PRE-PUBLICATION COPY NOTICE:

The EPA Administrator signed the following final rule on October 28, 2016:

HAZARDOUS WASTE EXPORT-IMPORT REVISIONS FINAL RULE [RIN 2050-AG77; FRL-9947-74-OLEM]

This is a **pre-publication** version of the final rule that EPA is submitting for publication in the *Federal Register*. While the Agency has taken steps to ensure the accuracy of this Internet version of the final rule, it is not the official version of the final rule. Please refer to the official version of the final rule that will appear in a forthcoming *Federal Register* publication. Once the official version of the final rule publishes in the *Federal Register*, the pre-publication version of the final rule that appears on the website will be replaced with a link to the final rule that appears in the *Federal Register* publication.

The docket number for this rulemaking is **EPA-HQ-RCRA-2015-0147**. For further information about the docket, please consult the ADDRESSES section in the front of the final rule.

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 263, 264, 265, 266, 267, 271 and 273

[EPA-HQ-RCRA-2015-0147; FRL-9947-74-OLEM]

RIN 2050-AG77

Hazardous Waste Export-Import Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending existing regulations in 40 CFR Parts 260, 261, 262, 263, 264, 265, 266, 267, 271 and 273 regarding the export and import of hazardous wastes from and into the United States. EPA is making these changes to: provide greater protection to human health and the environment by making existing export and import related requirements more consistent with the current import-export requirements for shipments between members of the Organization for Economic Cooperation and Development (OECD); enable electronic submittal to EPA of all export and import-related documents (e.g., export notices, export annual reports); and enable electronic validation of consent in the Automated Export System (AES) for export shipments subject to RCRA export consent requirements prior to exit. The AES resides in the U.S. Customs and Border Protection's Automated Commercial Environment (ACE).

DATES: This final rule is effective on December 31, 2016. The compliance dates for the various new and updated provisions in this action can be found in section II.D. The incorporation by

reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-HQ-RCRA-2015-0147. All documents in the docket are listed on the http://www.regulations.gov web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through http://www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Laura Coughlan, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery (5304P), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460; telephone number: (703) 308-0005; e-mail address: coughlan.laura@epa.gov.

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

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I. GENERAL INFORMATION

A. List of acronyms used in this action

Acronym	Meaning
ACE	Automated Commercial Environment
AES	Automated Export System

AOC	Acknowledgment of Consent (issued by EPA)
CBI	Confidential Business Information
CBP	United States Customs and Border Protection
CDX	Central Data Exchange
CEC	Commission for Environmental Cooperation
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CROMERR	Cross-Media Electronic Reporting Regulation
CRT	Cathode Ray Tube
CY	Calendar Year
EPA	United States Environmental Protection Agency
FR	Federal Register
FTR	U.S. Census Bureau's Foreign Trade Regulations
HSWA	Hazardous and Solid Waste Amendments
ICR	Information Collection Request
ITDS	International Trade Data System
ITN	Internal Transaction Number (issued by AES)
LAB	Lead-Acid Battery
NAICS	North American Industrial Classification System
NCEDE	Notice and Consent Electronic Data Exchange
NTTAA	National Technology Transfer and Advancement Act
NAFTA	North American Free Trade Agreement
OECD	Organization for Economic Cooperation and Development

OLEM	Office of Land and Emergency Management
OMB	Office of Management and Budget
RCRA	Resource Conservation and Recovery Act
RFA	Regulatory Flexibility Act
SIC	Standard Industrial Classification
SLAB	Spent Lead-Acid Battery
UMRA	Unfunded Mandates Reform Act
WIETS	Waste Import Export Tracking System

B. Does this action apply to me?

The revisions to export and import requirements in this action generally affect four (4) groups: (1) all persons who export or import (or arrange for the export or import) hazardous waste for recycling or disposal, including those hazardous wastes subject to the alternate management standards for (a) universal waste for recycling or disposal, (b) spent lead-acid batteries (SLABs) being shipped for reclamation, (c) industrial ethyl alcohol being shipped for reclamation, (d) hazardous waste samples of more than 25 kilograms being shipped for waste characterization or treatability studies, and (e) hazardous recyclable materials being shipped for precious metal recovery; (2) all recycling and disposal facilities who receive imports of such hazardous wastes for recycling or disposal; (3) all persons who export or arrange for the export of conditionally excluded cathode ray tubes being shipped for recycling; and (4) all persons who transport any export and import shipments described above. Potentially affected entities may include, but are not limited to:

NAICS CODE	NAICS DESCRIPTION
211	Oil and Gas Extraction
212	Mining (except Oil and Gas)
213	Support Activities for Mining
311	Food Manufacturing
324	Petroleum and Coal Products Manufacturing
325	Chemical Manufacturing
326	Plastics and Rubber Products Manufacturing
327	Nonmetallic Mineral Product Manufacturing
331	Primary Metal Manufacturing
332	Fabricated Metal Product Manufacturing
333	Machinery Manufacturing
334	Computer and Electronic Product Manufacturing
335	Electrical Equipment, Appliance, and Component Manufacturing
336	Transportation Equipment Manufacturing
339	Miscellaneous Manufacturing
423	Merchant Wholesalers, Durable Goods
424	Merchant Wholesalers, Nondurable Goods
441	Motor Vehicle and Parts Dealers
482	Rail transportation
483	Water transportation
484	Truck transportation
488	Support Activities for Transportation
531	Real Estate
541	Professional, Scientific, and Technical Services
561	Administrative and Support Services
562	Waste Management and Remediation Services
721	Accommodation
924	Administration of Environmental Quality Programs

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this final rule to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Information on the estimated future economic impacts of this action is presented in section V of this notice, as well as in the Regulatory Impact Analysis available in the docket for this action.

C. What is the agency's authority for taking this action?

EPA's authority to promulgate this rule is found in sections 1002, 2002(a), 3001-3004, and 3017 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), and as amended by the Hazardous and Solid Waste Amendments, 42 U.S.C. 6901 et.seq., 6912, 6921-6924, and 6938.

II. BACKGROUND

A. History and summary of the proposed rule

On October 19, 2015, EPA proposed revisions to the current RCRA regulations governing imports and exports of hazardous waste and certain other materials in part 262 in order to improve protection of public health and the environment (80 FR 63284). First, we proposed to consolidate the hazardous waste import and export regulations so that one set of protective requirements, equivalent to the regulations currently in title 40 of the Code of Federal

Regulations (CFR) Part 262 Subpart H implementing the Organization for Economic Cooperation and Development (OECD) Council Decision controlling transboundary movements of recyclable hazardous waste, would apply to all imports and exports of hazardous waste. Second, we proposed to mandate electronic reporting to EPA to make the process more efficient and to enable increased sharing of hazardous waste import and export data with state programs, the general public, and individual hazardous waste exporters and importers. Third, we proposed to require validation of the consent to export as part of the electronic export information submitted to U.S. Customs and Border Protection (CBP) to provide for more efficient compliance monitoring of hazardous waste export shipments. Fourth, we proposed to require matching of waste stream level consent numbers with waste streams listed on the Resource Conservation and Recovery Act (RCRA) hazardous waste manifests for import and export shipments. Lastly, we proposed to require EPA identification (ID) numbers for those recognized traders[1] arranging for export or import of hazardous waste. For a more detailed description of the proposed revisions, as well as the intended benefits of each revision, please see Sections I.D, III and IV of the proposed rule (80 FR 63284).

The comment period for the proposed rule closed on December 18, 2015. The Agency received thirteen unique sets of comments in response to its October 19, 2015 proposal. Of the thirteen unique comments, three were submitted anonymously, one was submitted by the State of Hawaii's Hazardous Waste Section, three were submitted by individual companies, two were submitted by transportation industry associations, three were submitted by waste treatment related industry associations, and one was submitted by a battery industry association. Most

[1] As defined in the final rule, a recognized trader is a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

commenters supported requiring OECD procedures for all hazardous waste imports and exports and the proposed electronic reporting requirements. But a few commenters expressed varying levels of concern about the readiness of EPA's Waste Import Export Tracking System (WIETS), and the time needed to learn to use the completed system prior to being required to submit documents using the system. In addition, questions were raised by one commenter concerning how the Automated Export System, EPA's WIETS, and EPA's e-Manifest system would work together. After considering all the submitted comments, and recognizing that the modifications to EPA's WIETS are not yet completed, we are finalizing the revisions largely as proposed, but with several additional features that affect the timing of various provisions. First, we have established a transition period to minimize the impacts of applying OECD procedures and EPA ID requirements to those existing export and import shipments occurring under the terms of a consent issued by EPA prior to the effective date of this action. This will allow persons exporting or importing shipments with Canada, Chile, Mexico, or any non-OECD country[2] pursuant to an EPA issued consent to continue to operate under the requirements in effect when the consent was issued until the consent expires, after which they would be required to comply with the new procedures. The final rule also includes the addition of delayed implementation for various electronic reporting requirements to EPA using EPA's WIETS, until a future electronic import-export reporting compliance date to be announced in a separate FEDERAL REGISTER notice. Lastly, the final rule includes the addition of a transition period prior to the required filing of EPA information into the Automated Export System (AES) for export shipments, during which either paper processes or electronic processes at the port may be used until a future AES filing

[2] Transboundary shipments of hazardous waste with Canada, Chile, Mexico or any non-OECD country were previously subject to the export requirements of 40 CFR Part 262 Subpart E or the import requirements of 40 CFR Part 262 Subpart F, and not to the previous version of 40 CFR Part 262 Subpart H.

compliance date, also to be announced in a separate FEDERAL REGISTER notice which may or may not be combined with the previously mentioned FEDERAL REGISTER notice.

B. Rationale for the final rule

Proposed changes to clarify and streamline requirements and convert paper submittals to electronic submittals arose in part from the Agency's periodic retrospective reviews of existing regulations, as called for by Executive Order 13563. Other proposed revisions to replace the paper process for export shipments at the port with an electronic process were needed in order to fulfill the direction set forth in Executive Order 13659 concerning the electronic management of international trade data by the U.S. Government as part of the International Trade Data System (ITDS). Lastly, EPA proposed making all hazardous waste imports and exports subject to the OECD procedures to address concerns and recommendations to strengthen individual shipment oversight in both the 2013 Commission for Environmental Cooperation[3] (CEC) report[4] on the export and recycling of spent lead-acid batteries (SLABs) within North America and the 2015 EPA Office of Inspector General (OIG) report[5] on hazardous waste imports.

As discussed in the proposed rule, EPA proposed applying OECD procedures to strengthen its oversight of such transboundary shipments of hazardous waste, as the harmonized OECD and Basel procedures are widely accepted as the international standard of control for such shipments. Transboundary waste shipments have a higher risk of being misdirected due to the

[3]The Commission for Environmental Cooperation (CEC) is an international organization created by Canada, Mexico and the United States under the North American Agreement on Environmental Cooperation (NAAEC). The CEC was established, among other things, to address regional environmental concerns, help prevent potential trade and environmental conflicts, and to promote the effective enforcement of environmental law. The Agreement complements the environmental provisions of the North American Free Trade Agreement (NAFTA). More information on the CEC is available on its website at www.cec.org.

[4] http://www.cec.org/Storage/149/17479_CEC_Secretariat-SLABs_Report_may7_en_web.pdf

[5] "EPA Does Not Effectively Control or Monitor Imports of Hazardous Waste," July 6, 2015, available online at http://www.epa.gov/sites/production/files/2015-09/documents/oigreportonhwimports015_0.pdf

increased number of custodial transfers, and the entry and exit procedures (and associated temporary storage) at the ports and border crossings for the countries of export, transit and import. Transboundary waste shipments to unapproved destination facilities are at the highest risk of mismanagement.

Under OECD-based procedures, prior notice and consent is required if either the exporting or importing country control the hazardous waste shipment as an export or import of hazardous waste. This allows the country or countries that control the shipment as hazardous waste to review the proposed import or export for compliance with domestic laws and regulations prior to any actual shipment. In cases where the proposed shipment would not comply with domestic laws or regulations or where there might be an issue with the proposed receiving facility, the importing country may deny consent, thus preventing a shipment to a facility that does not have the capacity to manage the waste properly.

For example, a foreign company recently proposed to ship unused methyl bromide to the U.S. for recycling, but import of methyl bromide into the U.S. for anything other than destruction is prohibited under the Clean Air Act. In a separate notice, a different foreign company proposed to ship SLABs to a facility in the U.S. for recycling, but the destination facility listed in the notice was not authorized to recycle SLABs. In each of the examples, EPA being able to review the proposed import for compliance with U.S. laws and regulations prior to any actual shipment prevented shipments that would have not complied with one or more regulations from entering the country. Preventing such non-compliant hazardous waste shipments through requiring consent for all hazardous waste imports is more efficient than trying to inspect all incoming

shipments at every port, consistent with EPA's NextGen principles[6] thus protecting the health and environment for U.S. citizens.

In cases where only one of the countries control the proposed shipment as an import or export shipment of hazardous waste, the OECD procedures are to be followed by the country that controls the shipment as an import or export of hazardous waste. This ensures that the country is able to review the proposed import or export prior to actual shipment, and that the proper transport and management of the individual waste shipment occurs as approved.

When the proposed shipment would comply with domestic laws or regulations and the importing country consents, an international movement document must accompany the shipment from the starting site in the country of export to the destination site in the country of import, and copies of the signed movement document must be sent by the destination facility to the exporter and to the countries of export, import, and transit that respectively control the shipment as an export, import or transit of hazardous waste to confirm receipt of the shipment. Such confirmation reduces the risk of a shipment being misdirected to a country or facility not approved to receive the shipments for disposal or recovery. The confirmation of receipt also highlights any incident where the shipment is interrupted or misdirected, as the exporter and competent authorities will not receive the confirmation from the approved destination facility within expected timeframes. Lastly, the confirmation of receipt provides documentation for both the exporter and the countries of import and export that the shipment in fact went to the approved recycling or disposal facility.

Once received at the approved facility, management (i.e., treatment and disposal, recovery) of each shipment is required to be completed within one year of shipment delivery, and

[6] https://www.epa.gov/compliance/next-generation-compliance

the destination facility must send confirmation of completing such management back to the exporter and to the competent authorities of the countries of export and import that respectively control the shipment as an export or import of hazardous waste. This requirement minimizes the risk of speculative accumulation or abandonment of the waste shipments, and decreases the potential for associated damage to human health and the environment.

As discussed in Section II(B)(4) of the proposed rule, historically the overwhelming majority of the hazardous waste import and export shipments into and out of the United States occur with Canada and Mexico, both of which are member countries of the OECD. Canadian regulations already require U.S. exporters and receiving facilities to comply with OECD requirements through contract terms, and Canadian regulations requires Canadian exporters to comply with OECD requirements, including notice and consent, if the United States controls the planned shipment as an import of hazardous waste. More recently, only 26 export shipments and 111 import shipments out of the 54,152 hazardous waste import and export shipments in 2011 were between the United States and non-OECD countries. Only 84 import shipments out of the 53,376 hazardous waste import and export shipments in 2014 were between the United States and non-OECD countries. Additionally, almost all of the specific non-OECD countries from which the United States received import shipments in 2011 or 2014 (i.e., the Bahamas, Bermuda, the Dominican Republic, Malaysia, the Netherland Antilles, the Philippines, Singapore, Syria) and the specific non-OECD countries to which the United States shipped export shipments in 2011 (i.e., Peru, the Philippines) are Party to the Basel Convention[7] and the OECD procedures

[7] The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal is a comprehensive global environmental agreement on hazardous and other wastes. The Convention has 181 Member countries, also known as Parties, and aims to protect human health and the environment against the adverse effects that may result from the generation, management, transboundary movements and disposal of hazardous and other wastes. The United States is a signatory, but has not yet ratified the Convention. More information on the Basel Convention may be found at www.basel.int.

have been harmonized with the Basel procedures. Thus, the requirements established in this action will make U.S. requirements more consistent with those of our trading partners.

EPA notes that the OECD recovery and disposal operations include operations that would not be generally allowable under domestic RCRA management requirements. The definitions of disposal operations and recovery operations in §262.81 reflect the complete OECD list of operations, and several operations listed solely in Canadian import-export regulations to accurately harmonize operations listed in notices with those of Canada and other OECD countries. If the recovery or disposal operation listed in a notice proposing shipment of a hazardous waste to the U.S. for recovery or disposal is not allowed under RCRA, EPA will object to the notice on that basis. The inclusion of the complete list of OECD and Canadian-specific recovery and disposal operations in §262.81 does not make such operations allowable within the United States if RCRA does not allow such management.

Lastly, EPA would like to re-affirm that the existing U.S.-Canada bilateral agreement, the U.S.-Mexico bilateral agreement, and the three import-only bilateral agreements between the United States and Malaysia, Costa Rica, and the Philippines remain in place and are not affected by these revisions. While the revisions change the applicable requirements for hazardous waste shipments with these countries, these additional requirements are fully consistent with the bilateral agreements.

C. Summary of the final rule

This section provides a brief overview of this final rule and describes the major ways in which this rule differs from the proposal. For a more detailed description and justification of the changes in this final rule, see Section III of this preamble.

Largely as proposed, this final rule removes and reserves 40 CFR Part 262 Subparts E and F, and expands the applicability of a reorganized and clarified 40 CFR Part 262 Subpart H to all hazardous waste transboundary shipments, including those import and export shipments of universal waste managed under 40 CFR Part 273 (or the authorized State equivalent) and specific hazardous wastes (e.g., spent lead-acid batteries) managed under the alternate standards of 40 CFR Part 266 (or authorized State equivalent). Exporters of hazardous waste shipments, and the transporters carrying such shipments, to Canada, Chile, Mexico and any non-OECD country will be required to comply with OECD procedures under new or renewed consents issued after the effective date of this action. Importers and receiving facilities of hazardous waste shipments, and the transporters carrying such shipments, from Canada, Chile, Mexico and any non-OECD country similarly will be required to comply with OECD procedures under new or renewed consents issued to either the foreign exporter or the U.S. importer after the effective date of this action. As required by OECD procedures and originally implemented in 40 CFR 262.82(g), EPA is finalizing the proposed text in §§ 261.4(d), 261.4(e), and 262.82(d) applying the OECD limit of 25 kilograms to all excluded hazardous waste sample import and export shipments. This limit applies in addition to the conditions for the sample exclusions at 40 CFR 261.4(d) and 40 CFR 261.4(e). EPA notes that for treatability samples, the lower of the limits listed in the existing §261.4(e)(2)(ii) and new §261.4(e)(4) would apply. For example, treatability samples of acute hazardous wastes to be imported or exported as excluded samples could be no more than 1 kg.

However, in contrast to the proposed rule, any existing export and import shipments with consents issued prior to the effective date of this action will only be required to comply with the terms of the consent and the original Part 262 subparts E or F based requirements in effect at the time the consents were issued until the relevant consent periods expire. The requirement for

recognized traders arranging for import or export to obtain EPA ID numbers will be similarly phased in, in that those traders with consents issued prior to the effective date of this action will be able to continue managing the shipments occurring under those consents without having to immediately obtain an EPA ID number, and recognized traders will only be required to obtain an EPA ID number prior to arranging for any new or renewed consents to import or export hazardous waste on or after the effective date of this action.

Also in contrast to the proposed rule, electronic reporting to EPA using EPA's WIETS, or its successor system, will be phased in over a period of time to give EPA more time to complete and fully test a number of the electronic documents prior to requiring their use. Only electronic submittal of new export notices for hazardous waste or cathode ray tubes (CRTs) for recycling using EPA's WIETS will be required on the effective date of this action. Export annual reports for hazardous waste and CRTs for recycling will be required to be electronically submitted after a full calendar year of electronic-only AES filing has been required. The one-calendar-year period is necessary because the AES data for exported shipments will be used in EPA's WIETS to build the draft export annual reports and EPA will need one full calendar year of this information in order to produce the appropriate draft export annual report for the exporter's review. The exporter will then have the opportunity to make any changes to reflect any return or rejection made subsequent to the AES filing for each shipment. Electronic submittal to EPA of the remaining seven import and export documents will not be required until after EPA completes and fully tests the electronic documents with the help of volunteer exporters, foreign facilities, importers, and receiving facilities. EPA will announce the future electronic import-export reporting compliance date for those submittals in a separate FEDERAL REGISTER notice. Paper submittals will be required from the effective date of this action until the electronic

submittals are required for each of the following: export annual reports, export exception reports, import notices, and receiving facility notifications of the need to arrange alternate management or return of an individual import shipment. No submittals to EPA will be required for each of the following, until the electronic import-export reporting compliance date (on or after which electronic submittal of these documents to EPA using EPA's WIETS, or its successor system, will be required): export confirmations of receipt, export confirmations of recovery or disposal, import confirmations of receipt, and import confirmations of recovery or disposal. Finally, the final rule clarifies that electronic storage in EPA's WIETS of electronically submitted documents will satisfy EPA's recordkeeping requirements, so long as copies are readily available for viewing and production if requested by any EPA or authorized state inspector, and that the submitter will not be held liable for the inability to produce such documents for inspection if the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the submitter bears no responsibility.

Largely as proposed, EPA is requiring electronic filing in AES for each export shipment. However, the future AES filing compliance date will be announced in a separate FEDERAL REGISTER notice in order to give exporters and their authorized agents more time to revise their filing software and fully test out the procedures, consistent with the approach being used by CBP with other government agencies. Because the AES filing procedures related to validating consent to export a shipment are a new requirement, only a limited number of the exporters and authorized agents were able to test file in a pilot the additional information and validate their consents for individual hazardous waste export shipments as part of their current AES filing procedures prior to the effective date of this action. We are therefore establishing a transition

period during which exporters may choose to comply with either the electronic AES filing procedures or the paper-based procedures at the port. EPA will coordinate with CBP on the selection of the AES filing compliance date, which will be announced in a separate FEDERAL REGISTER notice. On or after the AES filing compliance date, all exporters of hazardous waste and cathode ray tubes for recycling will be required to comply with the AES filing requirements.

The revisions to RCRA hazardous waste manifest-related requirements for hazardous waste export and import shipments are also being finalized largely as proposed with only a few changes. Exporters and receiving facilities will be required to list the consent number for each waste listed in the manifest from the effective date of this action, but the regulatory text no longer specifies exactly where on the manifest the consent numbers must be added. Also in contrast with the proposed rule, the final rule has removed the inadvertently proposed duplicate submittal of paper import manifests to both the e-Manifest system and EPA's International Compliance Assurance Division so that submittal of paper import manifests to EPA's International Compliance Assurance Division is required only until the receiving facility can mail the manifest to the e-Manifest system per §§ 264.71(a)(2)(v)/265.71(a)(2)(v). EPA is not finalizing the regulatory language proposed in §§ 262.83(a)(5) and (6). These provisions had included instructions for the exporter to obtain a confirmation of receipt from the foreign facility and for the exporter to provide direction to the transporter in cases when the shipment was rejected by the foreign facility. This regulatory language had been in the original manifest instructions under 40 CFR Part 262 subpart E. However, EPA is elsewhere finalizing similar requirements such that §§ 262.83(a)(5) and (6) are redundant. Specifically, § 262.83(d)(2)(xv) requires the exporter to direct the foreign facility to confirm receipt of each shipment, § 262.83(f)(3)(i) requires contract terms to direct the foreign facility to inform the exporter if the

shipment cannot be managed according to the consent, § 262.83(e) requires the exporter to arrange for the return of the waste as needed, and § 262.83(h) requires the exporter to file an exception report as needed. Lastly, the proposed deletion of the requirement for transporters to give a copy of the signed and dated manifest to the U.S. customs official at the point of departure from the United States has been amended to reflect the transition period prior to the AES filing compliance date during which the exporter may choose to either electronically file EPA information in AES or follow the existing paper-based process at the port. During the transition period, exporters will be required to inform the transporter whether they have chosen to follow paper-based processes so that the transporter will know whether he or she is required to give a copy of the paper manifest to the U.S. customs official. On or after the electronic AES filing compliance date, no transporter will be required to give a copy of a paper manifest to the U.S. customs official.

Finally, at this time EPA is not finalizing any limits to the number of hazardous waste codes that can be listed to characterize a hazardous waste in export notices, import notices, or export annual reports due to concerns raised by commenters (see response to comment document for more details).

D. Compliance dates for the final rule

This final rule is effective on December 31, 2016. Section 3010(b) of RCRA allows EPA to promulgate a rule with an effective date shorter than six months when other good cause is found and published with the regulation. Under Executive Order 13659, agencies are required to have capabilities, agreements, and other requirements in place by December 31, 2016, to utilize the ITDS and supporting systems, such as the Automated Export System or its successor system, as the primary means of receiving from users the standard set of data and other relevant

documentation (exclusive of applications for permits, licenses, or certifications) required for the release of imported cargo and clearance of cargo for export. In order to comply with Executive Order 13659, the effective date must therefore be December 31, 2016.

EPA is, however, cognizant of the impact these changes will have on those companies or individuals currently exporting or importing hazardous waste under the terms of a consent issued by EPA. As a result, as discussed earlier in this preamble, any consent that was issued by EPA prior to December 31, 2016 for a hazardous waste export or import will remain in effect for the remaining period of consent, and the 40 CFR Part 262 based requirements that existed at the time the consent was issued will remain in effect until the 12-month consent period expires. A copy of those requirements has been placed in the docket. With the exception of filing in the Automated Export System (AES) for each hazardous waste export shipment and listing consent numbers matched to each hazardous waste listed on the RCRA manifest for each hazardous waste import and export shipment, exporters, importers and receiving facilities in the U.S. that intend to renew their consent to export or import hazardous wastes will have the remaining consent period to amend their contracts or equivalent arrangements with their foreign counterparts and transporters, obtain an EPA ID number as needed, register in EPA's Central Data Exchange (CDX) system, and otherwise prepare to comply with the requirements based on OECD procedures and the relevant electronic reporting requirements. Any proposed exports or imports of hazardous waste, and export or import shipments of hazardous waste samples that are greater than 25 kilograms that have not yet received consent to ship prior to December 31, 2016, will be subject to the revised export and import requirements on December 31, 2016, as appropriate.

Hazardous waste exporters with existing consents, or their authorized agents, will be required to file the additional information into AES, or its successor system, for each export

shipment initiated on or after the future AES filing compliance date in accordance with the existing pre-departure filing deadlines in 15 CFR 30.4(b). Exporters of excluded cathode ray tubes for recycling will be subject to similar AES filing conditions for each export shipment initiated on or after the AES filing compliance date. For export shipments occurring prior to the AES filing compliance date, hazardous waste exporters will have to either ensure compliance with the existing paper-based process at the port or use the AES electronic filing procedures. For hazardous waste exporters choosing to use the paper-based process prior to the AES filing compliance date, paper documentation of consent (i.e., a copy of the AOC letter for shipments previously subject to Part 262 subpart E, or a paper movement document for shipments previously subject to Part 262 subpart H) must accompany each export shipment, and for those hazardous waste export shipments that are required to be manifested, the transporter for each shipment will have to give a copy of the signed and dated manifest to the customs official at the port or border crossing.

With respect to electronically submitting import and export related documents to EPA using WIETS or its successor system, actual implementation depends upon when the EPA's system will be ready (i.e., completion of the individual electronic documents in WIETS), and in the case of electronic export annual reports, on EPA having a calendar year of electronic AES filing data upon which to build each draft electronic export annual report in WIETS for the exporter to review and amend as necessary prior to electronically signing and submitting to EPA.

Export notices requesting initial consent or renewal of consent for hazardous wastes and for CRTs proposed to be exported for recycling will be required to be submitted to EPA electronically using EPA's WIETS on the effective date of this action.

Export annual reports for hazardous wastes and for CRTs exported for recycling will be required to be submitted to EPA electronically using EPA's WIETS by March 1 of the year after the AES filing compliance date, as all exporters will have been required to file in AES, or its successor system, for at least the previous calendar year. For hazardous waste export annual reports submitted prior to that date, exporters will be required to submit either a paper export annual report or, for those exporters who chose to comply with the optional AES electronic filing requirements for all export shipments made the previous calendar year, an electronic export annual report using EPA's WIETS. For CRT export annual reports submitted prior to March 1 of the year after the AES filing compliance date, exporters will be required to submit a paper export annual report to EPA.

Because EPA has not yet completed the electronic versions of the export exception report, export confirmation of receipt, export confirmation of recovery or disposal, import notification, import confirmation of receipt, import confirmation of recovery or disposal, or the receiving facility notification of the need to arrange alternate management or return of an import shipment, electronic submittal of these documents will not be required until a future electronic import-export reporting compliance date that will be announced in a separate FEDERAL REGISTER notice. Until that future electronic import-export reporting compliance date, paper versions of the export exception reports, import notices, and receiving facility notifications of the need to arrange alternate management or return of an import shipment will be required to be submitted to EPA via mail or hand delivery. Copies of the export confirmation of receipt and export confirmation of recovery or disposal will not be required to be submitted to EPA in paper form prior to the future electronic import-export reporting compliance date, but exporters will be required to make such confirmations available to EPA or an authorized State inspector upon

request. Copies of the import confirmation of receipt and import confirmation of recovery or disposal similarly will not be required to be submitted to EPA in paper form prior to the future electronic import-export reporting compliance date, but receiving facilities will be required to make such confirmations available to EPA or an authorized State inspector upon request.

The compliance dates for the various major provisions with respect to import and export shipments occurring under consents issued by EPA prior to the effective date of this action are summarized in the table below:

Major Regulatory Provisions in Final Rule	Compliance Date for New or Renewing Shipments Requiring Consent on or After December 31, 2016	Compliance Date for Existing Shipments with Canada, Mexico, Chile, or any non-OECD Country Occurring under Consent Issued by EPA Prior to December 31, 2016	Compliance Date for Existing Shipments with OECD Country other than Canada, Mexico or Chile Occurring under Consent Issued by EPA Prior to December 31, 2016
For Exports of Hazardous Waste Managed under Part 262, Part 266 or Part 273:			
Recognized traders must obtain EPA ID number prior to arranging for export (262.12(d))	12/31/2016	Recognized trader may continue managing shipments occurring under consent issued prior to 12/31/16 until consent period ends without EPA ID number, but may not arrange renewal or new exports without EPA ID number.	Recognized trader may continue managing shipments occurring under consent issued prior to 12/31/16 until consent period ends without EPA ID number, but may not arrange renewal or new exports without EPA ID number.

Major Regulatory Provisions in Final Rule	Compliance Date for New or Renewing Shipments Requiring Consent on or After December 31, 2016	Compliance Date for Existing Shipments with Canada, Mexico, Chile, or any non-OECD Country Occurring under Consent Issued by EPA Prior to December 31, 2016	Compliance Date for Existing Shipments with OECD Country other than Canada, Mexico or Chile Occurring under Consent Issued by EPA Prior to December 31, 2016
Exporters must establish/amend contracts or equivalent arrangements to include items listed in 262.83(f)	12/31/2016	When consent period ends; if requesting renewal of existing shipments, should establish/amend contract during existing period of consent so in place prior to submitting export notice for renewal.	When consent period ends; if requesting renewal of existing shipments, should establish/amend contract during existing period of consent so in place prior to submitting export notice for renewal.
Exporters must submit export notice or renotification with all required OECD items electronically into EPA's WIETS (262.83(b))	12/31/2016	N/A; submittal of notice only required for new or renewing export shipments.	N/A; submittal of notice only required for new or renewing export shipments.
Until future AES filing compliance date EPA will establish in a separate FR notice, exporters must either file in AES for every shipment to validate consent and provide manifest tracking number as appropriate, or must ensure paper proof of consent accompanies shipment (i.e., AOC or international movement document) and paper manifest is given by transporter to U.S. customs official at point of departure; after that date, exporters must file in AES for every shipment (262.83(a)(6))	12/31/2016; either AES filing or paper process at port required for each shipment until future AES filing compliance date; AES filing required thereafter	Same	Same

Major Regulatory Provisions in Final Rule	Compliance Date for New or Renewing Shipments Requiring Consent on or After December 31, 2016	Compliance Date for Existing Shipments with Canada, Mexico, Chile, or any non-OECD Country Occurring under Consent Issued by EPA Prior to December 31, 2016	Compliance Date for Existing Shipments with OECD Country other than Canada, Mexico or Chile Occurring under Consent Issued by EPA Prior to December 31, 2016
Exporters must prepare and provide RCRA manifest for every shipment, listing waste stream consent numbers matched to each listed waste (262.83(c))	12/31/2016	12/31/2016	12/31/2016
Exporters must prepare and provide international movement document for every shipment (262.83(d))	12/31/2016	when consent period ends	required per previous Part 262 Subpart H
Last U.S. transporter must sign and date manifest at port for every shipment, keep copy for records and send back copy to generator; prior to future AES filing compliance date must give copy of paper manifest to U.S. customs official at point of departure if instructed to do so by exporter per 262.83(a)(6)(i)(B)(2) (263.20(g)(4)(ii))	12/31/2016	required per previous Part 262 Subpart E	required per previous Part 262 Subpart H

Major Regulatory Provisions in Final Rule	Compliance Date for New or Renewing Shipments Requiring Consent on or After December 31, 2016	Compliance Date for Existing Shipments with Canada, Mexico, Chile, or any non-OECD Country Occurring under Consent Issued by EPA Prior to December 31, 2016	Compliance Date for Existing Shipments with OECD Country other than Canada, Mexico or Chile Occurring under Consent Issued by EPA Prior to December 31, 2016
Foreign facilities must (per contract terms) send confirmation of receipt using international movement document to U.S. exporter, country of import and any countries of transit that control the shipments as hazardous, and for shipments occurring on or after future electronic import-export reporting compliance date, to EPA electronically into EPA's WIETS using international movement document within 3 days of shipment delivery (262.83(d)(2)(xv) and 262.83(f)(4))	12/31/2016; no paper submittal to EPA; electronic submittal to EPA required to be in contract for shipments occurring on or after future electronic import-export reporting compliance date	when consent period ends; confirmation of receipt required per previous Part 262 Subpart E	Confirmation of receipt using movement document required per previous Part 262 Subpart H
When shipment must be managed at alternate facility in the country of import or another country, or returned to the U.S., the exporter must ensure such arrangements. If the waste must be returned, the exporter must provide for the return of the hazardous waste shipment within ninety days from the time the country of import informs EPA of the need to return the waste or such other period of time as the concerned countries agree (262.83(e))	12/31/2016	when consent period ends	required per previous Part 262 Subpart H

Major Regulatory Provisions in Final Rule	Compliance Date for New or Renewing Shipments Requiring Consent on or After December 31, 2016	Compliance Date for Existing Shipments with Canada, Mexico, Chile, or any non-OECD Country Occurring under Consent Issued by EPA Prior to December 31, 2016	Compliance Date for Existing Shipments with OECD Country other than Canada, Mexico or Chile Occurring under Consent Issued by EPA Prior to December 31, 2016
Exporter must submit exception report to EPA within 30 days (or 1 day prior to return shipment start) if the exporter does not get copy of manifest noting actual departure within 45 days of shipment pickup, or if the exporter does not get confirmation of receipt within 90 days of initial shipment pickup, or if the foreign facility notifies the exporter of the need to return shipment to U.S. or arrange alternate management (262.83(h))	12/31/16; paper submittal to EPA required until future electronic import-export reporting compliance date; electronic submittal to EPA required thereafter	paper submittal required per previous Part 262 Subpart E	paper submittal required per previous Part 262 Subpart H
Foreign facilities must (per contract terms) send confirmation of recovery or disposal no later than 30 days of completing management of shipment and no later than one year after shipment delivery to exporter, country of import if it controls the shipment as hazardous waste, and for shipments occurring on or after future electronic import-export reporting compliance date, to EPA using EPA's WIETS (262.83(f)(5))	12/31/2016; no paper submittal to EPA; electronic submittal to EPA using EPA's WIETS required to be in contract for shipments on or after future compliance date for electronic filing	when consent period ends	paper submittal required per previous Part 262 Subpart H

Major Regulatory Provisions in Final Rule	Compliance Date for New or Renewing Shipments Requiring Consent on or After December 31, 2016	Compliance Date for Existing Shipments with Canada, Mexico, Chile, or any non-OECD Country Occurring under Consent Issued by EPA Prior to December 31, 2016	Compliance Date for Existing Shipments with OECD Country other than Canada, Mexico or Chile Occurring under Consent Issued by EPA Prior to December 31, 2016
Foreign facilities that performed interim recovery or disposal operations must (per contract terms) promptly send confirmation of final recovery or disposal that it receives from final recovery or disposal facility no later than after final facility receives shipment to exporter, country of import if it controls the shipment as hazardous waste, and for shipments occurring on or after future electronic import-export reporting compliance date, to EPA using EPA's WIETS (262.83(f)(6))	12/31/2016; no paper submittal to EPA; electronic submittal to EPA using EPA's WIETS required to be in contract for shipments on or after future electronic import-export reporting compliance date	when consent period ends	paper submittal required per previous Part 262 Subpart H
Exporters must submit export annual report with all OECD items to EPA by March 1 detailing actual shipments made the previous calendar year (262.83(g))	12/31/2016; until one year after AES filing compliance date, exporter must either submit paper report to EPA or submit electronically to EPA using EPA's WIETS if exporter has filed in AES for all shipments made the previous calendar year; electronic submittal to EPA using EPA's WIETS required thereafter.	paper submittal required per previous Part 262 Subpart E (with the exception of OECD-only items)	paper submittal required per previous Part 262 Subpart H

Major Regulatory Provisions in Final Rule	Compliance Date for New or Renewing Shipments Requiring Consent on or After December 31, 2016	Compliance Date for Existing Shipments with Canada, Mexico, Chile, or any non-OECD Country Occurring under Consent Issued by EPA Prior to December 31, 2016	Compliance Date for Existing Shipments with OECD Country other than Canada, Mexico or Chile Occurring under Consent Issued by EPA Prior to December 31, 2016
Exporters must keep each record for 3 years, may keep electronically submitted documents in EPA's WIETS, providing documents are made available to EPA or authorized State inspector upon request (262.83(i))	12/31/2016	12/31/16; recordkeeping of paper records required under previous Part 262 Subpart E	12/31/16; recordkeeping of paper records required under previous Part 262 Subpart H
For Exports of Excluded Cathode Ray Tubes for recovery:			
Exporters must submit export notice or renotification electronically using EPA's WIETS (261.39(a)(5)(ii), 261.39(a)(5)(vi))	12/31/2016	N/A; submittal of notice only required for new or renewing export shipments.	N/A; submittal of notice only required for new or renewing export shipments.
Exporters must file in AES for every shipment to validate consent on or after a future AES filing compliance date (261.39(a)(5)(v))	Optional to file in AES from 12/31/2016 until future AES filing compliance date; required to file in AES thereafter.	same	same
Exporters must submit export annual reports to EPA (261.39(a)(5)(xi))	12/31/2016; paper submittal to EPA prior to one year after future AES filing compliance date; electronic submittal to EPA using EPA's WIETS thereafter.	same	same

Major Regulatory Provisions in Final Rule	Compliance Date for New or Renewing Shipments Requiring Consent on or After December 31, 2016	Compliance Date for Existing Shipments with Canada, Mexico, Chile, or any non-OECD Country Occurring under Consent Issued by EPA Prior to December 31, 2016	Compliance Date for Existing Shipments with OECD Country other than Canada, Mexico or Chile Occurring under Consent Issued by EPA Prior to December 31, 2016
Exporters must keep each record for 3 years, may keep electronically submitted documents in EPA's WIETS, providing documents are made available to EPA or authorized State inspector upon request (261.39(a)(5)(ix), 261.39(a)(5)(xi))	12/31/2016	12/31/16; recordkeeping of paper records required previously	12/31/16; recordkeeping of paper records required previously
For Exports or Imports of Excluded Samples for Characterization or Treatability Studies:			
Mass of excluded sample to be exported to a foreign lab or imported to a U.S. lab must be no more than 25 kg and comply with all other conditions of sample exclusions (262.82(d), 261.4(d), 261.4(e))	12/31/2016; samples exceeding 25 kg must follow export or import requirements in Part 262 Subpart H	12/31/2016; samples exceeding 25 kg must follow export or import requirements in Part 262 Subpart H	12/31/2016; samples exceeding 25 kg must follow export or import requirements in Part 262 Subpart H
For Imports of Hazardous Waste Managed under Part 262, Part 266 or Part 273:			
Recognized traders must obtain EPA ID number prior to arranging for import (262.12(d))	12/31/2016	Recognized trader may continue managing shipments occurring under consent issued prior to 12/31/16 until consent period ends without EPA ID number, but may not arrange renewal or new imports without EPA ID number.	Recognized trader may continue managing shipments occurring under consent issued prior to 12/31/16 until consent period ends without EPA ID number, but may not arrange renewal or new imports without EPA ID number.

Major Regulatory Provisions in Final Rule	Compliance Date for New or Renewing Shipments Requiring Consent on or After December 31, 2016	Compliance Date for Existing Shipments with Canada, Mexico, Chile, or any non-OECD Country Occurring under Consent Issued by EPA Prior to December 31, 2016	Compliance Date for Existing Shipments with OECD Country other than Canada, Mexico or Chile Occurring under Consent Issued by EPA Prior to December 31, 2016
Importers must establish/amend contracts or equivalent arrangements to include items listed in 262.84(f)	12/31/2016	When consent period for consent issued to foreign exporter or importer ends; if requesting renewal of existing shipments, should establish/amend contract during existing period of consent so in place prior to foreign exporter submitting notice to country of export for renewal.	When consent period for consent issued to foreign exporter or importer ends; if requesting renewal of existing shipments, should establish/amend contract during existing period of consent so in place prior to foreign exporter submitting notice to country of export for renewal.
When country of export does not control as hazardous waste export, importers must submit import notice or renotification with all required OECD items to EPA (262.84(b), 264.12(a)(1), 265.12(a)(1))	12/31/16; paper submittal to EPA required prior to future electronic import-export reporting compliance date; electronic submittal to EPA using EPA's WIETS required thereafter	N/A; submittal of notice only required for new or renewing import shipments.	N/A; submittal of notice only required for new or renewing import shipments. Paper submittal required when country of export does not control as hazardous waste export per previous Part 262 Subpart H.
Importers must prepare and provide RCRA manifest for every shipment (262.84(c))	12/31/2016	12/31/2016; required under previous Part 262 Subpart F	12/31/16; required under previous Part 262 Subpart H

Major Regulatory Provisions in Final Rule	Compliance Date for New or Renewing Shipments Requiring Consent on or After December 31, 2016	Compliance Date for Existing Shipments with Canada, Mexico, Chile, or any non-OECD Country Occurring under Consent Issued by EPA Prior to December 31, 2016	Compliance Date for Existing Shipments with OECD Country other than Canada, Mexico or Chile Occurring under Consent Issued by EPA Prior to December 31, 2016
Receiving facilities must send confirmation of receipt using international movement document within 3 days of shipment delivery to foreign exporter, to countries of export and transit that control it as hazardous waste export or transit respectively, and for shipments occurring after the future electronic import-export reporting compliance date, to EPA electronically using EPA's WIETS (262.84(d)(2)(xv), 264.12(a)(2), 264.71(d), 265.12(a)(2), 265.71(d), 267.71(d))	12/31/2016; no paper submittal to EPA; electronic submittal to EPA using EPA's WIETS required for shipments on or after future electronic import-export reporting compliance date	when consent period ends	when consent period ends; paper submittal required per previous Part 262 Subpart H.
Receiving facilities must add waste consent numbers matched to each waste listed in RCRA manifest and send copy of signed manifest to EPA's International Compliance Assurance Division within 30 days of shipment delivery until such time the facility can send the paper manifest to the e-Manifest system (264.71(a)(3), 265.71(a)(3), 267.71(a)(3))	12/31/2016	12/31/2016; replaces requirement to submit paper manifest with copy of import consent documentation in previous Part 264/265/267	12/31/2016; replaces requirement to submit paper manifest with copy of import consent documentation in previous Part 264/265/267

Major Regulatory Provisions in Final Rule	Compliance Date for New or Renewing Shipments Requiring Consent on or After December 31, 2016	Compliance Date for Existing Shipments with Canada, Mexico, Chile, or any non-OECD Country Occurring under Consent Issued by EPA Prior to December 31, 2016	Compliance Date for Existing Shipments with OECD Country other than Canada, Mexico or Chile Occurring under Consent Issued by EPA Prior to December 31, 2016
Receiving facilities must inform importer, foreign exporter, and EPA of need to arrange alternate management for shipment or to return shipment to country of export (262.84(f)(4)(i), 264.12(a)(3), 265.12(a)(3))	12/31/16; paper submittal to EPA required prior to future electronic import-export reporting compliance date; electronic submittal to EPA using EPA's WIETS required thereafter	when consent period ends	when consent period ends; paper submittal required per previous Part 262 Subpart H
Receiving facilities must send confirmation of recovery/disposal no later than 30 days of completing management of shipment and no later than one year after shipment delivery to foreign exporter, to country of export if the country of export controls it as hazardous waste export, and on or after future electronic import-export reporting compliance date, to EPA electronically using EPA's WIETS (262.84(g), 264.12(a)(4)(i), 265.12(a)(4)(i))	12/31/2016; no paper submittal to EPA prior to future electronic import-export reporting compliance date; electronic submittal to EPA using EPA's WIETS thereafter	when consent period ends	when consent period ends; paper submittal required per previous Part 262 Subpart H

Major Regulatory Provisions in Final Rule	Compliance Date for New or Renewing Shipments Requiring Consent on or After December 31, 2016	Compliance Date for Existing Shipments with Canada, Mexico, Chile, or any non-OECD Country Occurring under Consent Issued by EPA Prior to December 31, 2016	Compliance Date for Existing Shipments with OECD Country other than Canada, Mexico or Chile Occurring under Consent Issued by EPA Prior to December 31, 2016
Receiving facilities that performed interim recovery or disposal operations must promptly send confirmation of final recovery/disposal that it receives from final recovery/disposal facility no later than after final facility receives shipment to foreign exporter, to the country of export if the country controls it as a hazardous waste export, and on or after future electronic import-export reporting compliance date, to EPA using EPA's WIETS (262.84(f)(6), 264.12(a)(4)(ii), 265.12(a)(4)(ii))	12/31/2016; no paper submittal to EPA prior to future electronic import-export reporting compliance date; electronic submittal to EPA using EPA's WIETS thereafter	when consent period ends	when consent period ends; paper submittal required per previous Part 262 Subpart H

III. DETAILED DISCUSSION OF THE FINAL RULE

A. Consolidation of hazardous waste import and export requirements consistent with current OECD procedures

As discussed in the previous section, existing export or import shipments occurring under the terms of a consent issued prior to the effective date of this action are not required to comply with the OECD-based requirements in the newly expanded and reorganized Part 262 subpart H, and instead must continue to comply with the terms of the consent and the requirements that applied at the time the consent was issued until the consent expires. Prior to the expiration of the

consent period, any exporter wishing to submit an export notice requesting new consent or a renewal of a previous consent must register in EPA's CDX, obtain an EPA ID number if he or she is a recognized trader that does not already have one, and establish or amend a contract or equivalent arrangement between all parties to require all the OECD-based requirements prior to submitting the export notice electronically. Any importer must similarly register in EPA's CDX, obtain an EPA ID number if he or she is a recognized trader that does not already have one, and establish or amend a contract or equivalent arrangement between all parties to require all the OECD-based requirements prior to the expiration of the consent issued to the foreign exporter. Lastly, receiving facilities that do not also act as an exporter or as an importer must register in EPA's CDX prior to the electronic import-export reporting compliance date in order to electronically submit to EPA import confirmations of receipt, import confirmations of recovery or disposal, and receiving facility notifications of the need to arrange alternate management or the return of an individual import shipment.

Assuming the exporter obtains consent to export on or after the effective date of this action, the exporter must prepare and provide an international movement document containing all the items listed in § 262.83(d) for each export shipment, require that the movement document accompanies each shipment all the way from the shipment starting point in the U.S. to the receiving facility in the country of import, and that all required signatures are obtained. If the shipment starting point is different from the exporter's address, the movement document must list both the exporter's and the shipment origination information (e.g., facility name, address, contact name and phone number, fax number and email address).The exporter must require the foreign receiving facility per contract terms to use the movement document to confirm acceptance of the waste shipment, or to document partial or total rejection of the waste shipment.

Exporters may use the widely accepted OECD/Basel international movement document, or any other movement document required by the country of import provided that all the required information can be included on the movement document. Environment and Climate Change Canada (ECCC) confirmed that use of the Canadian movement document is required in 2015, and Mexico's Secretaría de Medio Ambiente y Recursos Naturales (SEMARNAT) confirmed in Spring 2016 that they would prefer use of the Mexican tracking document to minimize the number of tracking documents accompanying each shipment. Use of the Mexican tracking document is acceptable to EPA so long as all required items in §262.83(d) are included. The contract terms must require foreign facilities to send copies of the international movement document to confirm receipt to the exporter, the country of import and any countries of transit that control the shipment as an import or transit shipment of hazardous waste, respectively, and for shipments occurring on or after the future electronic import-export reporting compliance date EPA will establish in a separate FR notice, to EPA using EPA's WIETS within three (3) days of shipment delivery. If the foreign facility rejects the shipment in part or in whole, the contract terms must require the foreign facility to notify the exporter and the country of import of the need to arrange alternate management or the return of the waste to the United States. If alternate management in the country of import that is acceptable to the exporter and the country of import cannot be found, the exporter must provide for the return of the export shipment within 90 days or some other time frame to which the relevant competent authorities all agree. Whether the shipment is managed at an alternate location or returned, the exporter must submit an exception report to EPA.

If the shipment is accepted by the foreign facility for recovery or disposal, the exporter's contract must require the foreign facility to confirm completion of recovering or disposing of the

waste in the shipment as soon as possible but no later than thirty (30) days after completing recovery or disposal of the shipment, and no later than one (1) year from the shipment's delivery to the foreign facility. The exporter's contract must also require that the foreign facility send such confirmations to the exporter, the country of import, and on or after the future electronic import-export reporting compliance date, to EPA using EPA's WIETS. If the foreign facility is solely performing an interim recovery or disposal operation prior to final recovery or disposal at a final facility, the contract must require the foreign facility to promptly forward copies of confirmations of recovery or disposal that it receives in turn from the final facility to the exporter, the country of import, and on or after the future electronic import-export reporting compliance date, to EPA using EPA's WIETS. By March 1 of each year, the exporter must submit an annual report summarizing all the shipments made during the previous calendar year. All records must be kept by the exporter for at least three (3) years. Records submitted electronically may be kept in the user's account in WIETS, but must be made available to EPA or an authorized state inspector upon request. No exporter may be held liable for the inability to produce such documents for inspection under this section if the exporter can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS for which the exporter bears no responsibility.

With respect to import shipments, a contract or equivalent arrangement between all parties to require all the OECD-based requirements must be established prior to any submittal of a notice. In most cases, prior notice is submitted and the eventual consent is issued to the foreign exporter rather than the importer. At the time the consent is sent back to the foreign exporter via the country of export, EPA will send a copy of import consent documentation to the receiving facility as well. But for cases where the country of export does not control the shipment as an

export of hazardous waste, for whatever reason, the importer will be required to submit a notice directly to EPA requesting consent for the shipments to occur. EPA will issue the consent in such cases to the importer, and will send a copy of the consent documentation to the receiving facility as well. Just as with export shipments, the shipments must be accompanied by an international movement document and the receiving facility must both confirm receipt and confirm recovery or disposal of the waste shipment. If the country of export does not control the shipment as an export of hazardous waste, the receiving facility does not have to send the confirmations of receipt or the confirmations of recovery or disposal to the country of export. If the receiving facility cannot accept the waste shipment, it must notify the foreign exporter, the importer (if different from the receiving facility), and EPA of the need to arrange alternate management or the return of the import shipment. In cases of return, EPA will then notify the country of export of the need for the return within 90 days.

If the receiving facility is solely performing interim recovery or disposal operations prior to final recovery or disposal at another facility, the receiving facility must promptly send confirmations of final recovery or disposal it receives from the final facility to the foreign exporter, to the country of export if it controls the shipment as an export of hazardous waste, and on or after the future electronic import-export reporting compliance date, to EPA.

B. Transition from paper-based to electronic port procedures under ITDS for RCRA waste exports subject to notice and consent

Under Executive Order 13659, EPA and CBP must have the capabilities, agreements, and requirements in place to utilize electronic processes in AES, or its successor system, in place of existing paper processes at the port or border crossing required to clear export shipments for departure. Under existing paper processes for shipments occurring under consents issued prior to

the effective date of this action, transporters of hazardous waste export shipments must carry paper documentation that the exporter has received consent to export the wastes in the shipment, in the form of either EPA's AOC letter for export shipments to Canada, Chile, Mexico, or any non-OECD country, or a movement document for export shipments to all other OECD countries. In addition, for manifested hazardous waste shipments the transporter must give a copy of the signed and dated RCRA manifest to the U.S. customs official at the point of departure. Under the new electronic procedures in AES, or its successor system, exporters will file the following EPA data in the AES, along with the other information required under 15 CFR 30.6:

(1) EPA license required indicator (to declare shipment is subject to RCRA export notice and consent requirements)

(2) Commodity classification code (10 digit, numeric description of the commodity) per 15 CFR 30.6(a)(12)

(3) EPA consent number (specific to waste)

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

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

(6) RCRA hazardous waste manifest tracking number (if required; universal waste, CRTs being shipped for recycling, industrial ethyl alcohol being shipped for reclamation, and SLABs being shipped for recovery of lead are exempt from RCRA manifest requirements under existing RCRA regulations)

(7) Quantity of waste in shipment and units for reported quantity (units established by commodity classification number)

(8) EPA net quantity and EPA net quantity units of measure (if required, must be reported in kilograms if solid waste, and in liters if liquid waste; only required if commodity classification number does not require quantity to be reported in weight or volume units)

Of the items listed previously, only the “EPA license code”, “EPA consent number”, “RCRA hazardous waste manifest tracking number”, “EPA net quantity”, and “EPA net quantity units of measurement” are not already required to be filed in AES under the U.S. Census Bureau’s Foreign Trade Regulations (FTR). Of these five items, one item is only required if the waste is subject to RCRA manifesting requirements and two of the remaining items are only required in cases where the commodity classification number-based quantity reporting does not require that the quantity of the commodity in the shipment be reported in weight or volumetric units (e.g., kg or L). Because an EPA license, or an EPA consent number, is required, AES will require the two to five additional items to be filed, as appropriate, and will validate the country of ultimate destination and the date of export against EPA-supplied reference data for the entered EPA consent number. If the consent number is not in the correct format, AES will provide a fatal error message for the filer that specifies the error in the filing. The filer will then need to correct and resubmit the filing to correct it. If the country of ultimate destination does not match the country of import for the consent number, AES will provide a fatal error message for the filer that specifies the error in the filing. The filer will then need to correct and resubmit the filing. If the expected date of shipment departure does not fall within the start date and end date for the consent number, AES will provide a fatal error message for the filer that specifies the error in the filing. The filer will then need to correct and resubmit the filing. If a RCRA manifest is required for the consent number and the filer does not enter a correctly formatted RCRA manifest number (i.e., nine digits followed by three letters), AES will provide a fatal error message for the filer

that specifies the error in the filing. The filer will then need to correct and resubmit the filing. Lastly, if the EPA net shipping quantity is required to be entered based on the commodity classification number entered and the filer does not enter that quantity, the AES will provide a fatal error message for the filer that specifies the error in the filing. The filer will then need to correct and resubmit the filing. AES will not issue an Internal Transaction Number (ITN) to indicate successful completion until the filing passes all validations. The exporter and transporter will be in violation of the FTR if the shipment is exported without a valid ITN. When the shipment is validated and the ITN issued, the shipment will be cleared to leave the port of export.

As discussed in the previous section, EPA is establishing a transition period under which exporters may choose to comply with either the electronic AES filing procedures or the paper-based procedures at the port. Exporters choosing to use the paper process at the port must provide the paper documentation of consent to the initial transporter, along with a paper RCRA manifest if the shipment is required to be manifested, and must instruct the transporter via email, mail or fax to give a copy of the signed and dated RCRA manifest to the U.S. customs official at the port or border crossing. Exporters choosing to use electronic AES filing procedures must file the EPA data listed above in AES as part of their electronic export information in AES, obtain an ITN number, provide the ITN number to the initial transporter, and if providing the transporter with a paper RCRA manifest, confirm to the transporter that no manifest must be given to the U.S. customs official at the port by manually crossing out the sentence instructing transporters to do so in the Instructions for the International Block on the RCRA manifest.

EPA will coordinate with CBP on the selection of the future AES filing compliance date, but we anticipate that it will likely be at the start of a calendar year to ensure a full calendar year of AES filing data for the first year to enable EPA to build draft export annual reports in EPA's

WIETS for electronic review and submittal by exporters. EPA will announce the future AES filing compliance date in a separate FEDERAL REGISTER notice. On or after the AES filing compliance date, all exporters of hazardous waste and cathode ray tubes for recycling will be required to comply with the AES filing requirements.

C. Conversion of paper submittals for imports and exports to electronic submittals using EPA's Waste Import Export Tracking System

As discussed in the previous section, EPA has not yet completed or tested out electronic versions of the export exception report, export confirmation of receipt, export confirmation of recovery or disposal, import notification, import confirmation of receipt, import confirmation of recovery or disposal, or the receiving facility notification of the need to arrange alternate management or return of an import shipment. Electronic submittal of these documents is therefore not required until a future electronic import-export reporting compliance date that EPA will establish in a separate FEDERAL REGISTER notice. The electronic export notice has been completed, and electronic submittal of export notices requesting new or renewed consent will be required on the effective date of this action. The electronic export annual report has been completed but since the draft export annual report will be built using AES filing data on validated export shipments that is automatically sent from AES to EPA's WIETS, electronic submittal of the export annual report will not be required until one year after the AES filing compliance date. Paper submittals of export annual reports, export exception reports, import notices, and receiving facility notifications of the need to arrange alternate management or return of an individual import shipment will be required from the effective date of this action until the future electronic import-export reporting compliance date. No submittals to EPA of export confirmations of receipt, export confirmations of recovery or disposal, import confirmations of

receipt, or import confirmations of recovery or disposal will be required until the future electronic import-export reporting compliance date, on or after which electronic submittal of these documents to EPA using EPA's WIETS will be required.

D. Availability of Electronic Reporting

As of December 31, 2016, exporters of cathode ray tubes for recycling (40 CFR 261.39(a)(5)(ii)) or RCRA-regulated hazardous wastes (40 CFR 262.83(b)) must complete and submit hazardous waste export notices using EPA's WIETS. EPA's Central Data Exchange (CDX) is the agency entry point for the agency electronic reporting. EPA's WIETS can be accessed by logging into EPA's CDX. As part of the one-time CDX registration process, individual exporters and export preparers must create a CDX account[8]. As of one year after the AES filing compliance date, exporters of cathode ray tubes for recycling (40 CFR 261.39(a)(5)(xi)) or RCRA-regulated hazardous wastes (40 CFR 262.83(g)) can review draft export annual reports generated by WIETS and submit final export annual reports similarly using EPA's WIETS. They can prepare, sign, submit and receive receipt of their export notice or their annual report in WIETS. The submitter can also track which of their export notices are pending or processed.

A separate Federal Register Notice will be published for the other 7 reports (40 CFR 262.83(d)(2)(xv), 262.83(f)(4), 262.83(f)(5), 262.83(f)(6), 262.83(h), 262.84(b), 262.84(d)(2)(xv), 262.84(f)(4)(i), 262.84(f)(6), 262.84(g), 264.12(a)(1), 264.12(a)(2), 264.12(a)(3), 264.12(a)(4)(i), 264.12(a)(4)(ii), 264.71(d), 265.12(a)(1), 265.12(a)(2), 265.12(a)(3), 265.12(a)(4)(i), 265.12(a)(4)(ii), 265.71(d)).

[8] Detailed directions on how to create a CDX account are available at https://dev.epacdx.net/About/UserGuide

How to Access the System: WIETS can be accessed by going to https://cdx.epa.gov and registering with CDX and selecting WIETS as your Program Service.

How to Get Help for the System: The CDX Help desk is available for help with CDX registration for WIETS. There are also several user's guides (for both CDX and the WIETS data system). There is a user guide to guide the user through the registration process on CDX and then there is a user's guide for using WIETS. That guide is posted in WIETS. Users may register in CDX at any time, and EPA encourages those exporters and export preparers that expect to submit export notices in 2017 to begin the CDX registration process as soon as possible. For assistance with registering in CDX, please contact the CDX help desk via phone at 888-890-1995 from 8:00 am to 6:00 pm (EST/EDT), or via email at helpdesk@epacdx.net. For more information about WIETS, please contact Jin Yoo via phone at 202-564-5721 or via email at yoo.jin@epa.gov.

E. Changes to hazardous waste manifest requirements for import and export shipments

As discussed in the previous section, exporters and receiving facilities will be required to list the consent number for each waste matched to each waste listed in the hazardous waste manifest from the effective date of this action but the regulatory text in 262.83(c)(3), 264.71(a)(3)(i), 265.71(a)(3)(i), and 267.71(a)(6), respectively, does not specify exactly where on the manifest the consent numbers must be added. If additional space is needed to list the consent numbers for each waste on the paper manifest, a continuation sheet (EPA Form 8700-22A) should be used. EPA is not specifying where on the manifest to list the consent number for each waste in order to give the exporters and receiving facilities more flexibility in listing the numbers on paper manifests, and to give EPA more flexibility in determining how best to design data entry of the consent numbers in the e-Manifest currently under development. Unlike the other requirements in this rule that are based on the OECD procedures, these new requirements

apply even to existing hazardous waste export and import shipments occurring under the terms of a consent issued prior to the effective date of this action.

Specific to hazardous waste import shipments, receiving facilities continue to be required to submit paper import manifests to EPA's International Compliance Assurance Division (ICAD) within thirty (30) days of shipment delivery, but the text in §§ 264.71(a)(3)(ii), 265.71(a)(3)(ii), and 267.71(a)(6)(ii) now clarifies that submittal to EPA ICAD is required only until the receiving facility can mail the paper manifest to the e-Manifest system per §§ 264.71(a)(2)(v) or 265.71(a)(2)(v).

Specific to hazardous waste export shipments, EPA is not finalizing the regulatory language proposed in §§ 262.83(a)(5) and (6). These provisions had included instructions for the exporter to obtain a confirmation of receipt from the foreign facility and for the exporter to provide direction to the transporter in cases when the shipment was partially or wholly rejected by the foreign facility. This regulatory language had been in the original manifest instructions under 40 CFR Part 262 subpart E. However, EPA is elsewhere finalizing similar requirements such that §§ 262.83(a)(5) and (6) are redundant. Specifically, § 262.83(d)(2)(xv) requires the exporter to direct the foreign facility to confirm receipt of each shipment, § 262.83(f)(3)(i) requires contract terms to direct the foreign facility to inform the exporter if the shipment cannot be managed according to the consent, 262.83(e) requires the exporter to arrange for the return of the waste as needed, and 262.83(h) requires the exporter to file an exception reports as needed. In addition, the proposed deletion of the requirement for transporters to give a copy of the signed and dated manifest to the U.S. customs official at the point of departure from the United States has been amended to reflect the transition period prior to the AES filing compliance date during which the exporter may choose to either electronically file EPA information in AES or follow the existing

paper-based process at the port. During the transition period, exporters will be required to inform the transporter via mail, email or fax whether they have chosen to follow paper-based processes so that the transporter will know whether or not he or she is required to carry paper documentation of consent (i.e., EPA Acknowledgement of Consent letter, international movement document) with the shipment and to give a copy of the paper manifest to the U.S. customs official at the port or border crossing. On or after the AES filing compliance date, no transporter will be required to give a copy of a paper manifest to the U.S. customs official. Lastly, the final revision to the instructions for Item 16 in the Appendix to Part 262 has been modified to delete the last sentence in the instructions to Item 16 in order to reflect that transporters will not be required to give a copy of the manifest to the U.S. customs official at the point of departure on or after the electronic AES filing compliance date. But this form change and the other form changes from the e-Manifest Final rule (79 FR 7518) will not be implemented until the e-Manifest system is available for use, and on or after the AES filing compliance date. Manifest users and manifest suppliers should therefore continue to use their existing supplies of manifests. EPA encourages exporters following electronic AES filing procedures to manually cross out the last sentence in the instructions for Item 16 to confirm that the transporter will not be required to give a copy of the signed and dated manifest to the U.S. Customs official at the port or border crossing.

F. Additional requirements for recognized traders arranging for hazardous waste imports or exports

Under this action, recognized traders arranging for export or import will be required to obtain an EPA ID number prior to arranging for import or export on or after the effective date of this final rule per §262.12. As with the application of OECD procedures, recognized traders will

not have to obtain an EPA ID number to continue managing import and export shipments occurring under the terms of a consent issued by EPA prior to the effective date of this final rule. But any recognized trader must have an EPA ID number prior to requesting a new or renewed consent to export or import. Regulated entities request EPA ID Numbers by submitting EPA Form 8700-12 (or an authorized State's equivalent form). EPA Form 8700-12 will have to be modified in order for recognized traders wishing to arrange for export to request an EPA ID number, as the form and its instructions currently do not reflect this requirement. Changes to EPA Form 8700-12 are developed and approved separate from this action. Until changes to EPA Form 8700-12 can be finalized, EPA recommends that recognized traders wishing to request an EPA ID number in order to arrange for export of hazardous wastes fill out page 1 of the form, reflecting his or her place of business as the site in question, and note on the form in "Item 13-Comments" that the requestor is a recognized trader that arranges for import or export of hazardous waste, universal waste or spent lead batteries subject to Part 262 Subpart H requirements.

G. Incorporation by reference of OECD waste lists

This action updates the IBR source material in § 260.11(g)(1) for the OECD amber and green waste lists, and their associated waste codes, which are used to identify a waste. The OECD waste lists, entitled "List of Wastes Subject to the Green Control Procedures" and "List of Wastes Subject to Amber Control Procedures," are set forth in Appendix 3 and Appendix 4, respectively, of the OECD Decision. The most current waste lists from the OECD Decision have been consolidated and incorporated in Annex B and C of the 2009 "Guidance Manual for the Control of Transboundary Movements of Recoverable Wastes." Sections 262.82(a), 262.83(b)(1)(xi), 262.83(d)(2)(vi), 262.83(g)(4)(iii), 262.84(b)(1)(xi), and 262.84(d)(2)(vi)

reference the IBR material in the revised § 260.11(g)(1). The material is 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-2015-0147) and may be obtained from the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue André Pascal, F-75775 Paris Cedex 16, France. The material is also available online (for free) at http://www.oecd.org/env/waste/42262259.pdf. 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

H. Conforming changes to Parts 260, 262 through 267, 271, and 273

A number of technical level corrections to citations previously referencing Part 262 Subparts E or F were made to reflect applying the expanded Part 262 Subpart H. For a full list of the corrections, please see Section III of the proposed rule or the regulatory text in this action.

I. Related proposed rulemaking

In order to improve information on the movement and disposition of hazardous wastes, and to enable interested members of the community and the government to benefit from the provision of publicly accessible data, EPA intends to separately propose that U.S. exporters and U.S. receiving facilities be required to post the confirmations of receipt and confirmations of recovery or disposal that they receive for export shipments and import shipments respectively to a public company website until the exporters and receiving facilities are required to submit such confirmations electronically to EPA's WIETS on or after the future electronic reporting compliance date that EPA will establish in a separate FEDERAL REGISTER notice.

IV. STATE AUTHORIZATION

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer their own hazardous waste programs in lieu of the federal program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for State authorization are found at 40 CFR part 271.

Prior to enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final RCRA authorization administered its hazardous waste program entirely in lieu of EPA administering the federal program in that State. The federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in that State, since only the State was authorized to issue RCRA permits. When new, more stringent federal requirements were promulgated, the State was obligated to enact equivalent authorities within specified time frames. However, the new federal requirements did not take effect in an authorized State until the State adopted the federal requirements as State law.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), which was added by HSWA, new requirements and prohibitions imposed under HSWA authority take effect in authorized States at the same time that they take effect in unauthorized States. EPA is directed by the statute to implement these requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA related provisions as State law to retain final authorization, EPA implements the HSWA provisions in authorized States until the States do so.

Authorized States are required to modify their programs only when EPA enacts federal requirements that are more stringent or broader in scope than existing federal requirements. RCRA section 3009 allows the States to impose standards more stringent than those in the

federal program (see also 40 CFR 271.1). Therefore, authorized States may, but are not required to, adopt federal regulations, both HSWA and non-HSWA, that are considered less stringent than previous federal regulations.

B. Effect on State Authorization

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

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

This rule contains many amendments to 40 CFR part 262 subpart H, both for clarity and organization, and replaces the regulations that are currently in 40 CFR part 262 subparts E and F with the more stringent 40 CFR part 262 subpart H regulations. The rule also contains conforming import and export-related amendments to 40 CFR parts 260, 261, 262, 263, 264, 265, 266, 267, 271 and 273, almost all of which are more stringent.

The States that have already adopted 40 CFR part 262 subparts E, F and H, 40 CFR part 263, 40 CFR part 264, 40 CFR part 265, and any other import/export related regulations must adopt the revisions to those provisions in this final rule. But only States that have previously

adopted the optional CRT conditional exclusion in 40 CFR 261.39, or the optional exclusions for samples in 40 CFR 261.4(d) and 40 CFR 261.4(e) are required to adopt the revisions related to those exclusions in this final rule.

When a State adopts the import/export provisions in this rule (if final), they must not replace Federal or international references or terms with State references or terms.

The provisions of this rule will take effect in all States on the effective date of the rule, since these import and export requirements will be administered by the Federal government as a foreign policy matter, and will not be administered by States.

V. STATUTORY AND EXECUTIVE ORDER REVIEWS

Additional information about these statutes and Executive Orders can be found at https://www.epa.gov/laws-regulations/laws-and-executive-orders.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review, because it may raise novel legal or policy issues [3(f)(4)] arising out of legal mandates, although it is not economically significant. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared a regulatory impact analysis of the potential costs and benefits associated with this action. This analysis, titled "Regulatory Impact Analysis: EPA's Hazardous Waste Export-Import Revisions Final Rule," is available in the docket.

This rule is projected to result in aggregate annualized costs (i.e., including both industry and government costs) of approximately $2.42 and $2.44 million using a discount rate of 3 percent or 7 percent, and assuming a 2018 electronic import-export reporting compliance date for

EPA's WIETS. Costs are $2.37 and 2.38 million assuming a 2022 electronic import-export reporting compliance date for EPA's WIET and 3 and 7 percent discount rates, respectively. Costs to industry represent approximately 62 percent of this total. This is significantly below the $100 million threshold established under part 3(f)(1) of the Executive Order. This rule is therefore not considered to be an economically significant action.

In addition to calling for assessment of regulatory costs, the Executive Order also requires Federal agencies to assess benefits and, "recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs." As described in Chapter 3 of the RIA, monetization of all the rule's benefits is not possible given limitations in the available data. The analysis, however, estimates that the rule will lead to quantifiable annualized cost savings of $0.7 million using a discount rate of 3 percent or 7 percent associated with the relaxation of certain requirements and Agency benefits associated with the electronic submission of notices, annual reports, and other documents. Cost savings to industry represent approximately 66 percent of this total. In addition, the rule would lead to certain benefits that cannot be quantified. These include increased efficiency and convenience of electronic submission, enhanced tracking of hazardous waste transportation recognized trader activities, increased regulatory efficiency, consistency with trade requirements for OECD countries, reduction of risks associated with the treatment and disposal of hazardous wastes, and improved ability to acquire information regarding exports and imports of hazardous waste.

B. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request

(ICR) document that the EPA prepared has been assigned EPA ICR number 2519.02, OMB ICR Control Number 2050-0214. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The requirements covered in this ICR are necessary for EPA to oversee the international trade of hazardous wastes. EPA is promulgating the above regulatory changes/amendments under the authority of Sections 1006, 1007, 2002(a), 3001 through 3010, 3013 through 3015, and 3017 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), and as amended by the Hazardous and Solid Waste Amendments, 42 U.S.C. 6905, 6906, 6912, 6921 through 6930, 6934, and 6938.

The Office of Enforcement and Compliance Assurance, U.S. EPA, uses the information provided by each U.S. exporter, receiving facility, transporter, and recognized trader to determine compliance with the applicable RCRA regulatory provisions. In addition, the information is used to determine the number, origin, destination, and type of exports from and imports to the U.S. for tracking purposes and for reporting to the OECD. This information also is used to assess the efficiency of the program.

Most of the information required by the regulations covered by this ICR is not available from any source but the respondents. In certain occasions, such as the notification of intent to export hazardous waste, EPA allows the primary exporter to submit one notice that covers activities over a period of twelve months.

Except as described below, this rule does not result in the collection of duplicate data. Although some of the information required for the hazardous waste manifest and the movement document is substantively the same, up to six pieces of additional information are required for the movement document. In addition, these two documents serve different purposes. A signed

copy of the hazardous waste manifest, which is not valid beyond U.S. borders, is sent back to the U.S. exporter when the shipment leaves the U.S. to verify pertinent information, including point of departure, date of departure, destination, and contents of the shipment. The movement document must accompany the shipment until it reaches the foreign recovery facility. The signed movement document is subsequently returned to EPA and the U.S. exporter to acknowledge receipt of the shipment.

In certain cases, some of the information on the tracking document also may be collected in the Automated Export System (AES), or successor system. An AES filing is required for all shipments that are valued over $2,500 per Schedule B number or when a license is required. However, the information currently contained in the AES is not adequate for EPA's purpose of tracking and identifying the export of hazardous waste from the U.S. For example, the wastes are identified by tariff codes that are less precise than the waste codes required by the tracking document.

Section 3007(b) of RCRA and 40 CFR Part 2, subpart B, which defines EPA’s general policy on public disclosure of information, contain provisions for confidentiality. However, the Agency does not anticipate that businesses will assert a claim of confidentiality covering all or part of the final rule. If such a claim were asserted, EPA must and will treat the information in accordance with the regulations cited above. EPA also will assure that this information collection complies with the Privacy Act of 1974 and OMB Circular 108.

Respondents/affected entities: Importers, exporters, and recycling and disposal facilities.

Respondent’s obligation to respond: Mandatory (RCRA 3002 (42 U.S.C 6922) and RCRA 3003 (42 U.S.C 6923)).

Estimated number of respondents: 1,305.

Frequency of response: Annual or on occasion.

Total estimated burden: 29,563 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,958,103 million, includes $19,455 annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the *Federal Register* and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are exporters, importers, transporters, and recognized traders. The Agency has determined that between 22 and 25 percent of exporters, importers, and recognized traders, and approximately 80 percent of transporters, are small entities, for a total of 555 small entities, may experience an impact between 0.1 and 0.3 percent of annual revenues. Thus, the average costs of the rule, on a per entity basis, is expected to be less than one percent of annual revenues for any regulated entity. Details of this analysis are presented in the document titled "Regulatory Impact Analysis: EPA's Hazardous Waste Export-Import Revisions Final Rule," which is available in the docket.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Further, UMRA does not apply to the portions of this action concerning application of OECD import and export procedures because those portions are necessary for the national security or the ratification or implementation of international treaty obligations (i.e., the 1986 OECD Decision-Recommendation and the Amended 2001 OECD Decision).

E. Executive Order 13132: Federalism

This action does not have federalism implications because the state and local governments do not administer the export and import requirements under RCRA. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. No exporters, importers or transporters affected by this action are known to be owned by Tribal governments or located within or adjacent to Tribal lands. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it is not

economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The procedural requirements in this action should prevent mismanagement of hazardous wastes in foreign countries and better document proper management of imported hazardous wastes in the United States.

H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This action will have little to no effect on the supply, distribution, or use of energy, as this action is intended to prevent mismanagement of hazardous wastes in foreign countries and better document proper management of imported hazardous wastes in the United States.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because this action should prevent mismanagement of hazardous wastes in foreign countries and better document proper management of imported hazardous wastes in the United States. Specifically, this action is designed to increase tracking of individual hazardous waste import and export shipments,

improve regulatory efficiency and improve information collection on imports and exports of hazardous wastes subject to RCRA notice and consent requirements.

K. Executive Order 13659: Streamlining the Export/Import Process for America's Businesses

Executive Order 13659, titled "Streamlining the Export/Import Process for America's Businesses" (79 FR 10657, February 25, 2014), establishes federal executive policy on improving the technologies, policies, and other controls governing the movement of goods across our national borders. It directs participating agencies to have capabilities, agreements, and other requirements in place by December 31, 2016, to utilize the ITDS and supporting systems as the primary means of receiving from users the standard set of data and other relevant documentation (exclusive of applications for permits, licenses, or certifications) required for the release of imported cargo and clearance of cargo for export. To meet the requirement of the Executive Order, portions of this action directly require exporters subject to RCRA export consent requirements to electronically file consent related data and the manifest tracking number within AES, the supporting IT system for exports under the ITDS after a transition period. Additionally, this action improves regulatory efficiency related to hazardous waste imports and exports by consolidating import and export procedures for hazardous waste into one set of procedures that are widely accepted by other countries, and by replacing existing submittals to EPA of paper documentation related to hazardous waste imports and exports with electronic submittal into EPA's WIETS. Thus, this action complies with Executive Order 13659.

L. Congressional Review Act

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Incorporation by reference.

40 CFR Part 261

Environmental protection, Hazardous materials, Intergovernmental relations, Recycling, Waste treatment and disposal.

40 CFR Part 262

Environmental protection, Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, International organizations, Labeling, Packaging and containers, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 263

Environmental protection, Exports, Hazardous materials transportation.

40 CFR Part 264

Environmental protection, Hazardous waste, Imports, Packaging and containers, Reporting and recordkeeping requirements.

40 CFR Part 265

Environmental protection, Hazardous waste, Imports, Packaging and containers, Reporting and recordkeeping requirements.

40 CFR Part 266

Environmental protection, Exports, Hazardous recyclable materials, Imports, Precious metal recovery, Recycling, Spent Lead-Acid Batteries, Waste treatment and disposal.

40 CFR Part 267

Environmental protection, Hazardous waste, Imports, Reporting and recordkeeping requirements

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Hazardous materials transportation, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 273

Environmental protection, Exports, Imports, Universal waste.

Dated:_____

_____

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, EPA amends title 40, chapter 1 of the Code of Federal Regulations as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921-6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

2. Amend § 260.10 by adding, in alphabetical order, the definitions of "AES filing compliance date," "Electronic import-export reporting compliance date," and "Recognized trader" to read as follows:

§ 260.10 Definitions.

* * * * *

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

* * * * *

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

* * * * *

Recognized trader means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or

disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

* * * * *

3. Amend § 260.11 by revising paragraph (g) to read as follows:

§ 260.11 Incorporation by reference.

* * * * *

(g) The following materials are available for purchase from the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue André Pascal, F-75775 Paris Cedex 16, France.

(1) Guidance Manual for the Control of Transboundary Movements of Recoverable Wastes, copyright 2009, Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure and Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure, IBR approved for 262.82(a), 262.83(b),(d), and (g), and 262.84(b) and (d) of this chapter.

(2) [Reserved]

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

4. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

5. Amend §261.4 by:

a. Revising paragraph (d)(1) introductory text;

b. Adding paragraph (d)(4);

c. Revising paragraph (e)(1) introductory text; and

d. Adding paragraph (e)(4).

The revisions and additions read as follows:

§ 261.4 Exclusions.

* * * * *

(d) *Samples.* (1) Except as provided in paragraphs (d)(2) and (d)(4) of this section, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this part or parts 262 through 268 or part 270 or part 124 of this chapter or to the notification requirements of section 3010 of RCRA, when:

* * * * *

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

(e) *Treatability Study Samples*. (1) Except as provided in paragraphs (e)(2) and (e)(4) of this section, persons who generate or collect samples for the purpose of conducting treatability studies as defined in section 260.10, are not subject to any requirement of parts 261 through 263 of this chapter or to the notification requirements of Section 3010 of RCRA, nor are such samples included in the quantity determinations of § 261.5 and § 262.34(d) when:

* * * * *

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

* * * * *

6. Amend §261.6 by revising paragraphs (a)(3)(i) and (a)(5) to read as follows:

§ 261.6 Requirements for recyclable materials.

(a) * * *

(3) * * *

(i) Industrial ethyl alcohol that is reclaimed except that exports and imports of such recyclable materials must comply with the requirements of 40 CFR part 262, subpart H.

* * * * *

(5) Hazardous waste that is exported or imported for purpose of recovery is subject to the requirements of 40 CFR part 262, subpart H.

* * * * *

7. Amend § 261.39 by revising paragraphs (a)(5)(ii), (v), (vi), (ix), and (xi) to read as follows:

§ 261.39 Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.

(a) * * *

(5) * * *

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

* * * * *

(v) The export of CRTs is prohibited unless all of the following occur:

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

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

(1) Submit Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b).

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

(i) EPA license code;

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

(iii) EPA consent number;

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

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

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

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

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

* * * * *

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

Acknowledgement for inspection under this section if the CRT exporter can demonstrate that the inability to produce such copies are due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the CRT exporter bears no responsibility.

* * * * *

(xi) Prior to one year after the AES filing compliance date, annual reports must be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered annual reports on used CRTs exported during 2016 should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 1200 Pennsylvania Ave., NW, Washington, DC. Subsequently, annual reports must be submitted to the office listed using the allowable methods specified in paragraph (a)(5)(ii) of this section. Exporters must keep copies of each annual report for a period of at least three years from the due date of the report. Exporters may satisfy this recordkeeping requirement by retaining electronically submitted annual reports in the CRT exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that a copy is readily available for viewing and production if requested by any EPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce an annual report for inspection under this section if the CRT exporter can demonstrate that the inability to produce the annual report is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the CRT exporter bears no responsibility.

* * * * *

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

8. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C 6906, 6912, 6922-6925, 6937, and 6938.

9. Amend § 262.10 by revising paragraph (d) to read as follows:

§ 262.10 Purpose, scope, and applicability.

* * * * *

(d) Any person who exports or imports hazardous wastes must comply with § 262.12 and subpart H of this part.

* * * * *

10. Amend § 262.12 by adding paragraph (d) to read as follows:

§ 262.12 EPA identification numbers.

* * * * *

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

11. Amend § 262.41 by revising the citation in the last sentence in paragraph (b) to read as follows:

§ 262.41 Biennial report.

* * * * *

(b) * * *

A separate annual report requirement is set forth at 40 CFR 262.83(g) for hazardous waste exporters.

Subpart E—[Removed and Reserved]

12. Remove and reserve subpart E, consisting of §§262.50 through 262.58.

Subpart F—[Removed and Reserved]

13. Remove and reserve subpart F, consisting of §262.60.

14. Subpart H is revised to read as follows:

Subpart H—TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTE FOR RECOVERY OR DISPOSAL

Sec.
262.80 Applicability.
262.81 Definitions.
262.82 General conditions.
262.83 Exports of hazardous waste.
262.84 Imports of hazardous waste.
262.85 [Reserved].
262.86 [Reserved].
262.87 [Reserved].
262.88 [Reserved].
262.89 [Reserved].

§ 262.80 Applicability.

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

(b) Any person (including exporter, importer, disposal facility operator, or recovery facility operator) who mixes two or more wastes (including hazardous and non-hazardous wastes) or otherwise subjects two or more wastes (including hazardous and non-hazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste,

becomes a generator and assumes all subsequent generator duties under RCRA and any exporter duties, if applicable, under this subpart.

§ 262.81 Definitions.

In addition to the definitions set forth at 40 CFR 260.10, the following definitions apply to this subpart:

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

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

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

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

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

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

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

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

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

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

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

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

D7 Release into a sea or ocean, including sea-bed insertion, other than by operation D4.

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

D9 Physical or chemical treatment not specified elsewhere in operations D1 through D12, such as evaporation, drying, calcination, neutralization, or precipitation, which results in final compounds or mixtures which are discarded by means of any of operations D1through D12.

D10 Incineration on land.

D11 Incineration at sea.

D12 Permanent storage.

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

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

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

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

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

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

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

Exporter, also known as primary exporter on the RCRA hazardous waste manifest, means the person domiciled in the United States who is required to originate the movement document in accordance with 40 CFR 262.83(d) or the manifest for a shipment of hazardous waste in accordance with 40 CFR part 262, subpart B, or equivalent State provision, which specifies a foreign receiving facility as the facility to which the hazardous wastes will be sent, or any recognized trader who proposes export of the hazardous wastes for recovery or disposal operations in the country of import.

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

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

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

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

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

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

OECD means the Organization for Economic Cooperation and Development.

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

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

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

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

R2 Solvent reclamation/regeneration.

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

R4 Recycling/reclamation of metals and metal compounds.

R5 Recycling/reclamation of other inorganic materials.

R6 Regeneration of acids or bases.

R7 Recovery of components used for pollution abatement.

R8 Recovery of components used from catalysts.

R9 Used oil re-refining or other reuses of previously used oil.

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

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

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

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

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

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

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

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

§ 262.82 General conditions.

(a) Scope. The level of control for exports and imports of waste is indicated by assignment of the waste to either a list of wastes subject to the Green control procedures or a list of wastes subject to the Amber control procedures and whether the waste is or is not hazardous waste. The OECD Green and Amber lists are incorporated by reference in § 260.11.

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

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

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

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

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

(ii) Amber wastes that are not hazardous wastes, but are considered hazardous by the other country are subject to the Amber control procedures in the country that considers the waste hazardous, and are not subject to the requirements of this subpart. All responsibilities of the

importer or exporter shift to the foreign importer or foreign exporter in the other country that considers the waste hazardous unless the parties make other arrangements through contracts.

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

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

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

(ii) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is hazardous waste is subject to the requirements of this subpart.

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

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

(i) If such wastes are hazardous wastes, such wastes are subject to the requirements of this subpart.

(ii) If such wastes are not hazardous wastes, such wastes are not subject to the requirements of this subpart.

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

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

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

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

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

(c) Duty to return wastes subject to the Amber control procedures during transit through the United States. When a transboundary movement of hazardous wastes transiting the United States and subject to the Amber control procedures does not comply with the requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if alternative arrangements cannot be made to recover or dispose of these wastes in an environmentally sound manner, the waste must be returned to the country of export. The U.S. transporter must inform EPA at the specified mailing address in paragraph 262.82(e) of the need to return the shipment. EPA will then inform the competent authority of the country of export, citing the reason(s) for returning the waste. The U.S. transporter must complete the return within ninety (90) days from the time EPA informs the country of export of the need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the concerned countries.

(d) Laboratory analysis exemption. Export or import of a hazardous waste sample is exempt from the requirements of this subpart if the sample is destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery or disposal operations, does not exceed twenty-five kilograms (25 kg) in quantity, is appropriately packaged and labeled, and complies with the conditions of 40 CFR 261.4(d) or (e).

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

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

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

§ 262.83 Exports of hazardous waste.

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

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

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

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

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

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

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

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

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

(1) EPA license code;

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

(3) EPA consent number for each hazardous waste;

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

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

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

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

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

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

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

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

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

(A) EPA license code;

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

(C) EPA consent number for each hazardous waste;

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

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

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

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

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

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

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

(ii) Foreign receiving facility name, address, telephone, fax numbers, e-mail address, technologies employed, and the applicable recovery or disposal operations as defined in § 262.81;

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

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

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

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

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

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

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

(x) Means of transport planned to be used;

(xi) Description(s) of each hazardous waste, including whether each hazardous waste is regulated universal waste under 40 CFR part 273, or the state equivalent, spent lead-acid batteries being exported for recovery of lead under 40 CFR part 266, subpart G, or the state equivalent, or industrial ethyl alcohol being exported for reclamation under 40 CFR § 261.6(a)(3)(i), or the state equivalent, estimated total quantity of each waste in either metric tons or cubic meters, the applicable RCRA waste code(s) for each hazardous waste, the applicable

OECD waste code from the list incorporated by reference in § 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each waste;

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

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

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

Name:

Signature:

Date:

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

(3) Notifications listing interim recycling operations or interim disposal operations. If the foreign receiving facility listed in paragraph (b)(1)(ii) of this section will engage in any of the interim recovery operations R12 to R13 or interim disposal operations D13 through D15, or in

the case of transboundary movements with Canada, any of the interim recovery operations R12 to R13, or RC16, or interim disposal operations D13 to D14, or DC17, the notification submitted according to paragraph (b)(1) must also include the final foreign recovery or disposal facility name, address, telephone, fax numbers, e-mail address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, or in the case of transboundary movements with Canada, which of the applicable recovery or disposal operations R1 through R11, RC14 to RC15, D1 through D12, and DC15 to DC16 will be employed at the final foreign recovery or disposal facility.

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

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

(b)(1)(xiii) of this section, EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.

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

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

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

(c) RCRA Manifest instructions for export shipments. The exporter must comply with the manifest requirements of 40 CFR 262.20 through 262.23 except that:

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

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

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

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

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

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

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

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

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

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

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

(iv) Foreign receiving facility name, address, telephone, fax numbers, e-mail address, technologies employed, and the applicable recovery or disposal operations as defined in § 262.81;

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

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

(vii) Date movement commenced;

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

(ix) Company name, EPA ID number, address, telephone, fax, and e-mail address of all transporters;

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

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

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

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

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

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

(e) Duty to return or re-export hazardous wastes. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s) and alternative arrangements cannot be made to recover or dispose of the waste in an environmentally sound manner in the country of import, the exporter must ensure that the hazardous waste is returned to the United States or re-exported to a third country. If the waste must be returned, the exporter must provide for the return of the hazardous waste shipment within ninety days from the time the country of import informs EPA of the need to return the

waste or such other period of time as the concerned countries agree. In all cases, the exporter must submit an exception report to EPA in accordance with paragraph (h) of this section.

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

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

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

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

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

(iv) The foreign receiving facility.

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

(i) The transporter or foreign receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the exporter, EPA, and either the

competent authority of the country of transit or the competent authority of the country of import of the need to make alternate management arrangements; and

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

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

(5) Contracts must specify that the foreign receiving facility shall send a copy of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the exporter and to the competent authority of the country of import. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign

receiving facility send a copy to EPA at the same time using the allowable methods listed in paragraph (b)(1) of this section on or after that date.

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

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

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

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

NOTE TO PARAGRAPH (f)(7): Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD Member countries and other foreign countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, persons or facilities located in those

OECD Member countries or other foreign countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

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

(9) Upon request by EPA, U.S. exporters, importers, or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). 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 40 CFR 260.2.

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

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

(2) The calendar year covered by the report;

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

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

(i) A description of the hazardous waste;

(ii) The applicable EPA hazardous waste code(s) (from 40 CFR part 261, subpart C or D) for each waste;

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

(iv) The applicable DOT ID number;

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

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

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

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

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

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

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately

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

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

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

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

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

(2) Prior to the electronic import-export reporting compliance date, exception reports must be mailed or hand delivered to EPA using the addresses listed in §262.82(e). Subsequently, exception reports must be submitted to EPA using the allowable methods listed in paragraph (b)(1) of this section.

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

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

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

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

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

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

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

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

§ 262.84 Imports of hazardous waste.

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

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

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

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

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

(b) Notifications. In cases where the competent authority of the country of export does not regulate the waste as hazardous waste and, thus, does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, but EPA does regulate the waste as hazardous waste: (1)

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

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

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

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

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

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

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

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

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

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

(x) Means of transport planned to be used;

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

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

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

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

Name:

Signature:

Date:

NOTE TO PARAGRAPH (b)(1)(xiii): The United States does not currently require financial assurance for these waste shipments.

(2) Notifications listing interim recycling operations or interim disposal operations. If the receiving facility listed in paragraph (b)(1)(ii) of this section will engage in any of the interim

recovery operations R12 to R13 or interim disposal operations D13 through D15, the notification submitted according to paragraph (b)(1) of this section must also include the final recovery or disposal facility name, address, telephone, fax numbers, e-mail address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, will be employed at the final recovery or disposal facility.

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

(4) A notification is complete when EPA determines the notification satisfies the requirements of paragraph (b)(1)(i) through (xiii) of this section. Where a claim of confidentiality is asserted with respect to any notification information required by paragraphs (b)(1)(i) through (xiii) of this section, EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.

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

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

(c) RCRA Manifest instructions for import shipments. (1) When importing hazardous waste, the importer must meet all the requirements of § 262.20 for the manifest except that:

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

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

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

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

(4) The importer must provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to U.S. EPA in accordance with § 264.71(a)(3) and § 265.71(a)(3) of this chapter.

(5) In lieu of the requirements of § 262.20(d), where a shipment cannot be delivered for any reason to the receiving facility, the importer must instruct the transporter in writing via fax, email or mail to:

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

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

(d) Movement document requirements for import shipments.

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

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

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

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

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

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

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

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

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

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

(vii) Date movement commenced;

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

(ix) Company name, EPA ID number, address, telephone, fax, and e-mail address of all transporters;

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

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

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

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

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

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

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

(f) Import Contract Requirements. (1) Imports of hazardous waste must occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent arrangements must be executed by the foreign exporter, importer, and the owner or operator of the receiving facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this section only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.

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

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

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

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

(iv) The receiving facility.

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

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

(i) The transporter or receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the foreign exporter and importer, and the competent authority where the shipment is located of the need to arrange alternate management or return; and

(ii) The person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of the hazardous wastes and, as the case may be, shall provide the notification for re-export required in § 262.83(b)(7).

(5) Contracts must specify that the importer or the receiving facility that performed interim recycling operations R12 to R13 or RC16, or interim disposal operations D13 through

D15 or DC15 through DC17, as appropriate, will provide the notification required in § 262.83(b)(7) prior to the re-export of hazardous wastes.

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

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

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

(8) Upon request by EPA, importers or disposal or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). 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 40 CFR 260.2.

(g) Confirmation of Recovery or Disposal. The receiving facility must do the following:

(1) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign

exporter, to the competent authority of the country of export, and for shipments recycled or disposed of on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

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

(h) Recordkeeping. (1) The importer shall keep the following records and provide them to EPA or authorized state personnel upon request: (i) a copy of each notification that the importer sends to EPA under paragraph (b)(1) of this section and each EPA AOC it receives in response for a period of at least three (3) years from the date the hazardous waste was accepted by the initial foreign transporter; and

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

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

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

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

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

(iv) A copy of each contract or equivalent arrangement established per paragraph 262.84(f) of this section for at least three (3) years from the expiration date of the contract or equivalent arrangement.

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

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

§ 262.85 [Reserved]

§ 262.86 [Reserved]

§ 262.87 [Reserved]

§ 262.88 [Reserved]

§ 262.89 [Reserved]

Appendix to Part 262 [Amended]

15. Amend the Appendix to Part 262, of the manifest instructions, under "II Instructions for International Shipment Block" by removing the last sentence in the instructions for Item 16.

PART 263—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

16. The authority citation for part 263 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922-6925, 6937, and 6938.

17. Amend § 263.10 by:

a. Removing from paragraph (a), in the Note, the last paragraph; and

b. Revising paragraph (d).

The revisions read as follows:

§ 263.10 Scope.

* * * * *

.

(d) A transporter of hazardous waste that is being imported from or exported to any other country for purposes of recovery or disposal is subject to this Subpart and to all other relevant requirements of subpart H of 40 CFR part 262, including, but not limited to, 40 CFR 262.83(d) and 262.84(d) for movement documents.

* * * * *

18. Amend § 263.20 by revising paragraphs (a)(2), (c), (e)(2), (f)(2), and (g) to read as follows:

§ 263.20 The manifest system.

(a)(1) * * *

(2) Exports. For exports of hazardous waste subject to the requirements of subpart H of 40 CFR part 262, a transporter may not accept hazardous waste without a manifest signed by the generator in accordance with this section, as appropriate, and for exports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by § 262.83(d).

* * * * *

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

* * * * *

(e) * * *

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

* * * * *

(f) * * *

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

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

* * * * *

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

(1) Sign and date the manifest in the International Shipments block to indicate the date that the shipment left the United States;

(2) Retain one copy in accordance with § 263.22(d);

(3) Return a signed copy of the manifest to the generator; and

(4) For paper manifests only,

(i) Send a copy of the manifest to the e-Manifest system in accordance with the allowable methods specified in 40 CFR 264.71(a)(2)(v); and

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

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

19. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

20. Amend § 264.12 by revising paragraph (a) to read as follows:

§ 264.12 Required notices.

(a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to 40 CFR part 262, subpart H from a foreign source must submit the following required notices:

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

chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

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

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

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

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

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

* * * * *

21. Amend § 264.71 by revising paragraphs (a)(3) and (d) to read as follows:

§ 264.71 Use of manifest system.

(a)(1) * * *

(3) The owner or operator of a facility receiving hazardous waste subject to 40 CFR part 262, subpart H from a foreign source must:

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

(ii) Send a copy of the manifest within thirty (30) days of delivery to EPA using the addresses listed in § 262.82(e) until the facility can submit such a copy to the e-Manifest system per 264.71(a)(2)(v).

* * * * *

(d) As per § 262.84(d)(2)(xv), within three (3) working days of the receipt of a shipment subject to 40 CFR part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking

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

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

22. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, and 6937.

23. Amend **§** 265.12 by revising paragraph (a) to read as follows:

§ 265.12 Required notices.

(a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to 40 CFR part 262, subpart H from a foreign source must submit the following required notices:

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

(2) As per § 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the

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

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

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

(i) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance

date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

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

* * * * *

24. Amend § 265.71 by revising paragraphs (a)(3) and (d) to read as follows:

§ 265.71 Use of manifest system.

(a)(1) * * *

(3) The owner or operator of a facility that receives hazardous waste subject to 40 CFR part 262, subpart H from a foreign source must:

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

(ii) Send a copy of the manifest to EPA using the addresses listed in § 262.82(e) within thirty (30) days of delivery until the facility can submit such a copy to the e-Manifest system per 265.71(a)(2)(v).

* * * * *

(d) As per § 262.84(d)(2)(xv), within three (3) working days of the receipt of a shipment subject to 40 CFR part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

* * * * *

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

25. The authority citation for part 266 continues to read as follows:

Authority: 42 U.S.C. 1006, 2002(a), 3001-3009, 3014, 3017, 6905, 6906, 6912, 6921, 6922, 6924-6927, 6934, and 6937.

26. Amend § 266.70 by revising paragraph (b) to read as follows:

§ 266.70 Applicability and requirements.

* * * * *

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

(1) Notification requirements under section 3010 of RCRA;

(2) Subpart B of part 262 (for generators), §§ 263.20 and 263.21 (for transporters), and §§ 265.71 and 265.72 (for persons who store) of this chapter; and

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

* * * * *

27. Amend § 266.80 by:

a. Revising paragraph (a) table entries 6 and 7 and adding table entries 8, 9, and 10 to read as follow:

§ 266.80 Applicability and requirements.

(a) * * *

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 262 (except for § 262.11, § 262.12 and subpart H), 263, 264, 265, 266, 268, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR part 261, § 262.11, § 262.12, and 40 CFR part 262, subpart H.
(7) Will be reclaimed through regeneration or any other means	Transport these batteries in the U.S. to export them for reclamation in a foreign country	are exempt from 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.
(8) Will be reclaimed other than through regeneration	Import these batteries from foreign country and store these batteries but you aren't the reclaimer	are exempt from 40 CFR parts 262 (except for § 262.11, § 262.12 and subpart H), 263, 264, 265, 266, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA	are subject to 40 CFR parts 261, § 262.11, § 262.12, part 262 subpart H, and applicable provisions under part 268.
(9) Will be reclaimed other than through regeneration	Import these batteries from foreign country and store these batteries before you reclaim them	must comply with 40 CFR 266.80(b) and as appropriate other regulatory provisions described in 266.80(b)	are subject to 40 CFR parts 261, § 262.11, § 262.12, part 262 subpart H, and applicable provisions under part 268.
(10) Will be reclaimed other than through regeneration	Import these batteries from foreign country and don't store these batteries before you reclaim them	are exempt from 40 CFR parts 262 (except for § 262.11, § 262.12 and subpart H), 263, 264, 265, 266, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA	are subject to 40 CFR parts 261, § 262.11, § 262.12, part 262 subpart H, and applicable provisions under part 268.

* * * * *

PART 267—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT

28. The authority citation for part 267 continues to read as follows:

Authority: 42 U.S.C. 6902, 6912(a), 6924-6926, and 6930.

29. Amend § 267.71 by:

a. Revising paragraphs (a)(4) and (5);

b. Adding paragraph (a)(6); and

c. Revising paragraph (d).

The revisions and additions read as follows:

§ 267.71 Use of the manifest system.

(a)* * *

(4) Within 30 days after the delivery, send a copy of the manifest to the generator;

(5) Retain at the facility a copy of each manifest for at least three years from the date of delivery; and

(6) If a facility receives hazardous waste subject to 40 CFR part 262, subpart H from a foreign source, the receiving facility must:

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

(ii) Mail a copy of the manifest to EPA using the addresses listed in § 262.82(e) within thirty (30) days of delivery until the facility can submit such a copy to the e-Manifest system per §§ 264.71(a)(2)(v) or 265.71(a)(2)(v).

* * * * *

(d) As per § 262.84(d)(2)(xv), within three (3) working days of the receipt of a shipment subject to 40 CFR part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document must be

maintained at the facility for at least three (3) years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

30. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

31. Amend § 271.1(j)(2) by:

a. Adding an entry to Table 1 in chronological order by "Promulgation date" and

b. Adding an entry to Table 2 in chronological order by "Effective date".

The additions read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

(2) * * *

TABLE 1—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
* * * * * * *			
[*Date of publication of final rule in the Federal Register (FR)*].	Hazardous Waste Export-Import Revisions	[*Insert FR page numbers*]	December 31, 2016.

* * * * *

TABLE 2— SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	Federal Register reference
* * * * * * *			
December 31, 2016.	Hazardous Waste Export-Import Revisions	3017(a)	[*Federal Register citation*].

* * * * *

32. Amend § 271.10 revising paragraph (e) to read as follows:

§ 271.10 Requirements for generators of hazardous wastes.

* * * * *

(e) The State program shall provide requirements respecting international shipments which are equivalent to those at 40 CFR part 262 subpart H, other hazardous waste import and export regulations in 40 CFR parts 260, 262, 263, 264, 265, 266, 267 and 273, and exclusion

conditions for export or import in 40 CFR part 261 to the extent that State has adopted such exclusion conditions, except that States shall not replace EPA or international references with State references.

* * * * *

33. Amend § 271.11 by revising paragraph (c)(4) to read as follows:

§ 271.11 Requirements for transporters of hazardous wastes.

(c) * * *

(4) For exports of hazardous waste, the state must require the transporter to refuse to accept hazardous waste for export if the exporter has not provided: a manifest listing the consent numbers for the hazardous waste shipment; a movement document for shipments occurring under consents issued by EPA on or after December 31, 2016; and on or after the AES filing compliance date, the ITN number for the hazardous waste shipment. The state must further require the transporter to carry a movement document and manifest with the shipment, as required; to sign and date the International Shipments Block of the manifest to indicate the date the shipment leaves the U.S.; to carry paper documentation of consent (i.e., Acknowledgement of Consent, movement document) with the shipment and to give a copy of the manifest to the U.S. customs official at the point of departure if instructed by mail, email or fax by the exporter to do so; and to send a copy of the manifest, if in paper form, to the e-Manifest system using the allowable methods listed in § 264.71(a)(2)(v).

* * * * *

34. Amend § 271.12 by revising paragraph (i)(2) to read as follows:

§ 271.12 Requirements for hazardous waste management facilities.

* * * * *

(i) * * *

(2) After listing the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b, to EPA using the allowable methods listed in § 262.84(b)(1) until the facility can submit such a copy to the e-Manifest system per 264.71(a)(2)(v)/265.71(a)(2)(v).

* * * * *

PART 273—STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

35. The authority citation for part 273 continues to read as follows:

Authority: 42 U.S.C. 6922, 6923, 6924, 6925, 6930, and 6937.

36. Revise § 273.20 to read as follows:

§ 273.20 Exports.

A small quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of 40 CFR part 262, subpart H.

37. Amend § 273.39 by adding movement document as an acceptable form of the record to introductory paragraphs (a) and (b) to read as follows:

§ 273.39 Tracking universal waste shipments.

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

* * * * *

(b) Shipments off-site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take

the form of a log, invoice, manifest, bill of lading, movement document or other shipping document. The record for each shipment of universal waste sent must include the following information:

* * * * *

38. Revise § 273.40 to read as follows:

§ 273.40 Exports.

A large quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of 40 CFR part 262, subpart H.

39. Revise § 273.56 to read as follows:

§ 273.56 Exports.

A universal waste transporter transporting a shipment of universal waste to a foreign destination is subject to the requirements of 40 CFR part 262, subpart H.

40. Amend § 273.62 by adding movement document as an acceptable form of the record to introductory paragraph (a) to read as follows:

§ 273.62 Tracking universal waste shipments.

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

* * * * *

41. Revise § 273.70 to read as follows:

§ 273.70 Imports.

Persons managing universal waste that is imported from a foreign country into the United States are subject to the requirements of 40 CFR part 262 subpart H and the applicable requirements of this part, immediately after the waste enters the United States, as indicated in paragraphs (a) through (c) of this section:

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

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

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