber waste is exempt from the Amber control procedures if it is in certain quantities and destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery operations. The quantity of such waste shall be determined by the minimum quantity reasonably needed to perform the analysis in each particular case adequately, but in no case exceed twenty-five kilograms (25 kg). Waste destined for laboratory analysis must still be appropriately packaged and labeled.

**262.83(a), (b), (1)(i)-(iii), 2(i)-(ii) are edited as shown. Old (c) and (d) are combined into (c) and the old (e) becomes the new (d) followed by (1)-(14), note to (d)(14) and add a new paragraph (e). Modify paragraphs to establish that consent must be received from countries of import and transit prior to shipping amber list wastes and the procedures are defined that must be followed to complete the transit of hazardous waste to OECD countries as shown:**

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

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

 (1) Transactions requiring specific consent:

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

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

 (iii) Written consent*.* If the competent authorities of all the relevant OECD importing and transit countries provide written consent in a period less than thirty (30) days, the transboundary movement may commence immediately after all necessary consents are received. Written consent expires for each relevant OECD importing and transit country one (1) calendar year after the date of that country's consent unless otherwise specified; renotification and renewal of each expired consent is required for exports after that date.

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

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

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

 (c) Wastes not covered in the OECD Green and Amber lists*.* Wastes destined for recovery operations, that have not been assigned to the OECD Green and Amber lists, incorporated by reference in 262.89(d), but which are considered hazardous under U.S. national procedures as defined in 262.80(a), are subject to the notification and consent requirements established for the Amber control procedures in accordance with paragraph (b) of this section. Wastes destined for recovery operations, that have not been assigned to the OECD Green and Amber lists incorporated by reference in 262.89(d), and are not considered hazardous under U.S. national procedures as defined by 262.80(a) are subject to the Green control procedures. (d) Notifications submitted under this section must include the information specified in paragraphs (d)(1) through (d)(14) of this section:

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

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

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

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

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

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

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

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

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

 (10) Date(s) foreseen for commencement of transboundary movement(s);

 (11) Means of transport envisaged;

 (12) Designation of waste type(s) from the appropriate OECD list incorporated by reference in 262.89(d), description(s) of each waste type, estimated total quantity of each, RCRA waste code, and the United Nations number for each waste type;

 (13) Specification of the recovery operation(s) as defined in 262.81.

 (14) 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 guarantees are or shall be in force covering the transboundary movement.

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

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

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

Note to Paragraph (d)(14): The United States does not currently require financial assurance for these waste shipments. However, U.S. exporters may be asked by other governments to provide and certify to such assurance as a condition of obtaining consent to a proposed movement.

 (e) Certificate of Recovery. As soon as possible, but no later than thirty (30) days after the completion of recovery and no later than one (1) calendar year following receipt of the waste, the U.S. recovery facility shall send a certificate of recovery to the exporter and to the competent authorities of the countries of export and import by mail, e-mail without a digital signature followed by mail, or fax followed by mail. The certificate of recovery shall include a signed, written and dated statement that affirms that the waste materials were recovered in the manner agreed to by the parties to the contract required under 262.85.

**262.84 (a), (1) & (2), (b), (b)(1) - (7), (c) - (e) changes the word “Tracking document” to “Movement document” and prescribes what is required of this document and how it must be used in the transport of hazardous waste in OECD countries as shown:**

262.84 Movement document.

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

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

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

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

 (1) Date movement commenced;

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

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

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

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

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

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

 1. All necessary consents have been received; OR

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

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

Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_

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

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

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

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

**262.85(a) Change the terms “transfrontier” to “transboundary”, “notifier” to “exporter”; remove the reference to “red” in the control procedures and make the last word in the paragraph, “arrangement” plural as shown:**

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

**262.85(b) Contracts. Add the phrase “paragraph (b)(1) through (b)(4) of this section” and add a phrase at the end of the paragraph that refers to paragraph (b)(1) through (b)(4). The items (1) through (4) remain the same.**

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

**262.85(c), (c)(1) & (2), (d) and (e) and the note to (e), parts (f) and (g) and note to (g) further explain arrangements for import and export under OECD contracts and corrects and updates the new terms of the OECD agreement: “notifier” is replaced with “exporter”, “exporting and importing countries” become “countries of export and import” and (c)(2) adds specifics of returning wastes under contract, matching tenses and phrases to incorporate OECD terms and adjustments as shown:**

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

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

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

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

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

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

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

 (g) Upon request by EPA, U.S. 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). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted in accordance with 40 CFR 2.203(b) will be treated as confidential and will be disclosed by EPA only as provided in 260.2.

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

**262.86 Part (a) delete “state and”; (b) replace “a notifier or consignee for transfrontier” with “an exporter or importer for transboundary” and replace “a notifier or consignee” with “an exporter or importer”.**

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

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

**262.87 Parts (a)replace notifiers with exporters and add “or who initiate the movement documentation under 262.84 after 262.5a; Correct the name of the Office and address to where the document must be sent , add the phrase or the person who initiates the movement document under 262.84 after the phrase: “if the primary exporter” and add the last phrase: “all of the following paragraphs (a)(1) through (a)(6) of this section specified as follows:”.**

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

**262.87 Part (a)(1) replace “notifier” with “exporter.”**

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

**262.87 Part (a)(4) modify as shown:**

 (4) By final recovery facility, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from part 261, subpart C or D), designation of waste type(s) and applicable waste code(s) from the appropriate OECD waste list incorporated by reference in 262.89(d), DOT hazard class, the name and U.S. EPA identification number (where applicable) for each transporter used, the total amount of hazardous waste shipped pursuant to this subpart, and number of shipments pursuant to each notification;

**(5)(i) add “the”; (6) modify as shown:**

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

 (6) A certification signed by the person acting as primary exporter or initiator of the movement document under 262.84 that states:

**262.87(b); and (1)-(2), Make changes as shown and add new (c)(1)(i)-(iv);**

 (b) Exception reports*.* Any person who meets the definition of primary exporter in 262.51 or who initiates the movement document under 262.84 must file an exception report in lieu of the requirements of 262.42 (if applicable) with the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, if any of the following occurs:

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

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

 (c) Recordkeeping.

 (1) Persons who meet the definition of primary exporter in 262.51 or who initiate the movement document under 262.84 shall keep the following records in paragraphs (c)(1)(i) through (c)(1)(iv) of this section:

 (i) A copy of each notification of intent to export and all written consents obtained from the competent authorities of countries concerned 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 delivery (*i.e.,* movement document) sent by the recovery facility to the exporter for at least three (3) years from the date the hazardous waste was accepted by the initial transporter or received by the recovery facility, whichever is applicable; and

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

**262.88 Reserve this part.**

262.88 [Reserved]

**262.89 (a)(2) & (b) through (e): modify text as shown. Delete part (c) and renumber part (d) as part (c). The old Part (e) is revised and renumbered as part (d). The new Part (d) adopts the OECD Waste List Manual of 2009 by reference and corrects the address to which reports must be sent.**

 (2) Is subject to either the Federal RCRA manifesting requirements at 262, subpart B, the universal waste management standards of 273, State requirements analogous to 273, the export requirements in the spent lead-acid battery management standards of 266, subpart G, or State requirements analogous to the export requirements in part 266, subpart G.

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

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

 (d) The OECD waste lists, as set forth in Annex B (“Green List”) and Annex C (“Amber List”) (collectively “OECD waste lists”) of the 2009 “Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations,” are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is incorporated as it exists on the date of the approval and a notice of any change in these materials will be published in the Federal Register. The materials are available for inspection at: the U.S. Environmental Protection Agency, Docket Center Public Reading Room, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004 (Docket # EPA–HQ–RCRA–2005–0018) or at the National Archives and Records Administration (NARA), and may be obtained from the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue André Pascal, F–75775 Paris Cedex 16, France. For information on the availability of this material at NARA, call 202*–*741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.* To contact the EPA Docket Center Public Reading Room, call (202) 566–1744. To contact the OECD, call +33 (0) 1 45 24 81 67.

**263.10(d) add the provision that transporters may be subject to state requirements that are analogous to part 273; the term “tracking” is replaced by the term “movement”.**

263.10(d) A transporter of hazardous waste subject to the federal manifesting requirements of 262, or subject to the waste management standards of 273, or subject to State requirements analogous to 273, that is being imported from or exported to any of the countries listed in 262.58(a)(1) for purposes of recovery is subject to this subpart and to all other relevant requirements of subpart H of part 262, including, but not limited to, 262.84 for movement documents.

**264.12(a)(2) change “tracking” document to the OECD approved term, “movement” document and replace “notifier” with “foreign exporter”; update the address to which reporting documents must be sent; add requirements for a certificate of recovery and to whom the document must be sent as shown:**

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

**264.71(a)(3) modify to require a receiving facility of imported hazardous waste from a foreign source to confirm EPA’s consent to the import of the hazardous waste within 30 days of delivery and the address to which the report must be sent is updated as shown:**

 (a)(3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming EPA's consent to the import of hazardous waste to the following address within thirty (30) days of delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460.

**264.71(d) update the OECD accepted terms as well as update the recordkeeping and reporting requirements and the address to which the movement document must be sent as shown:**

 (d) 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 exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature.

**265.12(a)(2) update to the OECD terms and the recordkeeping and reporting requirements of a certificate of recovery document and to whom this document must be sent as shown:**

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

**265.71(a)(3) Add instructions for sending a manifest and documentation to confirm EPA’s consent to import hazardous waste. The information must be sent within 30 days and the address to which this information must be sent is corrected as shown:**

 (a)(3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming EPA's consent to the import of hazardous waste to the following address within thirty (30) days of delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460.

**265.71(d) Update the terms approved in the OECD agreement and the address to which documentation must be sent. Add the numeral (3) after the word “three” (two times) as shown:**

 (d) 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 exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and to competent authorities of all other countries concerned. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature.

**266.80(a) Table - add sections (6) and (7) as shown: (parts (1) through (5) are unchanged.)**

|  |  |  |  |
| --- | --- | --- | --- |
| **If your batteries**  | **And if you . .**  | **Then you . . .** | **And you . . .** |
| (6) Will be reclaimed through regeneration or any other means | export these batteries for reclamation in a foreign country | are exempt from 40 CFR parts 263, 264, 265, 266, 268, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA. You are also exempt from part 262, except for 262.11, and except for the applicable requirements in either: (1) 40 CFR part 262 subpart H; or (2) 262.53 “Notification of Intent to Export, 262.56(a)(1) through (4)(6) and (b) “Annual Reports,” and 262.57 “Recordkeeping” | are subject to 40 CFR part 261 and 262.11, and either must comply with 40 CFR part 262, subpart H (if shipping to one of the OECD countries specified in 40 CFR 262.58(a)(1)), or must: (a) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a) (1) through (4), (6), and (b) and 262.57; and (b) Export these batteries only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in subpart E of part 262 of this chapter; and |
|  |  |  | (c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export. |
| (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 40 CFR parts 263, 264, 265, 266, 268, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA | must comply with applicable requirements in 40 CFR part 262, subpart H (if shipping to one of the OECD countries specified in 40 CFR 262.58(a)(1)), or must comply with the following: |
|   |  |  | (a) you may not accept a shipment if you know the shipment does not conform to the EPA Acknowledgment of Consent; |
|   |  |  | (b) you must ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment; and |
|  |  |  | (c) you must ensure that the shipment is delivered to the facility designated by the person initiating the shipment. |

**(2) Withdrawal of the Conditional Exclusion Emission Comparable Fuel.**

**261.4 “Exclusions” (a)(16)** Revise to read:

Comparable fuels or comparable syngas fuels that meet the requirements of 261.38.

**261.38 The title language is rephrased as shown:**

261.38 Exclusion of comparable fuel and syngas fuel.

**261.38(a) through (c) are revised to specify the requirements of no longer allowing an exclusion for Emission Comparable Fuel, revise 261.38(a) - (c) as shown:**

 (a) Specifications for excluded fuels.

Wastes that meet the specifications for comparable fuel or syngas fuel under paragraphs (a)(1) or (a)(2) of this section, respectively, and the other requirements of this section, are not solid wastes.

 (1) Comparable fuel specifications*.*

 (i) Physical specifications*.*

 (A) Heating value*.* The heating value must exceed 5,000 Btu/lbs. (11,500 J/g).

 (B) Viscosity*.* The viscosity must not exceed: 50 cS, as-fired.

 (ii) Constituent specifications*.* For compounds listed in Table 1 to this section, the specification levels and, where non-detect is the specification, minimum required detection limits are: ( *see* Table 1 of this section).

 (2) Synthesis gas fuel specifications*.* — Synthesis gas fuel (*i.e.,* syngas fuel) that is generated from hazardous waste must:

 (i) Have a minimum Btu value of 100 Btu/Scf;

 (ii) Contain less than 1 ppmv of total halogen;

 (iii) Contain less than 300 ppmv of total nitrogen other than diatomic nitrogen (N2);

 (iv) Contain less than 200 ppmv of hydrogen sulfide; and

 (v) Contain less than 1 ppmv of each hazardous constituent in the target list of appendix VIII constituents of this part.

 (3) Blending to meet the specifications*.*

(i) Hazardous waste shall not be blended to meet the comparable fuel specification under paragraph (a)(1) of this section, except as provided by paragraph (a)(3)(ii) of this section:

 (ii) Blending to meet the viscosity specification*.* A hazardous waste blended to meet the viscosity specification for comparable fuel shall:

 (A) As generated and prior to any blending, manipulation, or processing, meet the constituent and heating value specifications of paragraphs (a)(1)(i)(A) and (a)(1)(ii) of this section;

 (B) Be blended at a facility that is subject to the applicable requirements of parts 264, 265 or 262.34 of this chapter; and

 (C) Not violate the dilution prohibition of paragraph (a)(6) of this section.

 (4) Treatment to meet the comparable fuel specifications*.* (i) A hazardous waste may be treated to meet the specifications for comparable fuel set forth in paragraph (a)(1) of this section provided the treatment:

 (A) Destroys or removes the constituents listed in the specification or raises the heating value by removing or destroying hazardous constituents or materials;

 (B) Is performed at a facility that is subject to the applicable requirements of parts 262.34, 264 or 265 of this chapter; and

 (C) Does not violate the dilution prohibition of paragraph (a)(6) of this section.

 (ii) Residuals resulting from the treatment of a hazardous waste listed in subpart D of this part to generate a comparable fuel remain a hazardous waste.

 (5) Generation of a syngas fuel.(i) A syngas fuel can be generated from the processing of hazardous wastes to meet the exclusion specifications of paragraph (a)(2) of this section provided the processing:

 (A) Destroys or removes the constituents listed in the specification or raises the heating value by removing or destroying constituents or materials;

 (B) Is performed at a facility that is subject to the applicable requirements of parts 262.34, 264, or 265 of this chapter or is an exempt recycling unit pursuant to 261.6(c); and

 (C) Does not violate the dilution prohibition of paragraph (a)(6) of this section.

 (ii) Residuals resulting from the treatment of a hazardous waste listed in subpart D of this part to generate a syngas fuel remain a hazardous waste.

 (6) Dilution prohibition*.* No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a hazardous waste to meet the specifications of paragraphs (a)(1)(i)(A) or (a)(1)(ii) of this section for comparable fuel, or paragraph (a)(2) of this section for syngas.

 (b) Implementation.

 (1) General.

 (i) Wastes that meet the specifications provided by paragraph (a) of this section for comparable fuel or syngas fuel are excluded from the definition of solid waste provided that the conditions under this section are met. For purposes of this section, such materials are called excluded fuel; the person claiming and qualifying for the exclusion is called the excluded fuel generator and the person burning the excluded fuel is called the excluded fuel burner.

 (ii) The person who generates the excluded fuel must claim the exclusion by complying with the conditions of this section and keeping records necessary to document compliance with those conditions.

 (2) Notices*.*

(i) Notices to State RCRA and CAA Directors in authorized States or regional RCRA and CAA Directors in unauthorized States.

 (A) The generator must submit a one-time notice**,** except as provided by paragraph (b)(2)(i)(C) of this section, to the Regional or State RCRA and CAA Directors, in whose jurisdiction the exclusion is being claimed and where the excluded fuel will be burned, certifying compliance with the conditions of the exclusion and providing the following documentation:

 (1) The name, address, and RCRA ID number of the person/facility claiming the exclusion;

 (2) The applicable EPA Hazardous Waste Code(s) that would otherwise apply to the excluded fuel;

 (3) The name and address of the units meeting the requirements of paragraphs (b)(3) and (c) of this section, that will burn the excluded fuel;

 (4) An estimate of the average and maximum monthlyand annual quantity of material for which an exclusion would be claimed, except as provided by paragraph (b)(2)(i)(C) of this section; and

(5) The following statement, which shall be signed and submitted by the person claiming the exclusion or his authorized representative:

 Under penalty of criminal and civil prosecution for making or submitting false statements, representations, or omissions, I certify that the requirements of 261.38 have been met for all comparable fuels identified in this notification. Copies of the records and information required at 261.38(b)(8) are available at the generator's facility. Based on my inquiry of the individuals immediately responsible for obtaining the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(B) If there is a substantive change in the information provided in the notice required under this paragraph, the generator must submit a revised notification.

 (C) Excluded fuel generators must include an estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed only in notices submitted after December 19, 2008 for newly excluded fuel or for revised notices as required by paragraph (b)(2)(i)(B) of this section.

 (ii) Public notice.Prior to burning an excluded fuel, the burner must publish in a major newspaper of general circulation local to the site where the fuel will be burned, a notice entitled “Notification of Burning a Fuel Excluded Under the Resource Conservation and Recovery Act” and containing the following information:

 (A) Name, address, and RCRA ID number of the generating facilities;

 (B) Name and address of the burner and identification of the unit(s) that will burn the excluded fuel;

 (C) A brief, general description of the manufacturing, treatment, or other process generating the excluded fuel;

 (D) An estimate of the average and maximum monthly and annual quantity of the excluded fuel to be burned; and

 (E) Name and mailing address of the Regional or State Directors to whom the generator submitted a claim for the exclusion**.**

 (3) Burning.The exclusionapplies only if the fuel is burned in the following units that also shall be subject to federal/state/local air emission requirements, including all applicable requirements implementing section 112 of the Clean Air Act:

 (i) Industrial furnaces as defined in 260.10 of this chapter;

 (ii) Boilers, as defined in 260.10 of this chapter, that are further defined as follows:

 (A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

 (B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale;

 (iii) Hazardous waste incinerators subject to regulation under subpart O of parts 264 or 265 of this chapter and applicable CAA MACT standards.

 (iv) Gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.

 (4) Fuel analysis plan for generators*.* The generator of an excluded fuel shall develop and follow a written fuel analysis plan which describes the procedures for sampling and analysis of the material to be excluded. The plan shall be followed and retained at the site of the generator claiming the exclusion.

 (i) At a minimum, the plan must specify:

 (A) The parameters for which each excluded fuel will be analyzed and the rationale for the selection of those parameters;

 (B) The test methods which will be used to test for these parameters;

 (C) The sampling method which will be used to obtain a representative sample of the excluded fuel to be analyzed;

 (D) The frequency with which the initial analysis of the excluded fuel will be reviewed or repeated to ensure that the analysis is accurate and up to date; and

 (E) If process knowledge is used in the determination, any information prepared by the generator in making such determination.

 (ii) For each analysis the generator shall document the following:

 (A) The dates and times that samples were obtained, and the dates the samples were analyzed;

 (B) The names and qualifications of the person(s) who obtained the samples;

 (C) A description of the temporal and spatial locations of the samples;

 (D) The name and address of the laboratory facility at which analyses of the samples were performed;

 (E) A description of the analytical methods used, including any clean-up and sample preparation methods;

 (F) All quantitation limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and the description of any deviations from analytical methods written in the plan or from any other activity written in the plan which occurred;

 (G) All laboratory results demonstrating whether the exclusion specifications have been met; and

 (H) All laboratory documentation that support the analytical results, unless a contract between the claimant and the laboratory provides for the documentation to be maintained by the laboratory for the period specified in paragraph (b)(9) of this section and also provides for the availability of the documentation to the claimant upon request.

 (iii) Syngas fuel generators shall submit for approval, prior to performing sampling, analysis, or any management of an excluded syngas fuel a fuel analysis plan containing the elements of paragraph (b)(4)(i) of this section to the appropriate regulatory authority. The approval of fuel analysis plans must be stated in writing and received by the facility prior to sampling and analysis to demonstrate the exclusion of a syngas. The approval of the fuel analysis plan may contain such provisions and conditions as the regulatory authority deems appropriate.

 (5) Excluded fuel sampling and analysis.

 (i) General.For wastes for which an exclusion is claimed under the specifications provided by paragraphs (a)(1) or (a)(2) of this section, the generator of the waste must test for all the constituents in appendix VIII to this part, except those that the generator determines, based on testing or knowledge, should not be present in the fuel. The generator is required to document the basis of each determination that a constituent with an applicable specification should not be present. The generator may not determine that any of the following categories of constituents with a specification in Table 1 to this section should not be present:

 (A) A constituent that triggered the toxicity characteristic for the constituents that were the basis for listing the hazardous secondary material as a hazardous waste, or constituents for which there is a treatment standard for the waste code in 268.40;

 (B) A constituent detected in previous analysis of the waste;

 (C) Constituents introduced into the process that generates the waste; or

 (D) Constituents that are byproducts or side reactions to the process that generates the waste.

 Note to paragraph (b)(5): Any claim under this section must be valid and accurate for all hazardous constituents; a determination not to test for a hazardous constituent will not shield a generator from liability should that constituent later be found in the excluded fuel above the exclusion specifications.

 (ii) Use of process knowledge***.***For each waste for which the comparable fuel or syngas exclusion is claimed where the generator of the excluded fuel is not the original generator of the hazardous waste, the generator of the excluded fuel may not use process knowledge pursuant to paragraph (b)(5)(i) of this section and must test to determine that all of the constituent specifications of paragraphs (a)(1) and (a)(2) of this section, as applicable, have been met.

 (iii) The excluded fuel generator may use any reliable analytical method to demonstrate that no constituent of concern is present at concentrations above the specification levels. It is the responsibility of the generator to ensure that the sampling and analysis are unbiased, precise, and representative of the excluded fuel. For the fuel to be eligible for exclusion, a generator must demonstrate that:

 (A) The 95% upper confidence limit of the mean concentration for each constituent of concern is not above the specification level**;** and

 (B) The analyses could have detected the presence of the constituent at or below the specification level.

 (iv) Nothing in this paragraph preempts, overrides or otherwise negates the provision in 262.11 of this chapter, which requires any person who generates a solid waste to determine if that waste is a hazardous waste.

 (v) In an enforcement action, the burden of proof to establish conformance with the exclusion specification shall be on the generator claiming the exclusion.

 (vi) The generator must conduct sampling and analysis in accordance with the fuel analysis plan developed under paragraph (b)(4) of this section**.**

 (vii) Viscosity condition for comparable fuel.

(A) Excluded comparable fuel that has not been blended to meet the kinematic viscosity specification shall be analyzed asgenerated.

 (B) If hazardous waste is blended to meet the kinematic viscosity specification for comparable fuel, the generator shall:

 (1) Analyze the hazardous waste as generated to ensure that it meets the constituent and heating value specifications of paragraph (a)(1) of this section; and

 (2) After blending, analyze the fuel again to ensure that the blended fuel meets all comparable fuel specifications.

 (viii) Excluded fuel must be re-tested, at a minimum, annually and must be retested after a process change that could change its chemical or physical properties in a manner than may affect conformance with the specifications.

 (6) [Reserved]

 (7) Speculative accumulation*.* Excluded fuel must not be accumulated speculatively, as defined in 261.1(c)(8).

 (8) Operating record*.* The generator must maintain an operating record on site containing the following information:

 (i) All information required to be submitted to the implementing authority as part of the notification of the claim:

 (A) The owner/operator name, address, and RCRA ID number of the person claiming the exclusion;

 (B) For each excluded fuel, the EPA Hazardous Waste Codes that would be applicable if the material were discarded; and

 (C) The certification signed by the person claiming the exclusion or his authorized representative.

 (ii) A brief description of the process that generated the excluded fuel. If the comparable fuel generator is not the generator of the original hazardous waste, provide a brief description of the process that generated the hazardous waste;

 (iii) The monthly and annual quantities of each fuel claimed to be excluded;

 (iv) Documentation for any claim that a constituent is not present in the excluded fuel as required under paragraph (b)(5)(i) of this section;

 (v) The results of all analyses and all detection limits achieved as required under paragraph (b)(4) of this section;

 (vi) If the comparable fuel was generated through treatment or blending, documentation of compliance with the applicable provisions of paragraphs (a)(3) and (a)(4) of this section;

 (vii) If the excluded fuel is to be shipped off-site, a certification from the burner as required under paragraph (b)(10) of this section;

 (viii) The fuel analysis plan and documentation of all sampling and analysis results as required by paragraph (b)(4) of this section. (ix) If the generator ships excluded fuel off-site for burning, the generator must retain for each shipment the following information on-site:

 (A) The name and address of the facility receiving the excluded fuel for burning;

 (B) The quantity of excluded fuel shipped and delivered;

 (C) The date of shipment or delivery;

 (D) A cross-reference to the record of excluded fuel analysis or other information used to make the determination that the excluded fuel meets the specifications as required under paragraph (b)(4) of this section; and

 (E) A one-time certification by the burner as required under paragraph (b)(10) of this section.

 (9) Records retention*.* Records must be maintained for a period of three years.

 (10) Burner certification to the generator*.* Prior to submitting a notification to the State and Regional Directors, a generator of excluded fuel who intends to ship the excluded fuel off-site for burning must obtain a one-time written, signed statement from the burner:

 (i) Certifying that the excluded fuel will only be burned in an industrial furnace, industrial boiler, utility boiler, or hazardous waste incinerator, as required under paragraph (b)(3) of this section;

 (ii) Identifying the name and address of the facility that will burn the excluded fuel; and

 (iii) Certifying that the State in which the burner is located is authorized to exclude wastes as excluded fuel under the provisions of this section.

 (11) Ineligible waste codes*.* Wastes that are listed as hazardous waste because of the presence of dioxins or furans, as set out in appendix VII of this part, are not eligible for these exclusions, and any fuel produced from or otherwise containing these wastes remains a hazardous waste subject to the full RCRA hazardous waste management requirements.

 (12) Regulatory status of boiler residues*.* Burning excluded fuel that was otherwise a hazardous waste listed under 261.31 through 261.33 does not subject boiler residues, including bottom ash and emission control residues, to regulation as derived-from hazardous wastes.

 (13) Residues in containers and tank systems upon cessation of operations.

 (i) Liquid and accumulated solid residues that remain in a container or tank system for more than 90 days after the container or tank system ceases to be operated for storage or transport of excluded fuel product are subject to regulation under parts 262 through 265, 268, 270, 271, and 124 of this chapter.

 (ii) Liquid and accumulated solid residues that are removed from a container or tank system after the container or tank system ceases to be operated for storage or transport of excluded fuel product are solid wastes subject to regulation as hazardous waste if the waste exhibits a characteristic of hazardous waste under 261.21 through 261.24 or if the fuel were otherwise a hazardous waste listed under 261.31 through 261.33 when the exclusion was claimed.

 (iii) Liquid and accumulated solid residues that are removed from a container or tank system and which do not meet the specifications for exclusion under paragraphs (a)(1) or (a)(2) of this section are solid wastes subject to regulation as hazardous waste if:

 (A) The waste exhibits a characteristic of hazardous waste under 261.21 through 261.24; or

 (B) The fuel were otherwise a hazardous waste listed under 261.31 through 261.33. The hazardous waste code for the listed waste applies to these liquid and accumulated solid residues.

 (14) Waiver of RCRA Closure Requirements. Interim status and permitted storage and combustion units, and generator storage units exempt from the permit requirements under 262.34 of this chapter, are not subject to the closure requirements of Parts 264 and 265 provided that the storage and combustion unit has been used to manage only hazardous waste that is subsequently excluded under the conditions of this section, and that afterward will be used only to manage fuel excluded under this section.

 (15) Spills and leaks.

 (i) Excluded fuel that is spilled or leaked and that therefore no longer meets the conditions of the exclusion is discarded and must be managed as a hazardous waste if it exhibits a characteristic of hazardous waste under 261.21 through 261.24 or if the fuel were otherwise a hazardous waste listed in 261.31 through 261.33.

 (ii) For excluded fuel that would have otherwise been a hazardous waste listed in 261.31 through 261.33 and which is spilled or leaked, the hazardous waste code for the listed waste applies to the spilled or leaked material.

 (16) Nothing in this section preempts, overrides, or otherwise negates the provisions in CERCLA Section 103, which establish reporting obligations for releases of hazardous substances, or the Department of Transportation requirements for hazardous materials in 49 CFR parts 171 through 180.

 (c) Failure to comply with the conditions of the exclusion. An excluded fuel loses its exclusion if any person managing the fuel fails to comply with the conditions of the exclusion under this section, and the material must be managed as hazardous waste from the point of generation. In such situations, EPA or an authorized State agency may take enforcement action under RCRA section 3008(a).

**Table 1 to 261.38 Detection and Detection Limit Values for Comparable Fuel Specification -** remove column two entitled: “Composite value (mg/kg)” and Column three entitled: “Heating value (BTU/lb).” The rest of the table should have the numbers edited as shown.

**261.38 Table 1 Detection and Detection Limit Values for Comparable Fuel Specification**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Chemical Name | CAS # |  |  | Concentration Limit (mg/kg at 10,000 BTU/lb) | Minimum Required Detection Limit (mg/kg) |
| Total Nitrogen as N | NA |  |  | 4900 |  |
| Total Halogens as Cl | NA |  |  | 540 |  |
| Total Organic Halogens as Cl | NA |  |  | (a) |  |
| Polychlorinated biphenyls, total [Aroclors, total] | 1336-36-3 |  |  | ND | 1.4 |
| Cyanide, total | 57-12-5 |  |  | ND | 1.0 |
| Metals: |  |  |  |  |  |
| Antimony, total | 7440-36-0 |  |  | 12 |  |
| Arsenic, total | 7440-38-2 |  |  | 0.23 |  |
| Barium, total | 7440-39-3 |  |  | 23 |  |
| Beryllium, total | 7440-41-7 |  |  | 1.2 |  |
| Cadmium, total | 7440-43-9 |  |  | 1.2 |  |
| Chromium, total | 7440-47-3 |  |  | 2.3 |  |
| Cobalt | 7440-48-4 |  |  | 4.6 |  |
| Lead, total | 7439-92-1 |  |  | 31 |  |
| Manganese | 7439-96-5 |  |  | 1.2 |  |
| Mercury, total | 7439-97-6 |  |  | 0.25 |  |
| Nickel, total | 7440-02-0 |  |  | 58 |  |
| Selenium, total | 7782-49-2 |  |  | 0.23 |  |
| Silver, total | 7440-22-4 |  |  | 2.3 |  |
| Thallium, total | 7440-28-0 |  |  | 23 |  |
| Hydrocarbons: |  |  |  |  |  |
| Benzo[a]anthracene | 56-55-3 |  |  | 2400 |  |
| Benzene | 71-43-2 |  |  | 4100 |  |
| Benzo[b]fluoranthene | 205-99-2 |  |  | 2400 |  |
| Benzo[k]fluoranthene | 207-08-9 |  |  | 2400 |  |
| Benzo[a]pyrene | 50-32-8 |  |  | 2400 |  |
| Chrysene | 218-01-9 |  |  | 2400 |  |
| Dibenzo[a,h]anthracene | 52-70-3 |  |  | 2400 |  |
| 7,12-Dimethylbenz[a]anthracene | 57-97-6 |  |  | 2400 |  |
| Fluoranthene | 206-44-0 |  |  | 2400 |  |
| Indeno(1,2,3-cd)pyrene | 193-39-5 |  |  | 2400 |  |
| 3-Methylcholanthrene | 56-49-5 |  |  | 2400 |  |
| Naphthalene | 91-20-3 |  |  | 3200 |  |
| Toluene | 108-88-3 |  |  | 36000 |  |
| Oxygenates: |  |  |  |  |  |
| Acetophenone | 98-86-1 |  |  | 2400 |  |
| Acrolein | 107-02-8 |  |  | 39 |  |
| Allyl alcohol | 107-18-6 |  |  | 30 |  |
| Bis(2-ethylhexyl)phthalate [Di-2-ethylhexyl phthalate] | 117-81-7 |  |  | 2400 |  |
| Butyl benzyl phthalate | 85-68-7 |  |  | 2400 |  |
| o-Cresol [2-Methyl phenol] | 95-48-7 |  |  | 2400 |  |
| m-Cresol [3-Methyl phenol] | 108-39-4 |  |  | 2400 |  |
| p-Cresol [4-Methyl phenol] | 106-44-5 |  |  | 2400 |  |
| Di-n-butyl phthalate | 84-74-2 |  |  | 2400 |  |
| Diethyl phthalate | 84-66-2 |  |  | 2400 |  |
| 2,4-Dimethylphenol | 105-67-9 |  |  | 2400 |  |
| Dimethyl phthalate | 131-11-3 |  |  | 2400 |  |
| Di-n-octyl phthalate | 117-84-0 |  |  | 2400 |  |
| Endothall | 145-73-3 |  |  | 100 |  |
| Ethyl methacrylate | 97-63-2 |  |  | 39 |  |
| 2-Ethoxyethanol [Ethylene glycol monoethyl ether] | 110-80-5 |  |  | 100 |  |
| Isobutyl alcohol | 78-83-1 |  |  | 39 |  |
| Isosafrole | 120-58-1 |  |  | 2400 |  |
| Methyl ethyl ketone [2-Butanone] | 78-93-3 |  |  | 39 |  |
| Methyl methacrylate | 80-62-6 |  |  | 39 |  |
| 1,4-Naphthoquinone | 130-15-4 |  |  | 2400 |  |
| Phenol | 108-95-2 |  |  | 2400 |  |
| Propargyl alcohol [2-Propyn-1-ol] | 107-19-7 |  |  | 30 |  |
| Safrole | 94-59-7 |  |  | 2400 |  |
| Sulfonated Organics: |  |  |  |  |  |
| Carbon disulfide | 75-15-0 |  |  | ND | 39 |
| Disulfoton | 298-04-4 |  |  | ND | 2400 |
| Ethyl methanesulfonate | 62-50-0 |  |  | ND | 2400 |
| Methyl methanesulfonate | 66-27-3 |  |  | ND | 2400 |
| Phorate | 298-02-2 |  |  | ND | 2400 |
| 1,3-Propane sultone | 1120-71-4 |  |  | ND | 100 |
| Tetraethyldithiopyrophosphate [Sulfotepp] | 3689-24-5 |  |  | ND | 2400 |
| Thiophenol [Benzenethiol] | 108-98-5 |  |  | ND | 30 |
| O,O,O-Triethyl phosphorothioate | 126-68-1 |  |  | ND | 2400 |
| Nitrogenated Organics: |  |  |  |  |  |
| Acetonitrile [Methyl cyanide] | 75-05-8 |  |  | ND | 39 |
| 2-Acetylaminofluorene [2-AAF] | 53-96-3 |  |  | ND | 2400 |
| Acrylonitrile | 107-13-1 |  |  | ND | 39 |
| 4-Aminobiphenyl | 92-67-1 |  |  | ND | 2400 |
| 4-Aminopyridine | 504-24-5 |  |  | ND | 100 |
| Aniline | 62-53-3 |  |  | ND | 2400 |
| Benzidine | 92-87-5 |  |  | ND | 2400 |
| Dibenz[a, j]acridine | 224-42-0 |  |  | ND | 2400 |
| O,O-Diethyl O-pyrazinyl phosphorothioate [Thionazin] | 297-97-2 |  |  | ND | 2400 |
| Dimethoate | 60-51-5 |  |  | ND | 2400 |
| p-(Dimethylamino) azobenzene [4-Dimethylaminoazobenzene] | 60-11-7 |  |  | ND | 2400 |
| 3,3[prime]-Dimethylbenzidine | 119-93-7 |  |  | ND | 2400 |
| a,a-Dimethylphenethylamine | 122-09-8 |  |  | ND | 2400 |
| 3,3[prime]-Dimethyloxybenzidine | 119-90-4 |  |  | ND | 100 |
| 1,3-Dinitrobenzene [m-Dinitrobenzene] | 99-65-0 |  |  | ND | 2400 |
| 4,6-Dinitro-o-cresol | 534-52-1 |  |  | ND | 2400 |
| 2,4-Dinitrophenol | 51-28-5 |  |  | ND | 2400 |
| 2,4-Dinitrotoluene | 121-14-2 |  |  | ND | 2400 |
| 2,6-Dinitrotoluene | 606-20-2 |  |  | ND | 2400 |
| Dinoseb [2-sec-Butyl-4,6-dinitrophenol] | 88-85-7 |  |  | ND | 2400 |
| Diphenylamine | 122-39-4 |  |  | ND | 2400 |
| Ethyl carbamate [Urethane] | 51-79-6 |  |  | ND | 100 |
| Ethylenethiourea (2-Imidazolidinethione) | 96-45-7 |  |  | ND | 110 |
| Famphur | 52-85-7 |  |  | ND | 2400 |
| Methacrylonitrile | 126-98-7 |  |  | ND | 39 |
| Methapyrilene | 91-80-5 |  |  | ND | 2400 |
| Methomyl | 16752-77-5 |  |  | ND | 57 |
| 2-Methyllactonitrile, [Acetone cyanohydrins] | 75-86-5 |  |  | ND | 100 |
| Methyl parathion | 298-00-0 |  |  | ND | 2400 |
| MNNG (N-Methyl-N-nitroso- N[prime]- nitroguanidine) | 70-25-7 |  |  | ND | 110 |
| 1-Naphthylamine, [α-Naphthylamine] | 134-32-7 |  |  | ND | 2400 |
| 2-Naphthylamine, [β-Naphthylamine] | 91-59-8 |  |  | ND | 2400 |
| Nicotine | 54-11-5 |  |  | ND | 100 |
| 4-Nitroaniline [p-Nitroaniline] | 100-01-6 |  |  | ND | 2400 |
| Nitrobenzene | 98-96-3 |  |  | ND | 2400 |
| p-Nitrophenol, [p-Nitrophenol] | 100-02-7 |  |  | ND | 2400 |
| 5-Nitro-o-toluidine | 99-55-8 |  |  | ND | 2400 |
| N-Nitrosodi-n-butylamine | 924-16-3 |  |  | ND | 2400 |
| N-Nitrosodiethylamine | 55-18-5 |  |  | ND | 2400 |
| N-Nitrosodiphenylamine, [Diphenylnitrosamine] | 86-30-6 |  |  | ND | 2400 |
| N-Nitroso-N-methylethylamine | 10595-95-6 |  |  | ND | 2400 |
| N-Nitrosomorpholine | 59-89-2 |  |  | ND | 2400 |
| N-Nitrosopiperidine | 100-75-4 |  |  | ND | 2400 |
| N-Nitrosopyrrolidine | 930-55-2 |  |  | ND | 2400 |
| 2-Nitropropane | 79-46-9 |  |  | ND | 2400 |
| Parathion | 56-38-2 |  |  | ND | 2400 |
| Phenacetin | 62-44-2 |  |  | ND | 2400 |
| 1,4-Phenylene diamine, [p-Phenylenediamine] | 106-50-3 |  |  | ND | 2400 |
| N-Phenylthiourea | 103-85-5 |  |  | ND | 57 |
| 2-Picoline [alpha-Picoline] | 109-06-8 |  |  | ND | 2400 |
| Propylthioracil, [6-Propyl-2-thiouracil] | 51-52-5 |  |  | ND | 100 |
| Pyridine | 110-86-1 |  |  | ND | 2400 |
| Strychnine | 57-24-9 |  |  | ND | 100 |
| Thioacetamide | 62-55-5 |  |  | ND | 57 |
| Thiofanox | 39196-18-4 |  |  | ND | 100 |
| Thiourea | 62-56-6 |  |  | ND | 57 |
| Toluene-2,4-diamine [2,4-Diaminotoluene] | 95-80-7 |  |  | ND | 57 |
| Toluene-2,6-diamine [2,6-Diaminotoluene] | 823-40-5 |  |  | ND | 57 |
| o-Toluidine | 95-53-4 |  |  | ND | 2400 |
| p-Toluidine | 106-49-0 |  |  | ND | 100 |
| 1,3,5-Trinitrobenzene, [sym-Trinitrobenzene] | 99-35-4 |  |  | ND | 2400 |
| Halogenated Organics: |  |  |  |  |  |
| Allyl chloride | 107-05-1 |  |  | ND | 39 |
| Aramite | 140-57-8 |  |  | ND | 2400 |
| Benzal chloride [Dichloromethyl benzene] | 98-87-3 |  |  | ND | 100 |
| Benzyl chloride | 100-44-77 |  |  | ND | 100 |
| bis(2-Chloroethyl)ether [Dichloroethyl ether] | 111-44-4 |  |  | ND | 2400 |
| Bromoform [Tribromomethane] | 75-25-2 |  |  | ND | 39 |
| Bromomethane [Methyl bromide] | 74-83-9 |  |  | ND | 39 |
| 4-Bromophenyl phenyl ether [p-Bromo diphenyl ether] | 101-55-3 |  |  | ND | 2400 |
| Carbon tetrachloride | 56-23-5 |  |  | ND | 39 |
| Chlordane | 57-74-9 |  |  | ND | 14 |
| p-Chloroaniline | 106-47-8 |  |  | ND | 2400 |
| Chlorobenzene | 108-90-7 |  |  | ND | 39 |
| Chlorobenzilate | 510-15-6 |  |  | ND | 2400 |
| p-Chloro-m-cresol | 59-50-7 |  |  | ND | 2400 |
| 2-Chloroethyl vinyl ether | 110-75-8 |  |  | ND | 39 |
| Chloroform | 67-66-3 |  |  | ND | 39 |
| Chloromethane [Methyl chloride] | 74-87-3 |  |  | ND | 39 |
| 2-Chloronaphthalene [beta-Chloronaphthalene] | 91-58-7 |  |  | ND | 2400 |
| 2-Chlorophenol [o-Chlorophenol] | 95-57-8 |  |  | ND | 2400 |
| Chloroprene [2-Chloro-1,3-butadiene] | 1126-99-8 |  |  | ND | 39 |
| 2,4-D [2,4-Dichlorophenoxyacetic acid] | 94-75-7 |  |  | ND | 7.0 |
| Diallate | 2303-16-4 |  |  | ND | 3400 |
| 1,2-Dibromo-3-chloropropane | 96-12-8 |  |  | ND | 39 |
| 1,2-Dichlorobenzene [o-Dichlorobenzene] | 95-50-1 |  |  | ND | 2400 |
| 1,3-Dichlorobenzene [m-Dichlorobenzene] | 541-73-1 |  |  | ND | 2400 |
| 1,4-Dichlorobenzene [p-Dichlorobenzene] | 106-46-7 |  |  | ND | 2400 |
| 3,3[prime]-Dichlorobenzidine | 91-94-1 |  |  | ND | 2400 |
| Dichlorodifluoromethane [CFC-12] | 75-71-8 |  |  | ND | 39 |
| 1,2-Dichloroethane [Ethylene dichloride] | 107-06-2 |  |  | ND | 39 |
| 1,1-Dichloroethylene [Vinylidene chloride] | 75-35-4 |  |  | ND | 39 |
| Dichloromethoxy ethane [Bis(2-chloroethoxy)methane] | 111-91-1 |  |  | ND | 2400 |
| 2,4-Dichlorophenol | 120-83-2 |  |  | ND | 2400 |
| 2,6-Dichlorophenol | 87-65-0 |  |  | ND | 2400 |
| 1,2-Dichloropropane [Propylene dichloride] | 78-87-5 |  |  | ND | 39 |
| cis-1,3-Dichloropropylene | 10061-01-5 |  |  | ND | 39 |
| trans-1,3-Dichloropropylene | 10061-02-6 |  |  | ND | 39 |
| 1,3-Dichloro-2-propanol | 96-23-1 |  |  | ND | 30 |
| Endosulfan I | 959-98-8 |  |  | ND | 1.4 |
| Endosulfan II | 33213-65-9 |  |  | ND | 1.4 |
| Endrin | 72-20-8 |  |  | ND | 1.4 |
| Endrin aldehyde | 7421-93-4 |  |  | ND | 1.4 |
| Endrin Ketone | 53494-70-5 |  |  | ND | 1.4 |
| Epichlorohydrin [1-Chloro-2,3-epoxy propane] | 106-89-8 |  |  | ND | 30 |
| Ethylidene dichloride [1,1-Dichloroethane] | 75-34-3 |  |  | ND | 39 |
| 2-Fluoroacetamide | 640-19-7 |  |  | ND | 100 |
| Heptachlor | 76-44-8 |  |  | ND | 1.4 |
| Heptachlor epoxide | 1024-57-3 |  |  | ND | 2.8 |
| Hexachlorobenzene | 118-74-1 |  |  | ND | 2400 |
| Hexachloro-1,3-butadiene [Hexachlorobutadiene] | 87-68-3 |  |  | ND | 2400 |
| Hexachlorocyclopentadiene | 77-47-4 |  |  | ND | 2400 |
| Hexachloroethane | 67-72-1 |  |  | ND | 2400 |
| Hexachlorophene | 70-30-4 |  |  | ND | 59000 |
| Hexachloropropene [Hexachloropropylene] | 1888-71-7 |  |  | ND | 2400 |
| Isodrin | 465-73-6 |  |  | ND | 2400 |
| Kepone [Chlordecone] | 143-50-0 |  |  | ND | 4700 |
| Lindane [gamma-BHC] [gamma-Hexachlorocyclohexane] | 58-89-9 |  |  | ND | 1.4 |
| Methylene chloride [Dichloromethane] | 75-09-2 |  |  | ND | 39 |
| 4,4[prime]-Methylene-bis(2-chloroaniline) | 101-14-4 |  |  | ND | 100 |
| Methyl iodide [Iodomethane] | 74-88-4 |  |  | ND | 39 |
| Pentachlorobenzene | 608-93-5 |  |  | ND | 2400 |
| Pentachloroethane | 76-01-7 |  |  | ND | 39 |
| Pentachloronitrobenzene [PCNB] [Quintobenzene] [Quintozene] | 82-68-8 |  |  | ND | 2400 |
| Pentachlorophenol | 87-88-5 |  |  | ND | 2400 |
| Pronamide | 23950-58-5 |  |  | ND | 2400 |
| Silvex [2,4,5-Trichlorophenoxypropionic acid] | 93-72-1 |  |  | ND | 7.0 |
| 2,3,7,8-Tetrachlorodibenzo-p-dioxin [2,3,7,8-TCDD] | 1746-01-6 |  |  | ND | 30 |
| 1,2,4,5-Tetrachlorobenzene | 95-94-3 |  |  | ND | 2400 |
| 1,1,2,2-Tetrachloroethane | 79-35-4 |  |  | ND | 39 |
| Tetrachloroethylene [Perchloroethylene] | 127-18-4 |  |  | ND | 39 |
| 2,3,4,6-Tetrachlorophenol | 58-90-2 |  |  | ND | 2400 |
| 1,2,4-Trichlorobenzene | 120-82-1 |  |  | ND | 2400 |
| 1,1,1-Trichloroethane [Methyl chloroform] | 71-56-6 |  |  | ND | 39 |
| 1,1,2-Trichloroethane [Vinyl trichloride] | 79-00-5 |  |  | ND | 39 |
| Trichloroethylene | 79-01-6 |  |  | ND | 39 |
| Trichlorofluoromethane [Trichlormonofluoromethane] | 75-69-4 |  |  | ND | 39 |
| 2,4,5-Trichlorophenol | 95-95-4 |  |  | ND | 2400 |
| 2,4,6-Trichlorophenol | 88-06-2 |  |  | ND | 2400 |
| 1,2,3-Trichloropropane | 96-18-4 |  |  | ND | 39 |
| Vinyl Chloride | 75-01-4 |  |  | ND | 39 |

Notes:

NA - Not Applicable.

ND - Nondetect.

(a) 25 or individual halogenated organics listed below.

**(3) Technical Corrections**

**260.10 Amend the definition of “New hazardous waste management facility or new facility” by changing the date “October 21, 1976” to “November 19, 1980”.**

 "New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced after November 19, 1980. (See Also "Existing hazardous waste management facility".)

**260 Appendix I - Remove all of Appendix I. Delete Figures 1-4 as well as text261.1(c)(10) Replace the citation 261.4(a)(13) with 261.4(a)(14)**

 (10) "Processed scrap metal" is scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and, fines, drosses and related materials which have been agglomerated. (Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (261.4(a)(14)).

**261.2(c), Table 1 Replace “Scrap metal other than excluded scrap metal (see 261.1(c)(9))” with “Scrap metal that is not excluded under 261.4(a)(13)”**

| 261.2 Table 1 Summary of definitions of Solid Waste |
| --- |
|  | Use Constituting Disposal(261.2(c)(1)) | Energy Recovery/Fuel(261.2(c)(2)) | Reclamation (261.2(c)(3)), except as provided in 261.2(a)(2)(ii), 261.4(a)(17), 261.4(a)(23), 261.4(a)(24), or 261.4(a)(25) | Speculative Accumulation(261.2(c)(4)) |
|  | (1) | (2) | (3) | (4) |
|  Spent Materials | (\*) | (\*) | (\*) | (\*) |
| Sludges (listed in Section 261.31 or .32) | (\*) | (\*) | (\*) | (\*) |
| Sludges exhibiting a characteristic of hazardous waste | (\*) | (\*) | --- | (\*) |
| By-products (listed in Section 261.31 or 261.32) | (\*) | (\*) | (\*) | (\*) |
| By-products exhibiting a characteristic of hazardous waste | (\*) | (\*) | --- | (\*) |
| Commercial chemical products listed in Section 261.33 | (\*) | (\*) | --- | --- |
| Scrap metal that is not excluded under 261.4(a)(13) | (\*) | (\*) | (\*) | (\*) |

Note: The terms "spent materials," "sludges," "by-products," "scrap metal" and “processed scrap metal” are defined in 261.1

**261.3(a)(2)(iv)(A) Insert the word “spent” before the first occurrence of word “solvents” as shown to correct a word omitted in error. The rest of the paragraph remains the same.**

 (A) One or more of the following spent solvents listed in 261.31 - benezene, carbon tetrachloride, tetrachloroethylene, trichloroethylene or the scrubber waters derived-from the combustion of these spent solvents

**261.4(a)(17)(vi) Change the citation “(a)(7)” to “(b)(7)”**

 (vi) For purposes of 261.4(b)(7) mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes.

**261.5(e)(1) remove reference to 261.32**

 (1) A total of one kilogram of acute hazardous wastes listed in sections 261.31or 261.33(e).

**261.5(e)(2) remove reference to 261.32**

 (2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any acute hazardous wastes listed in sections 261.31 or 261.33(e).

**261.5(e)(2) Comment revise to read: “Full regulation” means those regulations applicable to generators of 1,000 kg or greater of hazardous waste in a calendar month.**

**261.5(f) revise by adding an “(e)” before both (1) and (2) to read: “(e)(1) or (e)(2)” to make sure it is understood that (1) and (2) are both in part (e).**

(f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in paragraph (e)(1) or (e)(2) of this section ...”

**261.5(g) introduction: replace “less than 100 kilograms” with “100 kilograms or less” to clarify limits for a conditionally exempt small quantity generator.**

 (g) In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this section, the generator must comply with the following requirements:

**261.5(g)(2) replace “between 100 kg and 1000 kg of hazardous waste” with “greater than 100 kg and less than 1000 kg of hazardous waste”;**

 (2) The conditionally exempt small quantity generator may accumulate hazardous waste onsite. If he accumulates at any time 1,000 kilograms or greater of his hazardous wastes, all of those accumulated wastes are subject to regulation under the special provisions of part 262 applicable to generators of greater than 100 kg and less than 1000 kg of hazardous waste in a calendar month as well as the requirements of 263 through 266, 268, and 270 and 124, and the applicable notification requirements of section 3010 of RCRA. The time period of 262.34(d) for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes equal or exceed 1000 kilograms.

**261.6(a)(2) Revise subparts C through H” to read “subparts C through N”; add 268 to Parts 270 and 124” as shown:**

 (2) The following recyclable materials are not subject to the requirements of this section but are regulated under subparts C through N of .266 and all applicable provisions in 268, 270 and .124

**261.6(a)(2)(ii) Replace “for energy recovery” with “(as defined in section 266.100(a))”**

 (ii) Hazardous wastes burned (as defined in section 266.100(a)) in boilers and industrial furnaces that are not regulated under subpart O of 264 or 265 (Part 266, Subpart H);

**261.7(b)(1) Remove 261.32.**

(1) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in sections 261.31or 261.33(e) of this regulation, is empty if:

**261.7(b)(3) Remove 261.32.**

 (3) A container or an inner liner removed from a container that has held an acute hazardous waste listed in sections 261.31or 261.33(e) of this regulation is empty if:

**261.23(a)(8) amend this paragraph to correct out of date cross-references with the current DOT regulations to read:**

 (8) It is a forbidden explosive as defined in 49 CFR 173.54, or is a Division 1.1, 1.2 or 1.3 explosive as defined in 49 CFR 173.50 and 173.53.

**261.30(d) remove “or 261.32”**

(d) The following hazardous wastes listed in section 261.31 are subject to the exclusion limits for acutely hazardous wastes established in section 261.5: EPA Hazardous Wastes Nos. F020, F021, F022, F023, F026 and F027.

**261.32(a) table correct the misspelled chemical name “...carboxylic acid hydrazines” to “...carboxylic acid hydrazides”**

| K107 | Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic hydrazides | (C, T) |
| --- | --- | --- |

**At 261.33(f) revise the listing for dU239, “Benzene, dimethyl-(I,T) by removing the “T”**

|  |  |  |
| --- | --- | --- |
| U239 | 1330-20-7 | Benzene, dimethyl- (I) |

**261, Appendix VII - remove the entries “K064,” “K065,” “K066” and “K090.”**

**Add all of 262.23(f) for clarification in the use of the national manifest as shown. Part (f) is inserted after “Note:” that reads in part: “See 263.20(e) and (f) for special provisions ....”**

 (f) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility (following the procedures of 264.72(f) or 265.72(f)), the generator must:

 (1) sign either:

 (i) Item 20 of the new manifest if a new manifest is used for the returned shipment; or

 (ii) Item 18c of the original manifest if the original manifest is used for the returned shipment;

 (2) Provide the transporter a copy of the manifest;

 (3) Within 30 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and

 (4) Retain at the generator’s site a copy of each manifest for at least three years from the date of delivery.

**262.34(a)(4) replace “268.7(a)(5)” with “all applicable requirements under part 268.”**

 (4) The generator complies with the requirements for owners or operators in subparts C and D in R.61-79.265, with 265.15(d) and 265.16, and with all applicable requirements under part 268.

**262.34(b) modify the paragraph as shown to clarify accumulation times:**

(b)A generator who accumulates 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kilogram of acute hazardous waste listed in 261.31 or 261.33(e) in a calendar month, who accumulates hazardous waste or acute hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of parts 264 and 265, and the permit requirements of 270 unless he has been granted an extension to the 90-day period. Such extension may be granted by the Department if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Department on a case-by-case basis.

**262.34(c)(1) Add “264.31 or” before “261.33(e) and add “or (d)” after “(a)”**

 (1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 261.31 or 261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) or (d) of this section provided he:

**262.34(c)(2) Add “261.31 or” before “261.33(e)” and change paragraphs (c)(1)(i) through (ii)” to read “paragraphs (c)(1)(i) and (ii).**

 (2) A generator who accumulates either hazardous waste or acutely hazardous waste listed in 261.31 or 261.33(e) in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of this section or other applicable provisions. During the three-day period the generator must continue to comply with paragraphs (c)(1)(i) and (ii) of this section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

**262.34(d)(4) Replace 268.7(a)(5) with “all applicable requirements under Part 268.”**

 (4) The generator complies with the requirements of paragraphs (a)(2) and (a)(3) of this section, the requirements of subpart C of R.61-79.265, the requirements of all applicable requirements under part 268; and

**262.42.(a)(1) Replace “greater than 1,000 kilograms” with “1,000 kilograms or greater”**

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

**262.42.(a)(2) Replace “greater than 1,000 kilograms” with “1,000 kilograms or greater”**

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

**262.60(b) replace “subpart B” with 262.20 as shown:**

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

**264.52(b) remove “or part 1510 of chapter V”**

 (b) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR part 112, or some other emergency or contingency plan, ...

**264.56(d)(2) Remove the parenthetical phrase “(in the applicable regional contingency plan under part 1510 of this title)”**

 (d)(2) He must immediately notify the Department (using its 24-hour number 803-253-6488) and the government official designated as the on-scene coordinator for that geographical area, and the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include:

**264.72(e)(6) At the end of the provision add: “and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.” as shown:**

 (e)(6) Sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

**264.72(f)(1) Amend as shown changing generator to facility in every occurrence and adding “of the new manifest” at the end of the sentence after “in the designated space for Item 5”:**

 (f)(1) Write the facility’s U.S. EPA ID number in Item 1 of the new manifest. Write the name and mailing address in Item 5 of the new manifest. If the mailing address is different from the site address, then write the facility’s site address in the designated space for Item 5 of the new manifest.

**264.72(f)(7) add reference to subparagraph (8) in the last sentence of this section as shown:**

 (f)(7) The facility must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with paragraphs (f)(1), (2), (3), (4), (5), (6), and (8) of this section.

**264.72(f)(8) add new provision at (8) as shown:**

 (8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in 262.42(a).

**264.195(b) Completely revise this section by removing subparagraphs (b)(1)-(3) and incorporating the text from (b)(2) into the revised paragraph (b).**

 (b) The owner or operator must inspect at least once each operating day data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.

**264.314(d) Change cross-references from “(e)(1)” to “(d)(1)” and “(e)(2)” to “(d)(2)” as shown:**

(d)Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in paragraph (d)(1) of this section; materials that pass one of the tests in paragraph (d)(2) of this section; or materials that are determined by the Department and EPA to be nonbiodegradable through the part 260 petition process.

**264.316(b) Change cross-references from 264.314“(e)” to 264.314”(d)” as shown:**

 (b)... determined to be nonbiodegradable in accordance with 264.314(d), to completely sorb all of the liquid contents of the inside containers. The metal outer container....

**264.552(a)(3)(ii) Revise the citation from “264.314(d)” to “264.314(c)”**

 (ii) The requirements in 264.314(c) for placement of containers holding free liquids in landfills apply to placement in a CAMU except where placement facilitates the remedy selected for the waste.

**264.552(a)(3)(iii) revise the citation 264.314(f) to read 264.314(e) as shown:**

 (iii) The placement of any liquid which is not a hazardous waste in a CAMU is prohibited unless such placement facilitates the remedy selected for the waste or a demonstration is made pursuant to 264.314(e).

**264.552(a)(3)(iv) revise the citation “264.314(c)” to read “264.314(b)” and “264.314(e)” to read “264.314(d)” as shown:**

 (iv) The absence or presence of free liquids in either a containerized or a bulk waste must be determined in accordance with 264.314(b). Sorbents used to treat free liquids in CAMUs must meet the requirements of 264.314(d).

**264.552(e)(4)(iv)(F) Revise the citation from “260.11(a)(11)” to read “260.11(c)(3)(v).”**

 (F) Alternatives to TCLP. For metal bearing wastes for which metals removal treatment is not used, the Department may specify a leaching test other than the TCLP (SW846 Method 1311, 260.11(c)(3)(v) to measure treatment effectiveness, provided the Department determines that an alternative leach testing protocol is appropriate for use, and that the alternative more accurately reflects conditions at the site that affect leaching.

**265.52(b) Remove “or part 1510 of chapter V” as shown:**

 (b) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR part 112 , or some other emergency or contingency plan, he need only...

**265.72(e)(6) add a statement to end of provision as shown:**

 (6) Sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

**265.72(f)(1) Change generator to facility in each occurrence as shown and adding “of the new manifest” at the end of the sentence after “in the designated space for Item 5”:**

 (1) Write the facility's U.S. EPA ID number in Item 1 of the new manifest. Write the facility’s name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility’s site address, then write the facility’s site address in the designated space for Item 5 of the new manifest.

**265.72(f)(7) add reference to subparagraph (8) at the end of this provision as shown:**

 (7) If the original manifest is not used, then the facility must use a new manifest and comply with paragraphs (f)(1), (2), (3), (4), (5), (6) and (8) of this section.

**265.72(f)(8) add new provision (f)(8).**

 (8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in 262.42(a).

**265.224 Remove the [Reserved] status. The section at 265.224 “Response actions” parts (a) - (c) and the subparts of those sections remain the same with no changes.**

**265.314(e) Change cross references as shown:**

 (e) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in paragraph (e)(1) of this section; materials that pass one of the tests in paragraph (e)(2) of this section; or materials that are determined by the Department to be nonbiodegradable through the Part 260 petition process.

**265.314(f) was renumbered from the old 265.314(g). Parts (1) and (2) were to remain the same but were inadvertently removed by the West System in the Cumulative Supplement. Therefore, the current 265.314(f)(1) and (2) need to be reinserted into the text as shown:**

 (1) The only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain, hazardous waste; and

 (2) Placement in such owner or operator’s landfill will not present a risk of contamination of any ‘‘underground source of drinking water’’ (as that term is defined in 40 CFR 270.2).

**265.316(b) correct cross references as shown:**

 (b) ... sorbent material, determined to be nonbiodegradable in accordance with 265.314(e), to completely sorb all of the liquid contents of the inside containers.

**266.20(b) At the end of the paragraph add a new phrase as shown:**

 (b) ... where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain and the recycler complies with 268.7(b)(6).

**268.7(b)(6) In the first part of the first sentence, the reference 268.20(b) should be changed to 266.20(b)**

 (b) Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions of 266.20(b) regarding treatment standards and prohibition levels, the owner or operator...

**268.40 table “Treatment Standards for Hazardous Wastes” for each of the following waste codes: K156, K157 and K158, insert the parenthetical sentence as shown:**

|  |  |
| --- | --- |
| K156 | Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. 10 (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) |
| K157 | Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. 10 (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) |
| K158 | Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. 10 (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) |

**268.48 table for Universal Treatment Standards - correct spelling for Hexachloropropylene by adding last “l” as shown:**

 Hexachloropropylene 1888–71–7 0.035 30

**270.4(a) Redesignate the numbering of this section as follows: paragraph (a) becomes (a)(1); (a)(1) becomes (a)(1)(i); (a)(2) becomes (a)(1)(ii); (a)(3) becomes (a)(1)(iii); (a)(4) becomes (a)(1)(iv); then add paragraph (a)(2) as shown:**

 (1)Compliance with a permit under these regulations during its term constitutes compliance, for purposes of enforcement, with subtitle C of RCRA and except for those requirements not included in the permit which:

 (i) Become effective by statute;

 (ii) Are promulgated under part 268 of this chapter restricting the placement of hazardous wastes in or on the land; or

 (iii) Are promulgated under 264 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of 270.42 Class 1 permit modifications; or

 (iv) Are promulgated under subparts AA, BB, or CC of part 265 of this chapter limiting air emissions.

 (2) A permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in 270.41 and 270.43, or the permit may be modified upon the request of the permittee as set forth in 270.42.

**270.22 In the introductory paragraph, replace “63.1210(b)” with “63.1210(d)” to correct cross reference. The rest of the paragraph following the corrected citation remains the same.**

When an owner or operator of a cement or lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations in part 63, Subpart EEE, (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance) under 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of part 63, subpart EEE,), the requirements of this section do not apply.

**270.25(e)(3) remove the word “design” after “basic control device”. The rest of the paragraph remains the same.**

 (3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of ATPA Course 415: Control of Gaseous Emissions (incorporated by reference as specified in 270.6) or other engineering texts acceptable to the Department that present basic control device information.

**270.42(k)(2)(ii) replace “Director” with “Department” to indicate the state program rather than the Director of the EPA.**

 (ii) The Department may elect to approve or deny the request contingent upon approval of the test plans.

**270.62 Introductory paragraph** replace “63.1210(b)” with “63.1210(d)” after the first parenthetical statement to correct cross reference as shown. The rest of the paragraph remains the same.

...(i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance), under 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of part 63 subpart EEE, ....

**(4) National Manifest Rule**

**Manifest Rule** EPA’s checklist had abbreviated language but did not indicate when language was omitted. This whole section is to insert language that was inadvertently omitted to bring the regulation into conformity with the Code of Federal Regulations. The Manifest Rule is required of all states.

**262.21(b)(6) add the omitted language to provide examples of what can be used to support the qualifications of a company being chosen to print the manifest.**

 (b)(6) A brief description of the qualifications of the company that will print the manifest. The registrant may use readily available information to do so (e.g., corporate brochures, product samples, customer references, documentation of ISO certification), so long as such information pertains to the establishments or company being proposed to print the manifest.

**262.21(c) insert language defining EPA’s actions after reviewing an application for a printer for the manifest shown:**

 (c) EPA will review the application submitted under paragraph (b) of this section and either approve it or request additional information or modification before approving it.

**262.21(d)(1) - (2)(i) insert language as shown to add details for EPA’s approval of a printer for the manifest; (the remainder of the section stays the same); (2)(ii) and (iii) remain the same; in (iv) add “the” before the word “copies”.**

 (1) Upon EPA approval of the application under paragraph (c) of this section , EPA will provide registrant an electronic file of the manifest, continuation sheet, and manifest instructions and ask the registrant to submit three fully assembled manifests and continuation sheet samples, except as noted in paragraph (d)(3) of this section. The registrant’s samples must meet all of the specifications in paragraph (f) of this section and be printed by the company that will print the manifest as identified in the application approved under paragraph (c) of this section.

 (2) The registrant must submit a description of the manifest samples as follows:

 (i) Paper type (i.e., manufacturer and grade of the manifest paper);

 (iv) Method of binding the copies.

**262.21(d)(3) insert language as shown to add details for continuation sheet printing:**

 (3) The registrant need not submit samples of the continuation sheet if it will print its continuation sheet using the same paper type, paper weight of each copy, ink color of the instructions, and binding method as its manifest form samples.

**262.21(e) insert language to add details of printing requirements and how to get EPA’s approval for a company to print manifests as shown:**

 (e) EPA will evaluate the forms and either approve the registrant to print them as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its forms until EPA approves them. An approved registrant must print the manifest and continuation sheet according to its application approved under paragraph (c) and the manifest specifications in paragraph (f) of this section. It also must print the forms according to the paper type, paper weight, ink color of the manifest instructions, and binding method of its approved forms.

**262.21(f)(1)-(6), (6)(i) and (vi): Add language to 262.21(f)(1)-(6), (6)(i) and (vi) as shown. The rest of the section remains the same.**

 (1) The manifest and continuation sheet must be printed with the exact format and appearance as EPA Forms 8700-22 and 8700-22A, respectively. However, information required to complete the manifest may be pre- printed on the manifest form.

 (2) A unique manifest tracking number assigned in accordance with a numbering system approved by EPA must be pre-printed in Item 4. The tracking number must consist of a unique three-letter suffix following nine digits.

 (3) The manifest and continuation sheet must be printed on durable 8.5x11 inch white paper, excluding common stubs (e.g., top- or side-bound stubs). The paper must be durable enough to withstand normal use.

 (4) The manifest and continuation sheet must be printed in black ink that can be legibly photocopied, scanned, and faxed, except that the marginal words indicating copy distribution must be in red ink.

 (5) The manifest and continuation sheet must be printed as six copy forms. Copy-to-copy registration must be exact within 1/32nd of an inch. Handwritten and typed impressions on the form must be legible on all six copies. Copies must be bound together by one or more common stubs that reasonably ensure that they will not become detached inadvertently during normal use.

 (6) Each copy of the manifest and continuation sheet must indicate how the copy must be distributed, as follows:

 (i) Page 1: (top copy): “Designated facility to destination state (if required).”

 (vi) Page 6: (bottom copy) “Generator’s initial copy.”

**262.21(h)(1)-(3) add instructions on updating a printing application and the resulting approval process as shown:**

 (1) If an approved registrant would like to update any of the information provided in its application approved under paragraph (c) of this section (e.g., to update a company phone number or name of contact person), the registrant must revise the application and submit it to the EPA Director of the Office of Resource Conservation and Recovery, along with an indication or explanation of update as soon as practicable after the change occurs. The Agency either will approve or deny the revision. If the Agency denies the revision, it will explain the reasons for the denial, and it will contact the registrant and request further modification before approval.

 (2) If registrant would like a new tracking number suffix, the registrant must submit a proposed suffix to the EPA Director of the Office of Resource Conservation and Recovery, along with the reason for requesting it. The Agency will approve the suffix or deny the suffix and provide an explanation why it is not acceptable.

 (3) If a registrant would like to change paper type, paper weight, ink color of the manifest instructions, or binding method of its manifest or continuation sheet subsequent to approval under paragraph (e) of this section, then the registrant must submit three samples of the revised form for EPA review and approval. If the approved registrant would like to use a new printer, the registrant must submit three manifest samples printed by the new printer, along with a brief description of the printer’s qualifications to print the manifest. EPA will evaluate the manifests and either approve the registrant to print the forms as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decisions by mail. The registrant cannot use or distribute its revised forms until EPA approves them.

**262.21(i)-(l) language is added to clarify the printing requirements and approval process.**

 (i) If, subsequent to its approval under paragraph (e) of this section, a registrant typesets its manifest or continuation sheet instead of using the electronic file of the forms provided by EPA, it must submit three samples of the manifest or continuation sheet to the registry for approval. EPA will evaluate the manifests or continuation sheet to the registry for approval. EPA will evaluate the manifests or continuation sheets and either approve the registrant to print them as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its typeset forms until EPA approves them.

 (j) EPA may exempt a registrant from the requirement to submit form samples under paragraph (d) or (h)(3) of this section if the Agency is persuaded that a separate review of the registrant’s forms would serve little purpose in informing an approval decision (e.g., a registrant certifies that it will print the manifest using the same paper type, paper weight, ink color of the instructions and binding method of the form samples approved for some other registrant). A registrant may request an exemption from EPA by indicating why an exemption is warranted.

 (k) An approved registrant must notify EPA by phone or email as soon as it becomes aware that it has duplicated tracking numbers on any manifests that have been used or distributed to other parties.

 (l) If, subsequent to approval of a registrant under paragraph (e) of this section, EPA becomes aware that the approved paper type, paper weight, ink color of the instructions, or binding method of the registrant’s forms is unsatisfactory, EPA will contact the registrant and require modifications to the form.

**262.21(m)(1) & (i) adds details of the printing process that could result in EPA’s revocation of printing privileges.**

 (1) EPA may suspend and, if necessary, revoke printing privileges if we find that the registrant:

 (i) Has used or distributed forms that deviate from its approved form samples in regard to paper weight, paper type, ink color of the instructions, or binding method; or

**262.23 (f) Insert paragraph (f) and (1) - (4) to add omitted requirements for the shipment of rejected hazardous waste or container residues. This part also corrects an error regarding a designated facility’s preparation of a new manifest in certain returned shipments.**

 (f) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility (following the procedures of 40 CFR 264.72(f) or 265.72(f)), the generator must:

 (1) Sign either:

 (i) Item 20 of the new manifest if a new manifest is used for the returned shipment; or

 (ii) Item 18c of the original manifest if the original manifest is used for the returned shipment;

 (2) Provide the transporter a copy of the manifest;

 (3) Within 30 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and

 (4) Retain at the generator’s site a copy of each manifest for at least three years from the date of delivery.

**262.32(b) make the following changes to the container marking as shown:**

**HAZARDOUS WASTE - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.**

**Generator's Name and Address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Generator's EPA Identification Number \_\_\_\_\_\_\_\_\_\_\_\_**

**Manifest Tracking Number \_\_\_\_\_\_\_\_\_\_\_\_**

**262.42(c) add new section at (c) which includes (c), parts (1) and (2) and a Note to paragraph (c).**

 (c) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of 264.72(e)(1) through (6) or 265.72(e)(1) through (6)), the generator must comply with the requirements of paragraph (a) or (b) of this section, as applicable, for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of paragraph (a) or (b) of this section for a shipment forwarding such waste to an alternate facility by a designated facility:

 (1) The copy of the manifest received by the generator must have the handwritten signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility, and

 (2) The 35/45/60-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

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

**264.72(e)(6) add the omitted language as shown to provide instructions on what to do with a copy of the certification that the waste was properly packaged and labeled:**

 (6) Sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

**264.72(f)(1) corrections and details for filling out the manifest are added; change “generator’s” to “facility’s” name and address in three places for filling out the new manifest and add “of the new manifest” at the end of the last sentence after “in the designated space for Item 5” as shown:**

 (1) Write the facility's U.S. EPA ID number in Item 1 of the new manifest. Write the facility’s name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility’s site address, then write the facility’s site address in the designated space for Item 5 of the new manifest.

**264.72(f)(7) and (8) correct language to add number (8)as shown:**

 (7) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with paragraphs (f)(1), (2), (3), (4), (5), (6) and (8) of this section.

**265.72(e)(6) correct by adding omitted language at end of paragraph to determine where the signed generators certification is to be mailed as shown:**

 (6) Sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

**265.72(f)(1) make corrections to change “generator’s” to “facility’s” address throughout and where to get this information on the new manifest as shown:**

 (1) Write the facility's U.S. EPA ID number in Item 1 of the new manifest. Write the facility’s name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility’s site address, then write the facility’s site address in the designated space for Item 5 of the new manifest.

**265.72(f)(7) Two omission were made in this section: 18(a) was omitted in the first sentence and the last sentence omitted “and (8)”. Make corrections as shown:**

 (7) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with paragraphs (f)(1), (2), (3), (4), (5), (6), and (8) of this section.

**265.72(f)(8) The whole section was omitted so insert this section as shown:**

 (8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in 262.42(a).

**Statement of Need and Reasonableness**:

This Statement of Need and Reasonableness was determined based on staff analysis pursuant to S.C. Code Ann. Section 1-23-115(c)(1)-(3) and (9)-(11), S.C. Code of Laws, 1976, as amended.

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

Purpose: The purpose of these amendments is to maintain State consistency with regulations of the United States Environmental Protection Agency (EPA), which promulgated amendments to 40 CFR 261 through 270, between July 1, 2009 and June 30, 2010. The Department also corrected minor errors and inserted language into the National Manifest requirements that was inadvertently omitted when it was originally adopted.

Legal Authority: South Carolina Hazardous Waste Management Act, 1976 S.C. Code Ann. Section 44-56-10 et seq*.*, S.C. Code of Laws, 1976, as amended.

Plan for Implementation: Existing staff of the Division of Waste Management will implement these changes and will provide a hard copy or CD of R.61-79 to the community at cost through the Department's Freedom of Information Office. Also, a copy of the regulation will be published in electronic form on the SCDHEC Bureau of Land and Waste Management web site.

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

Adoption of the amendments and corrections to R.61-79 will enable compliance with recent federal amendments. See Purpose above.

DETERMINATION OF COSTS AND BENEFITS:

These regulatory amendments are exempt from the requirements of a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because the changes are necessary to maintain compliance with federal regulations and law.

(1) The OECD Rule will be managed at the national level, because the federal government manages import and export requirements but the states are required to adopt the rule into state regulations.

(2) The Emission Comparable Fuel (ECF) exclusion has been removed and ECF will be regulated as a hazardous waste while the exclusions for comparable fuel and synthesis gas are not affected.

(3) The technical corrections section have no costs associated with the corrections and potentially could save money by keeping costly mistakes from occurring.

(4) The correction of the omission of some of the language of the National Manifest Rule has no costs associated with the corrections and will assure the National Manifest Rule will be written and implemented as intended.

UNCERTAINTIES OF ESTIMATES:

No known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

(1) The OECD Rule: the federal government has authority for all import/export of hazardous waste. States are required to adopt the rule into state regulation to make sure each state knows how to implement the rule at the state level and how to handle the import/export of hazardous waste correctly.

(2) The Withdrawal of the Emission Comparable Fuel Exclusion was done because EPA felt the ECF produced from secondary materials is more appropriately classified as a discarded material and regulated as a hazardous waste under RCRA. The exclusions for comparable fuel and synthesis gas fuel remain unchanged.

(3) Hazardous Waste Technical Corrections and Clarifications were adopted in an effort to maintain good governmental practices, regulations need to be updated to make sure cross references and citations are correct. The technical corrections were promulgated to assure that the regulations reference the correct citations and that changes that have occurred over time are accurately reflected in regulation.

(4) National Manifest Rule**.** The goalof the RCRA regulation was to tract hazardous waste from the point of generation to the grave. Previously, each state had its own state manifest system. In passing the National Manifest Rule, EPA was attempting to have one standard for documenting the shipping of hazardous waste throughout the country. In today’s action, language that was inadvertently omitted in the state’s adoption of the national rule was corrected, resulting in avoiding the mishandling of transporting hazardous waste.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:

(1) The OECD Rule. If the OECD Rule had not been adopted, it could have led to mishandling and reporting of the import/export of hazardous waste at the state level. While the export and import of hazardous waste is managed at the national level, the states needed to incorporate the rule into state regulation to assure procedures are followed to facilitate proper and safe management of the import and export of hazardous waste

(2) Withdrawal of the ECF Exclusion. If this rule had not been adopted, fuel that should be handled as hazardous waste would not be subject to being managed as a hazardous waste, subjecting the population and the environment to exposure to hazardous waste.

(3) Hazardous Waste Technical Corrections and Clarifications.If thesecorrectionshad not been adopted, errors could have been made in the management of hazardous waste, needlessly exposing people and the environment to the dangers of hazardous waste.

(4) National Manifest Rule.If this rule had not been adopted, errors could have been made in the documentation of the transportation of hazardous waste leading to potential harm to the transporter, the public and the environment.