CTC COMPLIANCE TRAINING ONLINE

Cal/OSHA, DOT HAZMAT, EEOC, EPA, HAZWOPER, HIPAA, IATA, IMDG, TDG, MSHA, OSHA, and Canada OHS Regulations and Safety Online Training

Since 2008

This document is provided as a training aid and may not reflect current laws and regulations.

Be sure and consult with the appropriate governing agencies or publication providers listed in the "Resources" section of our website.

www.ComplianceTrainingOnline.com

TABLE 3—WASTES EXCLUDED FROM COMMERCIAL CHEMICAL PRODUCTS, OFF-SPECIFICATION SPECIES, CONTAINER RESIDUES, AND SOIL RESIDUES THEREOF

Facility	Address	Waste description
Eastman Chemical Company.	Longview, Texas.	Wastewater treatment sludge, (at a maximum generation of 82,100 cubic yards per calendar year) generated by Eastman (EPA Hazardous Waste Nos. U001, U002, U028, U031, U069, U088, U112, U115, U117, U122, U140, U147, U154, U159, U161, U220, U226, U239, U359). Eastman must implement the testing program described in Table 1. Waste Excluded From Non-Specific Sources for the petition to be valid.
Eastman Chemical Company-Texas Operations.	Longview, TX	*RKI Bottom Ash.* (EPA Hazardous Waste Number F001, F002, F003, F005, F039, K009, K010, U001, U002, U031, U069, U107, U112, U117, U140, U147, U161, U213, and U359) generated at a maximum rate of 1,000 cubic yards per calendar year after November 23, 2011 and disposed in Subtitle D Landfill. *RKI Fly Ash.* (EPA Hazardous Waste Number F001, F002, F003, F005, F039, K009, K010, U001, U002, U031, U069, U107, U112, U117, U140, U147, U161, U213, and U359) generated at a maximum rate of 2,000 cubic yards per calendar year after November 23, 2011 and disposed in Subtitle D Landfill. *RKI Scrubber Water Blowdown.* (EPA Hazardous Numbers D001, D002, D003, D007, D008, D018, D022, F001, F002, F003, F005, F039, K009, K010, U001, U002, U031, U069, U107, U112, U117, U140, U147, U161, U213, and U359) generated at a maximum rate of 643,000 cubic yards (500,000 million gallons) per calendar year after November 23, 2011 and treated and discharged from a Wastewater Treatment Plant. Eastman must implement the testing program in Table 1. Wastes Excluded from Non-Specific Wastes for the petition to be valid.
Rhodia	Houston, Texas.	Filter-cake Sludge, (at a maximum generation of 1,200 cubic yards per calendar year) generated by Rhodia using the SARU and AWT treatment process to treat the filter-cake sludge (EPA Hazardous Waste Nos. P001–P024, P026-P031, P033–P034, P036–P051, P054, P056-P060, P062–P078, P081–P082, P084–P085, P087–P089, P092–P116, P118–P123, P127-P128, P185, P188–P192, P194, P196–P199, P201–P205, U001–U012, U014–U039, U041-U053, U055–U064, U066–U099, U101–U103, U105–U138, U140–U174, U176–U194, U196-U197, U200–U211, U213–U223, U225–U228, U234–U240, U243–U244, U246–U249, U271, U277–U280, U328, U353, U359, U364–U367, U372–U373, U375–U379, U381–U396, U400-U404, U407, U409–U411) generated at Rhodia. Rhodia must implement the testing program described in Table 1. Waste Excluded From Non-Specific Sources for the petition to be valid.
Texas Eastman	Longview, Texas.	Incinerator ash (at a maximum generation of 7,000 cubic yards per calendar year) generated from the incineration of sludge from the wastewater treatment plant (EPA Hazardous Waste No. U001, U002, U003, U019, U028, U031, U037, U044, U056, U069, U070, U107, U108, U112, U113, U115, U117, U122, U140, U147, U151, U154, U159, U161, U169, U190, U196, U211, U213, U226, U239, and U359, and that is disposed of in Subtitle D landfills after September 25, 1996. Texas Eastman must implement the testing program described in Table 1. Wastes Excluded From Non-Specific Sources for the petition to be valid.
Union Carbide Corp.	Taft, LA	Contaminated soil (approximately 11,000 cubic yards), which contains acrolein in concentrations of less than 9 ppm.

[49 FR 37070, Sept. 21, 1984]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting appendix IX of part 261, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov*.

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

Subpart A—General

Sec.

AUTHORITY: 42 U.S.C. 6906, 6912, 6922–6925, 6937, 6938 and 6939g.

SOURCE: 45 FR 33142, May 19, 1980, unless otherwise noted.

Subpart A—General

§ 262.1 Terms used in this part.

As used in this part:

Condition for exemption means any requirement in §§ 262.14, 262.15, 262.16, 262.17, 262.70, or subpart K or subpart L of this part that states an event, action, or standard that must occur or be met in order to obtain an exemption from any applicable requirement in parts 124, 264 through 268, and 270 of this chapter, or from any requirement for notification under section 3010 of RCRA.

Independent requirement means a requirement of part 262 that states an event, action, or standard that must occur or be met; and that applies without relation to, or irrespective of, the purpose of obtaining a conditional exemption from storage facility permit, interim status, and operating requirements under §§ 262.14, 262.15, 262.16, 262.17, or subpart K or subpart L of this part.

[81 FR 85806, Nov. 28, 2016]

§ 262.10 Purpose, scope, and applicability.

(a) The regulations in this part establish standards for generators of hazardous waste as defined by 40 CFR 260.10.

(1) A person who generates a hazardous waste as defined by 40 CFR part 261 is subject to all the applicable independent requirements in the subparts and sections listed below:

(i) *Independent requirements of a very small quantity generator.* (A) Section 262.11(a) through (d) Hazardous waste determination and recordkeeping; and

(B) Section 262.13 Generator category determination.

(ii) *Independent requirements of a small quantity generator.* (A) Section 262.11 Hazardous waste determination and recordkeeping;

(B) Section 262.13 Generator category determination;

(C) Section 262.18 EPA identification numbers and re-notification for small quantity generators and large quantity generators;

(D) Part 262 subpart B—Manifest requirements applicable to small and large quantity generators;

(E) Part 262 subpart C—Pre-transport requirements applicable to small and large quantity generators;

(F) Section 262.40 Recordkeeping;

(G) Section 262.44 Recordkeeping for small quantity generators; and

(H) Part 262 subpart H—Transboundary movements of hazardous waste for recovery or disposal.

(iii) *Independent requirements of a large quantity generator.* (A) Section 262.11 Hazardous waste determination and recordkeeping;

(B) Section 262.13 Generator category determination;

(C) Section 262.18 EPA identification numbers and re-notification for small quantity generators and large quantity generators;

(D) Part 262 subpart B—Manifest requirements applicable to small and large quantity generators;

(E) Part 262 subpart C—Pre-transport requirements applicable to small and large quantity generators;

(F) Part 262 subpart D—Recordkeeping and reporting applicable to small and large quantity generators, except § 262.44; and

(G) Part 262 subpart H—Transboundary movements of hazardous waste for recovery or disposal.

(2) A generator that accumulates hazardous waste on site is a person that stores hazardous waste; such generator is subject to the applicable requirements of parts 124, 264 through 267, and 270 of this chapter and section 3010 of RCRA, unless it is one of the following:

(i) A very small quantity generator that meets the conditions for exemption in § 262.14;

(ii) A small quantity generator that meets the conditions for exemption in §§ 262.15 and 262.16; or

(iii) A large quantity generator that meets the conditions for exemption in §§ 262.15 and 262.17.

(3) A generator shall not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste

to be sent to a facility that is not a designated facility, as defined in § 260.10 of this chapter, or not otherwise authorized to receive the generator's hazardous waste.

(b) *Determining generator category*. A generator must use § 262.13 to determine which provisions of this part are applicable to the generator based on the quantity of hazardous waste generated per calendar month.

(c) [Reserved]

(d) Any person who exports or imports hazardous wastes must comply with § 262.18 and subpart H of this part.

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

(f) A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of § 262.70 is not required to comply with other standards in this part or 40 CFR parts 270, 264, 265, 267, or 268 with respect to such pesticides.

(g)(1) A generator's violation of an independent requirement is subject to penalty and injunctive relief under section 3008 of RCRA.

(2) A generator's noncompliance with a condition for exemption in this part is not subject to penalty or injunctive relief under section 3008 of RCRA as a violation of a 40 CFR part 262 condition for exemption. Noncompliance by any generator with an applicable condition for exemption from storage permit and operations requirements means that the facility is a storage facility operating without an exemption from the permit, interim status, and operations requirements in 40 CFR parts 124, 264 through 267, and 270 of this chapter, and the notification requirements of section 3010 of RCRA. Without an exemption, any violations of such storage requirements are subject to penalty and injunctive relief under section 3008 of RCRA.

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

(i) Persons responding to an explosives or munitions emergency in accordance with 40 CFR 264.1(g)(8)(i)(D) or (iv) or 265.1(c)(11)(i)(D) or (iv), and 270.1(c)(3)(i)(D) or (iii) are not required to comply with the standards of this part.

(j) [Reserved]

(k) Generators in the Commonwealth of Massachusetts may comply with the State regulations regarding Class A recyclable materials in 310 C.M.R. 30.200, when authorized by the EPA under 40 CFR part 271, with respect to those recyclable materials and matters covered by the authorization, instead of complying with the hazardous waste accumulation requirements of § 262.34, the reporting requirements of § 262.41, the storage facility operator requirements of 40 CFR parts 264, 265 and 267, and the permitting requirements of 40 CFR part 270. Such generators must also comply with any other applicable requirements, including any applicable authorized State regulations governing hazardous wastes not being recycled and any applicable Federal requirements which are being directly implemented by the EPA within Massachusetts pursuant to the Hazardous and Solid Waste Amendments of 1984.

(l) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of subpart K of this part are not subject to (for purposes of this paragraph, the terms ''laboratory'' and ''eligible academic entity'' shall have the meaning as defined in § 262.200):

(1) The independent requirements of § 262.11 or the regulations in § 262.15 for large quantity generators and small quantity generators, except as provided in subpart K, and

(2) The conditions of § 262.14, for very small quantity generators, except as provided in subpart K.

NOTE 1: The provisions of § 262.34 are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of § 262.34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

NOTE 2: A generator who treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in 40 CFR parts 264, 265, 266, 268, and 270.

(m) All reverse distributors (as defined in § 266.500) are subject to 40 CFR part 266 subpart P for the management

of hazardous waste pharmaceuticals in lieu of this part.

(n) Each healthcare facility (as defined in § 266.500) must determine whether it is subject to 40 CFR part 266 subpart P for the management of hazardous waste pharmaceuticals, based on the total hazardous waste it generates per calendar month (including both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste). A healthcare facility that generates more than 100 kg (220 pounds) of hazardous waste per calendar month, or more than 1 kg (2.2 pounds) of acute hazardous waste per calendar month, or more than 100 kg (220 pounds) per calendar month of any residue or contaminated soil, water, or other debris, resulting from the clean-up of a spill, into or on any land or water, of any acute hazardous wastes listed in § 261.31 or § 261.33(e), is subject to 40 CFR part 266 subpart P for the management of hazardous waste pharmaceuticals in lieu of this part. A healthcare facility that is a very small quantity generator when counting all of its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, remains subject to § 262.14 and is not subject to part 266 subpart P, except for §§ 266.505 and 266.507 and the optional provisions of § 266.504.

[45 FR 33142, May 19, 1980, as amended at 45 FR 86970, Dec. 31, 1980; 47 FR 1251, Jan. 11, 1982; 48 FR 14294, Apr. 1, 1983; 53 FR 27164, July 19, 1988; 56 FR 3877, Jan. 31, 1991; 60 FR 25541, May 11, 1995; 61 FR 16309, Apr. 12, 1996; 62 FR 6651, Feb. 12, 1997; 64 FR 52392, Sept. 28, 1999; 69 FR 11813, Mar. 12, 2004; 73 FR 72954, Dec. 1, 2008; 75 FR 13003, Mar. 18, 2010; 75 FR 1253, Jan. 8, 2010; 81 FR 85715, 85807, Nov. 28, 2016; 84 FR 5939, Feb. 22, 2019]

§ 262.11 Hazardous waste determination and recordkeeping.

A person who generates a solid waste, as defined in 40 CFR 261.2, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations. A hazardous waste determination is made using the following steps:

(a) The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the RCRA classification of the waste may change.

(b) A person must determine whether the solid waste is excluded from regulation under 40 CFR 261.4.

(c) If the waste is not excluded under 40 CFR 261.4, the person must then use knowledge of the waste to determine whether the waste meets any of the listing descriptions under subpart D of 40 CFR part 261. Acceptable knowledge that may be used in making an accurate determination as to whether the waste is listed may include waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information. If the waste is listed, the person may file a delisting petition under 40 CFR 260.20 and 260.22 to demonstrate to the Administrator that the waste from this particular site or operation is not a hazardous waste.

(d) The person then must also determine whether the waste exhibits one or more hazardous characteristics as identified in subpart C of 40 CFR part 261 by following the procedures in paragraph (d)(1) or (2) of this section, or a combination of both.

(1) The person must apply knowledge of the hazard characteristic of the waste in light of the materials or the processes used to generate the waste. Acceptable knowledge may include process knowledge (*e.g.*, information about chemical feedstocks and other inputs to the production process); knowledge of products, by-products, and intermediates produced by the manufacturing process; chemical or physical characterization of wastes; information on the chemical and physical properties of the chemicals used or produced by the process or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents. A test other than a test method set forth in subpart C of 40 CFR part 261, or an equivalent test method approved by the Administrator

under 40 CFR 260.21, may be used as part of a person's knowledge to determine whether a solid waste exhibits a characteristic of hazardous waste. However, such tests do not, by themselves, provide definitive results. Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at 40 CFR 260.10.

(2) When available knowledge is inadequate to make an accurate determination, the person must test the waste according to the applicable methods set forth in subpart C of 40 CFR part 261 or according to an equivalent method approved by the Administrator under 40 CFR 260.21 and in accordance with the following:

(i) Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at 40 CFR 260.10.

(ii) Where a test method is specified in subpart C of 40 CFR part 261, the results of the regulatory test, when properly performed, are definitive for determining the regulatory status of the waste.

(e) If the waste is determined to be hazardous, the generator must refer to parts 261, 264, 265, 266, 267, 268, and 273 of this chapter for other possible exclusions or restrictions pertaining to management of the specific waste.

(f) *Recordkeeping for small and large quantity generators.* A small or large quantity generator must maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, as defined by 40 CFR 261.3. Records must be maintained for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal. These records must comprise the generator's knowledge of the waste and support the generator's determination, as described at paragraphs (c) and (d) of this section. The records must include, but are not limited to, the following types of information: The results of any tests, sampling, waste analyses, or other determinations made in accordance with this section; records documenting the tests, sampling, and analytical methods used to demonstrate the validity and relevance of such tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and records which explain the knowledge basis for the generator's determination, as described at paragraph (d)(1) of this section. The periods of record 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.

(g) *Identifying hazardous waste numbers for small and large quantity generators.* If the waste is determined to be hazardous, small quantity generators and large quantity generators must identify all applicable EPA hazardous waste numbers (EPA hazardous waste codes) in subparts C and D of part 261 of this chapter. Prior to shipping the waste off site, the generator also must mark its containers with all applicable EPA hazardous waste numbers (EPA hazardous waste codes) according to § 262.32.

[81 FR 85807, Nov. 28, 2016]

§ 262.12 [Reserved]

§ 262.13 Generator category determination.

A generator must determine its generator category. A generator's category is based on the amount of hazardous waste generated each month and may change from month to month. This section sets forth procedures to determine whether a generator is a very small quantity generator, a small quantity generator, or a large quantity generator for a particular month, as defined in § 260.10 of this chapter.

(a) *Generators of either acute hazardous waste or non-acute hazardous waste.* A generator who either generates acute hazardous waste or non-acute hazardous waste in a calendar month shall determine its generator category for that month by doing the following:

(1) Counting the total amount of hazardous waste generated in the calendar month;

(2) Subtracting from the total any amounts of waste exempt from counting as described in paragraphs (c) and (d) of this section; and

(3) Determining the resulting generator category for the hazardous waste generated using Table 1 of this section.

(b) *Generators of both acute and non-acute hazardous wastes.* A generator who generates both acute hazardous waste and non-acute hazardous waste in the same calendar month shall determine its generator category for that month by doing the following:

(1) Counting separately the total amount of acute hazardous waste and the total amount of non-acute hazardous waste generated in the calendar month;

(2) Subtracting from each total any amounts of waste exempt from counting as described in paragraphs (c) and (d) of this section;

(3) Determining separately the resulting generator categories for the quantities of acute and non-acute hazardous waste generated using Table 1 of this section; and

(4) Comparing the resulting generator categories from paragraph (b)(3) of this section and applying the more stringent generator category to the accumulation and management of both non-acute hazardous waste and acute hazardous waste generated for that month.

TABLE 1 TO § 262.13—GENERATOR CATEGORIES BASED ON QUANTITY OF WASTE GENERATED IN A CALENDAR MONTH

Quantity of acute hazardous waste generated in a calendar month	Quantity of non-acute hazardous waste generated in a calendar month	Quantity of residues from a cleanup of acute hazardous waste generated in a calendar month	Generator category
> 1 kg	Any amount	Any amount	Large quantity generator.
Any amount	≥ 1,000 kg	Any amount	Large quantity generator.
Any amount	Any amount	> 100 kg	Large quantity generator.
≤ 1 kg	> 100 kg and < 1,000 kg	≤ 100 kg	Small quantity generator.
≤ 1 kg	≤ 100 kg	≤ 100 kg	Very small quantity generator.

(c) When making the monthly quantity-based determinations required by this part, the generator must include all hazardous waste that it generates, except hazardous waste that:

(1) Is exempt from regulation under 40 CFR 261.4(c) through (f), 261.6(a)(3), 261.7(a)(1), or 261.8;

(2) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in 40 CFR 260.10;

(3) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under 40 CFR 261.6(c)(2);

(4) Is used oil managed under the requirements of 40 CFR 261.6(a)(4) and 40 CFR part 279;

(5) Is spent lead-acid batteries managed under the requirements of 40 CFR part 266 subpart G;

(6) Is universal waste managed under 40 CFR 261.9 and 40 CFR part 273;

(7) Is a hazardous waste that is an unused commercial chemical product (listed in 40 CFR part 261 subpart D or exhibiting one or more characteristics in 40 CFR part 261 subpart C) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to § 262.213. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in § 262.200; or

(8) Is managed as part of an episodic event in compliance with the conditions of subpart L of this part.

(9) Is a hazardous waste pharmaceutical, as defined in § 266.500, that is subject to or managed in accordance with 40 CFR part 266 subpart P or is a hazardous waste pharmaceutical that is also a Drug Enforcement Administration controlled substance and is conditionally exempt under § 266.506.

(d) In determining the quantity of hazardous waste generated in a calendar month, a generator need not include:

(1) Hazardous waste when it is removed from on-site accumulation, so long as the hazardous waste was previously counted once;

(2) Hazardous waste generated by on-site treatment (including reclamation) of the generator's hazardous waste, so long as the hazardous waste that is treated was previously counted once; and

(3) Hazardous waste spent materials that are generated, reclaimed, and subsequently reused on site, so long as such spent materials have been previously counted once.

(e) Based on the generator category as determined under this section, the generator must meet the applicable independent requirements listed in § 262.10. A generator's category also determines which of the provisions of §§ 262.14, 262.15, 262.16 or 262.17 must be met to obtain an exemption from the storage facility permit, interim status, and operating requirements when accumulating hazardous waste.

(f) *Mixing hazardous wastes with solid wastes*—(1) *Very small quantity generator wastes.* (i) Hazardous wastes generated by a very small quantity generator may be mixed with solid wastes. Very small quantity generators may mix a portion or all of its hazardous waste with solid waste and remain subject to § 262.14 even though the resultant mixture exceeds the quantity limits identified in the definition of very small quantity generator at § 260.10 of this chapter, unless the mixture exhibits one or more of the characteristics of hazardous waste identified in part 261 subpart C of this chapter.

(ii) If the resulting mixture exhibits a characteristic of hazardous waste, this resultant mixture is a newly-generated hazardous waste. The very small quantity generator must count both the resultant mixture amount plus the other hazardous waste generated in the calendar month to determine whether the total quantity exceeds the very small quantity generator calendar month quantity limits identified in the definition of generator categories found in § 260.10 of this chapter. If so, to remain exempt from the permitting, interim status, and operating standards, the very small quantity generator must meet the conditions for exemption applicable to either a small quantity generator or a large quantity generator. The very small quantity generator must also comply with the applicable independent requirements for either a small quantity generator or a large quantity generator.

(iii) If a very small quantity generator's wastes are mixed with used oil, the mixture is subject to 40 CFR part 279. Any material produced from such a mixture by processing, blending, or other treatment is also regulated under 40 CFR part 279.

(2) *Small quantity generator and large quantity generator wastes.* (i) Hazardous wastes generated by a small quantity generator or large quantity generator may be mixed with solid waste. These mixtures are subject to the following: the mixture rule in §§ 261.3(a)(2)(iv), (b)(2) and (3), and (g)(2)(i); the prohibition of dilution rule at § 268.3(a); the land disposal restriction requirements of § 268.40 if a characteristic hazardous waste is mixed with a solid waste so that it no longer exhibits the hazardous characteristic; and the hazardous waste determination requirement at § 262.11.

(ii) If the resulting mixture is found to be a hazardous waste, this resultant mixture is a newly-generated hazardous waste. A small quantity generator must count both the resultant mixture amount plus the other hazardous waste generated in the calendar month to determine whether the total quantity exceeds the small quantity generator calendar monthly quantity limits identified in the definition of generator categories found in § 260.10 of this chapter. If so, to remain exempt from the permitting, interim status, and operating standards, the small quantity generator must meet the conditions for exemption applicable to a large quantity generator. The small quantity generator must also comply with the applicable independent requirements for a large quantity generator.

[81 FR 85808, Nov. 28, 2016, as amended at 84 FR 5939, Feb. 22, 2019]

§ 262.14 Conditions for exemption for a very small quantity generator.

(a) Provided that the very small quantity generator meets all the conditions for exemption listed in this section, hazardous waste generated by the very small quantity generator is not subject to the requirements of parts

124, 262 (except §§ 262.10 through 262.14) through 268, and 270 of this chapter, and the notification requirements of section 3010 of RCRA and the very small quantity generator may accumulate hazardous waste on site without complying with such requirements. The conditions for exemption are as follows:

(1) In a calendar month the very small quantity generator generates less than or equal to the amounts specified in the definition of ''very small quantity generator'' in § 260.10 of this chapter;

(2) The very small quantity generator complies with § 262.11(a) through (d);

(3) If the very small quantity generator accumulates at any time greater than 1 kilogram (2.2 lbs) of acute hazardous waste or 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in §§ 261.31 or 261.33(e) of this chapter, all quantities of that acute hazardous waste are subject to the following additional conditions for exemption:

(i) Such waste is held on site for no more than 90 days beginning on the date when the accumulated wastes exceed the amounts provided above; and

(ii) The conditions for exemption in § 262.17(a) through (g).

(4) If the very small quantity generator accumulates at any time 1,000 kilograms (2,200 lbs) or greater of non-acute hazardous waste, all quantities of that hazardous waste are subject to the following additional conditions for exemption:

(i) Such waste is held on site for no more than 180 days, or 270 days, if applicable, beginning on the date when the accumulated waste exceed the amounts provided above;

(ii) The quantity of waste accumulated on site never exceeds 6,000 kilograms (13,200 lbs); and

(iii) The conditions for exemption in § 262.16(b)(2) through (f).

(5) A very small quantity generator that accumulates hazardous waste in amounts less than or equal to the limits in paragraphs (a)(3) and (4) of this section must either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:

(i) Permitted under part 270 of this chapter;

(ii) In interim status under parts 265 and 270 of this chapter;

(iii) Authorized to manage hazardous waste by a state with a hazardous waste management program approved under part 271 of this chapter;

(iv) Permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to part 258 of this chapter;

(v) Permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, is subject to the requirements in §§ 257.5 through 257.30 of this chapter;

(vi) A facility which:

(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation;

(vii) For universal waste managed under part 273 of this chapter, a universal waste handler or destination facility subject to the requirements of part 273 of this chapter;

(viii) A large quantity generator under the control of the same person as the very small quantity generator, provided the following conditions are met:

(A) The very small quantity generator and the large quantity generator are under the control of the same person as defined in § 260.10 of this chapter. ''Control,'' for the purposes of this section, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person as defined in § 260.10 of this chapter shall not be deemed to ''control'' such generators.

(B) The very small quantity generator marks its container(s) of hazardous waste with:

(*1*) The words ''Hazardous Waste''; and

(*2*) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

(ix) A reverse distributor (as defined in § 266.500), if the hazardous waste pharmaceutical is a potentially creditable hazardous waste pharmaceutical generated by a healthcare facility (as defined in § 266.500).

(x) A healthcare facility (as defined in § 266.500) that meets the conditions in §§ 266.502(l) and 266.503(b), as applicable, to accept non-creditable hazardous waste pharmaceuticals and potentially creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator.

(xi) For airbag waste, an airbag waste collection facility or a designated facility subject to the requirements of § 261.4(j) of this chapter.

(b) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

(c) A very small quantity generator experiencing an episodic event may generate and accumulate hazardous waste in accordance with subpart L of this part in lieu of §§ 262.15, 262.16, and 262.17.

[81 FR 85808, Nov. 28, 2016, as amended at 83 FR 61563, Nov. 30, 2018; 84 FR 5940, Feb. 22, 2019]

§ 262.15 Satellite accumulation area regulations for small and large quantity generators.

(a) A generator may accumulate as much as 55 gallons of non-acute hazardous waste and/or either one quart of liquid acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter or 1 kg (2.2 lbs) of solid acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, provided that all of the conditions for exemption in this section are met. A generator may comply with the conditions for exemption in this section instead of complying with the conditions for exemption in § 262.16(b) or § 262.17(a), except as required in § 262.15(a)(7) and (8). The conditions for exemption for satellite accumulation are:

(1) If a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must immediately transfer the hazardous waste from this container to a container that is in good condition and does not leak, or immediately transfer and manage the waste in a central accumulation area operated in compliance with § 262.16(b) or § 262.17(a).

(2) The generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(3) Special standards for incompatible wastes.

(i) Incompatible wastes, or incompatible wastes and materials, (see appendix V of part 265 for examples) must not be placed in the same container, unless § 265.17(b) of this chapter is complied with.

(ii) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of part 265 for examples), unless § 265.17(b) of this chapter is complied with.

(iii) A container holding a hazardous waste that is incompatible with any waste or other materials accumulated nearby in other containers must be separated from the other materials or protected from them by any practical means.

(4) A container holding hazardous waste must be closed at all times during accumulation, except:

(i) When adding, removing, or consolidating waste; or

(ii) When temporary venting of a container is necessary

(A) For the proper operation of equipment, or

(B) To prevent dangerous situations, such as build-up of extreme pressure.

(5) A generator must mark or label its container with the following:

(i) The words ''Hazardous Waste'' and

(ii) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

(6) A generator who accumulates either acute hazardous waste listed in §261.31 or §261.33(e) of this chapter or non-acute hazardous waste in excess of the amounts listed in paragraph (a) of this section at or near any point of generation must do the following:

(i) Comply within three consecutive calendar days with the applicable central accumulation area regulations in §262.16(b) or §262.17(a), or

(ii) Remove the excess from the satellite accumulation area within three consecutive calendar days to either:

(A) A central accumulation area operated in accordance with the applicable regulations in §262.16(b) or §262.17(a);

(B) An on-site interim status or permitted treatment, storage, or disposal facility, or

(C) An off-site designated facility; and

(iii) During the three-consecutive-calendar-day period the generator must continue to comply with paragraphs (a)(1) through (5) of this section. The generator must mark or label the container(s) holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(7) All satellite accumulation areas operated by a small quantity generator must meet the preparedness and prevention regulations of §262.16(b)(8) and emergency procedures at §262.16(b)(9).

(8) All satellite accumulation areas operated by a large quantity generator must meet the Preparedness, Prevention and Emergency Procedures in subpart M of this part.

(b) [Reserved]

[81 FR 85808, Nov. 28, 2016]

§ 262.16 Conditions for exemption for a small quantity generator that accumulates hazardous waste.

A small quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, provided that all the conditions for exemption listed in this section are met:

(a) *Generation*. The generator generates in a calendar month no more than the amounts specified in the definition of ''small quantity generator'' in §260.10 of this chapter.

(b) *Accumulation*. The generator accumulates hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in paragraphs (d) and (e) of this section. The following accumulation conditions also apply:

(1) *Accumulation limit*. The quantity of hazardous waste accumulated on site never exceeds 6,000 kilograms (13,200 pounds);

(2) *Accumulation of hazardous waste in containers*—(i) *Condition of containers*. If a container holding hazardous waste is not in good condition, or if it begins to leak, the small quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this section.

(ii) *Compatibility of waste with container*. The small quantity generator must use a container made of or lined

with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(iii) *Management of containers.* (A) A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

(B) A container holding hazardous waste must not be opened, handled, or accumulated in a manner that may rupture the container or cause it to leak.

(iv) *Inspections.* At least weekly, the small quantity generator must inspect central accumulation areas. The small quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See paragraph (b)(2)(i) of this section for remedial action required if deterioration or leaks are detected.

(v) *Special conditions for accumulation of incompatible wastes.* (A) Incompatible wastes, or incompatible wastes and materials, (see appendix V of part 265 for examples) must not be placed in the same container, unless §265.17(b) of this chapter is complied with.

(B) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of part 265 for examples), unless §265.17(b) of this chapter is complied with.

(C) A container accumulating hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(3) *Accumulation of hazardous waste in tanks.*

(i) [Reserved]

(ii) A small quantity generator of hazardous waste must comply with the following general operating conditions:

(A) Treatment or accumulation of hazardous waste in tanks must comply with §265.17(b) of this chapter.

(B) Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(C) Uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard, unless the tank is equipped with a containment structure (*e.g.*, dike or trench), a drainage control system, or a diversion structure (*e.g.*, standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank.

(D) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (*e.g.*, waste feed cutoff system or by-pass system to a stand-by tank).

(iii) Except as noted in paragraph (b)(3)(iv) of this section, a small quantity generator that accumulates hazardous waste in tanks must inspect, where present:

(A) Discharge control equipment (*e.g.*, waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;

(B) Data gathered from monitoring equipment (*e.g.*, pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

(C) The level of waste in the tank at least once each operating day to ensure compliance with paragraph (b)(3)(ii)(C) of this section;

(D) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

(E) The construction materials of, and the area immediately surrounding, discharge confinement structures (*e.g.*, dikes) at least weekly to detect erosion or obvious signs of leakage (*e.g.*, wet spots or dead vegetation). The generator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(iv) A small quantity generator accumulating hazardous waste in tanks or

tank systems that have full secondary containment and that either use leak detection equipment to alert personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly, where applicable, the areas identified in paragraphs (b)(3)(iii)(A) through (E) of this section. Use of the alternate inspection schedule must be documented in the generator's operating record. This documentation must include a description of the established workplace practices at the generator.

(v) [Reserved]

(vi) A small quantity generator accumulating hazardous waste in tanks must, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the small quantity generator can demonstrate, in accordance with §261.3(c) or (d) of this chapter, that any solid waste removed from its tank is not a hazardous waste, then it must manage such waste in accordance with all applicable provisions of parts 262, 263, 265 and 268 of this chapter.

(vii) A small quantity generator must comply with the following special conditions for accumulation of ignitable or reactive waste:

(A) Ignitable or reactive waste must not be placed in a tank, unless:

(*1*) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under §261.21 or §261.23 of this chapter and §265.17(b) of this chapter is complied with; or

(*2*) The waste is accumulated or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(*3*) The tank is used solely for emergencies.

(B) A small quantity generator which treats or accumulates ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2–1 through 2–6 of the National Fire Protection Association's ''Flammable and Combustible Liquids Code'' (1977 or 1981) (incorporated by reference, see §260.11).

(C) A small quantity generator must comply with the following special conditions for incompatible wastes:

(*1*) Incompatible wastes, or incompatible wastes and materials, (see part 265 appendix V for examples) must not be placed in the same tank, unless §265.17(b) of this chapter is complied with.

(*2*) Hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material, unless §265.17(b) of this chapter is complied with.

(4) *Accumulation of hazardous waste on drip pads.* If the waste is placed on drip pads, the small quantity generator must comply with the following:

(i) Subpart W of 40 CFR part 265 (except §265.445 (c));

(ii) The small quantity generator must remove all wastes from the drip pad at least once every 90 days. Any hazardous wastes that are removed from the drip pad at least once every 90 days are then subject to the 180-day accumulation limit in paragraph (b) of this section and §262.15 if hazardous wastes are being managed in satellite accumulation areas prior to being moved to the central accumulation area; and

(iii) The small quantity generator must maintain on site at the facility the following records readily available for inspection:

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

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

(5) *Accumulation of hazardous waste in containment buildings.* If the waste is placed in containment buildings, the small quantity generator must comply with of 40 CFR part 265 subpart DD. The generator must label its containment buildings with the words ''Hazardous Waste'' in a conspicuous place easily visible to employees, visitors,

emergency responders, waste handlers, or other persons on site and also in a conspicuous place provide an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).The generator must also maintain:

(i) The professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101. This certification must be in the generator's files prior to operation of the unit; and

(ii) The following records by use of inventory logs, monitoring equipment, or any other effective means:

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

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

(C) Inventory logs or records with the above information must be maintained on site and readily available for inspection.

(6) *Labeling and marking of containers and tanks*—. (i) *Containers.* A small quantity generator must mark or label its containers with the following:

(A) The words ''Hazardous Waste'';

(B) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

(C) The date upon which each period of accumulation begins clearly visible for inspection on each container.

(ii) *Tanks.* A small quantity generator accumulating hazardous waste in tanks must do the following:

(A) Mark or label its tanks with the words ''Hazardous Waste'';

(B) Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

(C) Use inventory logs, monitoring equipment, or other records to demonstrate that hazardous waste has been emptied within 180 days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 180 days of first entering; and

(D) Keep inventory logs or records with the above information on site and readily available for inspection.

(7) *Land disposal restrictions.* A small quantity generator must comply with all the applicable requirements under 40 CFR part 268.

(8) *Preparedness and prevention*—(i) *Maintenance and operation of facility.* A small quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

(ii) *Required equipment.* All areas where hazardous waste is either generated or accumulated must be equipped with the items in paragraphs (b)(8)(ii)(A) through (D) of this section (*unless* none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). A small quantity generator may determine the most appropriate locations to locate equipment necessary to prepare for and respond to emergencies.

(A) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

(B) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

(C) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

(D) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

(iii) *Testing and maintenance of equipment.* All communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(iv) *Access to communications or alarm system.* (A) Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access (*e.g.*, direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, *unless* such a device is not required under paragraph (a)(8)(ii) of this section.

(B) In the event there is just one employee on the premises while the facility is operating, the employee must have immediate access (*e.g.*, direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, *unless* such a device is not required under paragraph (a)(8)(ii) of this section.

(v) *Required aisle space.* The small quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

(vi) *Arrangements with local authorities.* (A) The small quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if it is determined to be the appropriate organization with which to make arrangements.

(*1*) A small quantity generator attempting to make arrangements with its local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals.

(*2*) As part of this coordination, the small quantity generator shall attempt to make arrangements, as necessary, to familiarize the above organizations with the layout of the facility, the properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes as well as the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.

(*3*) Where more than one police or fire department might respond to an emergency, the small quantity generator shall attempt to make arrangements designating primary emergency authority to a specific fire or police department, and arrangements with any others to provide support to the primary emergency authority.

(B) A small quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

(C) A facility possessing 24-hour response capabilities may seek a waiver from the authority having jurisdiction (AHJ) over the fire code within the facility's state or locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the waiver is documented in the operating record.

(9) *Emergency procedures.* The small quantity generator complies with the following conditions for those areas of the generator facility where hazardous waste is generated and accumulated:

(i) At all times there must be at least one employee either on the premises or on call (*i.e.*, available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in paragraph (b)(9)(iv) of this section. This employee is the emergency coordinator.

(ii) The small quantity generator must post the following information next to telephones or in areas directly involved in the generation and accumulation of hazardous waste:

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

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

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

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

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

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

(B) In the event of a spill, the small quantity generator is responsible for containing the flow of hazardous waste to the extent possible, and as soon as is practicable, cleaning up the hazardous waste and any contaminated materials or soil. Such containment and cleanup can be conducted either by the small quantity generator or by a contractor on behalf of the small quantity generator;

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

(*1*) The name, address, and U.S. EPA identification number of the small quantity generator;

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

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

(*4*) Extent of injuries, if any; and

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

(c) *Transporting over 200 miles.* A small quantity generator who must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more for off-site treatment, storage or disposal may accumulate hazardous waste on site for 270 days or less without a permit or without having interim status provided that the generator

complies with the conditions of paragraph (b) of this section.

(d) *Accumulation time limit extension.* A small quantity generator who accumulates hazardous waste for more than 180 days (or for more than 270 days if it must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more) is subject to the requirements of 40 CFR parts 264, 265, 267, 268, and 270 of this chapter unless it has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by EPA if hazardous wastes must remain on site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.

(e) *Rejected load.* A small quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of § 264.72 or § 265.72 of this chapter may accumulate the returned waste on site in accordance with paragraphs (a)–(d) of this section. Upon receipt of the returned shipment, the generator must:

(1) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(2) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

(f) A small quantity generator experiencing an episodic event may accumulate hazardous waste in accordance with subpart L of this part in lieu of § 262.17.

[81 FR 85808, Nov. 28, 2016]

§ 262.17 Conditions for exemption for a large quantity generator that accumulates hazardous waste.

A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, provided that all of the following conditions for exemption are met:

(a) *Accumulation.* A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in paragraphs (b) through (e) of this section. The following accumulation conditions also apply:

(1) *Accumulation of hazardous waste in containers.* If the hazardous waste is placed in containers, the large quantity generator must comply with the following:

(i) *Air emission standards.* The applicable requirements of subparts AA, BB, and CC of 40 CFR part 265;

(ii) *Condition of containers.* If a container holding hazardous waste is not in good condition, or if it begins to leak, the large quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this section;

(iii) *Compatibility of waste with container.* The large quantity generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired;

(iv) *Management of containers.* (A) A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

(B) A container holding hazardous waste must not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

(v) *Inspections.* At least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See paragraph (a)(1)(ii) of this section for remedial action required if deterioration or leaks are detected.

(vi) *Special conditions for accumulation of ignitable and reactive wastes.* (A) Containers holding ignitable or reactive

waste must be located at least 15 meters (50 feet) from the facility's property line unless a written approval is obtained from the authority having jurisdiction over the local fire code allowing hazardous waste accumulation to occur within this restricted area. A record of the written approval must be maintained as long as ignitable or reactive hazardous waste is accumulated in this area.

(B) The large quantity generator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to the following: Open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (*e.g.*, from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the large quantity generator must confine smoking and open flame to specially designated locations. ''No Smoking'' signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(vii) *Special conditions for accumulation of incompatible wastes.* (A) Incompatible wastes, or incompatible wastes and materials, (see appendix V of part 265 for examples) must not be placed in the same container, unless § 265.17(b) of this chapter is complied with.

(B) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of part 265 for examples), unless § 265.17(b) of this chapter is complied with.

(C) A container holding a hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(2) *Accumulation of hazardous waste in tanks.* If the waste is placed in tanks, the large quantity generator must comply with the applicable requirements of subparts J, except § 265.197(c) of Closure and post-closure care and § 265.200—Waste analysis and trial tests, as well as the applicable requirements of AA, BB, and CC of 40 CFR part 265.

(3) *Accumulation of hazardous waste on drip pads.* If the hazardous waste is placed on drip pads, the large quantity generator must comply with the following:

(i) Subpart W of 40 CFR part 265;

(ii) The large quantity generator must remove all wastes from the drip pad at least once every 90 days. Any hazardous wastes that are removed from the drip pad are then subject to the 90-day accumulation limit in paragraph (a) of this section and § 262.15, if the hazardous wastes are being managed in satellite accumulation areas prior to being moved to a central accumulation area; and

(iii) The large quantity generator must maintain on site at the facility the following records readily available for inspection:

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

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

(4) *Accumulation of hazardous waste in containment buildings.* If the waste is placed in containment buildings, the large quantity generator must comply with of 40 CFR part 265 subpart DD. The generator must label its containment building with the words ''Hazardous Waste'' in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on site, and also in a conspicuous place provide an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard

at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704). The generator must also maintain:

(i) The professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101. This certification must be in the generator's files prior to operation of the unit; and

(ii) The following records by use of inventory logs, monitoring equipment, or any other effective means:

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

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

(C) Inventory logs or records with the above information must be maintained on site and readily available for inspection.

(5) *Labeling and marking of containers and tanks*—(i) *Containers.* A large quantity generator must mark or label its containers with the following:

(A) The words ''Hazardous Waste'';

(B) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

(C) The date upon which each period of accumulation begins clearly visible for inspection on each container.

(ii) *Tanks.* A large quantity generator accumulating hazardous waste in tanks must do the following:

(A) Mark or label its tanks with the words ''Hazardous Waste'';

(B) Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

(C) Use inventory logs, monitoring equipment or other records to demonstrate that hazardous waste has been emptied within 90 days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 90 days of first entering; and

(D) Keep inventory logs or records with the above information on site and readily available for inspection.

(6) *Emergency procedures.* The large quantity generator complies with the standards in subpart M of this part, Preparedness, Prevention and Emergency Procedures for Large Quantity Generators.

(7) *Personnel training.* (i)(A) Facility personnel must successfully complete a program of classroom instruction, online training (*e.g.*, computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with this part. The large quantity generator must ensure that this program includes all the elements described in the document required under paragraph (a)(7)(iv) of this section.

(B) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

(C) At a minimum, the training program must be designed to ensure that facility personnel are able to respond

effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:

(*1*) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

(*2*) Key parameters for automatic waste feed cut-off systems;

(*3*) Communications or alarm systems;

(*4*) Response to fires or explosions;

(*5*) Response to ground-water contamination incidents; and

(*6*) Shutdown of operations.

(D) For facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the large quantity generator is not required to provide separate emergency response training pursuant to this section, provided that the overall facility training meets all the conditions of exemption in this section.

(ii) Facility personnel must successfully complete the program required in paragraph (a)(7)(i) of this section within six months after the date of their employment or assignment to the facility, or to a new position at the facility, whichever is later. Employees must not work in unsupervised positions until they have completed the training standards of paragraph (a)(7)(i) of this section.

(iii) Facility personnel must take part in an annual review of the initial training required in paragraph (a)(7)(i) of this section.

(iv) The large quantity generator must maintain the following documents and records at the facility:

(A) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

(B) A written job description for each position listed under paragraph (a)(7)(iv)(A) of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;

(C) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (a)(7)(iv)(A) of this section;

(D) Records that document that the training or job experience, required under paragraphs (a)(7)(i), (ii), and (iii) of this section, has been given to, and completed by, facility personnel.

(v) Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

(8) *Closure.* A large quantity generator accumulating hazardous wastes in containers, tanks, drip pads, and containment buildings, prior to closing a unit at the facility, or prior to closing the facility, must meet the following conditions:

(i) *Notification for closure of a waste accumulation unit.* A large quantity generator must perform one of the following when closing a waste accumulation unit:

(A) Place a notice in the operating record within 30 days after closure identifying the location of the unit within the facility; or

(B) Meet the closure performance standards of paragraph (a)(8)(iii) of this section for container, tank, and containment building waste accumulation units or paragraph (a)(8)(iv) of this section for drip pads and notify EPA following the procedures in paragraph (a)(8)(ii)(B) of this section for the waste accumulation unit. If the waste accumulation unit is subsequently reopened, the generator may remove the notice from the operating record.

(ii) *Notification for closure of the facility.* (A) Notify EPA using form 8700–12 no later than 30 days prior to closing the facility.

(B) Notify EPA using form 8700–12 within 90 days after closing the facility that it has complied with the closure performance standards of paragraph (a)(8)(iii) or (iv) of this section. If the facility cannot meet the closure performance standards of paragraph

(a)(8)(iii) or (iv) of this section, notify EPA using form 8700–12 that it will close as a landfill under § 265.310 of this chapter in the case of a container, tank or containment building unit(s), or for a facility with drip pads, notify using form 8700–12 that it will close under the standards of § 265.445(b).

(C) A large quantity generator may request additional time to clean close, but it must notify EPA using form 8700–12 within 75 days after the date provided in paragraph (a)(8)(ii)(A) of this section to request an extension and provide an explanation as to why the additional time is required.

(iii) *Closure performance standards for container, tank systems, and containment building waste accumulation units.* (A) At closure, the generator must close the waste accumulation unit or facility in a manner that:

(*1*) Minimizes the need for further maintenance by controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment, the post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere,

(*2*) Removes or decontaminates all contaminated equipment, structures and soil and any remaining hazardous waste residues from waste accumulation units including containment system components (pads, liners, etc.), contaminated soils and subsoils, bases, and structures and equipment contaminated with waste, unless § 261.3(d) of this chapter applies.

(*3*) Any hazardous waste generated in the process of closing either the generator's facility or unit(s) accumulating hazardous waste must be managed in accordance with all applicable standards of parts 262, 263, 265 and 268 of this chapter, including removing any hazardous waste contained in these units within 90 days of generating it and managing these wastes in a RCRA Subtitle C hazardous waste permitted treatment, storage and disposal facility or interim status facility.

(*4*) If the generator demonstrates that any contaminated soils and wastes cannot be practicably removed or decontaminated as required in paragraph (a)(8)(ii)(A)(*2*) of this section, then the waste accumulation unit is considered to be a landfill and the generator must close the waste accumulation unit and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (§ 265.310 of this chapter). In addition, for the purposes of closure, post-closure, and financial responsibility, such a waste accumulation unit is then considered to be a landfill, and the generator must meet all of the requirements for landfills specified in subparts G and H of part 265 of this chapter.

(iv) *Closure performance standards for drip pad waste accumulation units.* At closure, the generator must comply with the closure requirements of paragraphs (a)(8)(ii) and (a)(8)(iii)(A)(*1*) and (*3*) of this section, and § 265.445(a) and (b) of this chapter.

(v) The closure requirements of paragraph (a)(8) of this section do not apply to satellite accumulation areas.

(9) *Land disposal restrictions.* The large quantity generator complies with all applicable requirements under 40 CFR part 268.

(b) *Accumulation time limit extension.* A large quantity generator who accumulates hazardous waste for more than 90 days is subject to the requirements of 40 CFR parts 124, 264 through 268, and part 270 of this chapter, and the notification requirements of section 3010 of RCRA, unless it has been granted an extension to the 90-day period. Such extension may be granted by EPA if hazardous wastes must remain on site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.

(c) *Accumulation of F006.* A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, may accumulate F006 waste on site for more than 90 days, but not more than 180 days without being subject to parts 124, 264 through 267 and 270 of this chapter, and the notification requirements of section 3010 of RCRA, provided that it

complies with all of the following additional conditions for exemption:

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

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

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

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

(i)(A) If the F006 waste is placed in containers, the large quantity generator must comply with the applicable conditions for exemption in paragraph (a)(1) of this section; and/or

(B) If the F006 is placed in tanks, the large quantity generator must comply with the applicable conditions for exemption of paragraph (a)(2) of this section; and/or

(C) If the F006 is placed in containment buildings, the large quantity generator must comply with subpart DD of 40 CFR part 265, and has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's files prior to operation of the unit. The large quantity generator must maintain the following records:

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

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

(ii) The large quantity generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for those referenced in paragraph (a)(8) of this section.

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

(iv) While being accumulated on site, each container and tank is labeled or marked clearly with:

(A) The words ''Hazardous Waste''; and

(B) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

(v) The large quantity generator complies with the requirements in paragraphs(a)(6) and (7) of this section.

(d) *F006 transported over 200 miles.* A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for offsite metals recovery, may accumulate F006 waste on site for more than 90 days, but not more than 270 days without being subject to parts 124, 264 through 267, 270, and the notification requirements of section 3010 of RCRA, if the large quantity generator complies with all of the conditions for exemption of paragraphs (c)(1) through (4) of this section.

(e) *F006 accumulation time extension.* A large quantity generator accumulating F006 in accordance with paragraphs (c) and (d) of this section who accumulates F006 waste on site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on site is an operator of a storage facility and is subject to the requirements of 40 CFR parts 124, 264, 265, 267, and 270 of this chapter, and the notification requirements of

section 3010 of RCRA, unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by EPA if F006 waste must remain on site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the Regional Administrator on a case-by-case basis.

(f) *Consolidation of hazardous waste received from very small quantity generators.* Large quantity generators may accumulate on site hazardous waste received from very small quantity generators under control of the same person (as defined in § 260.10 of this chapter), without a storage permit or interim status and without complying with the requirements of parts 124, 264 through 268, and 270 of this chapter, and the notification requirements of section 3010 of RCRA, provided that they comply with the following conditions. ''Control,'' for the purposes of this section, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person shall not be deemed to ''control'' such generators.

(1) The large quantity generator notifies EPA at least thirty (30) days prior to receiving the first shipment from a very small quantity generator(s) using EPA Form 8700–12; and

(i) Identifies on the form the name(s) and site address(es) for the very small quantity generator(s) as well as the name and business telephone number for a contact person for the very small quantity generator(s); and

(ii) Submits an updated Site ID form (EPA Form 8700–12) within 30 days after a change in the name or site address for the very small quantity generator.

(2) The large quantity generator maintains records of shipments for three years from the date the hazardous waste was received from the very small quantity generator. These records must identify the name, site address, and contact information for the very small quantity generator and include a description of the hazardous waste received, including the quantity and the date the waste was received.

(3) The large quantity generator complies with the independent requirements identified in § 262.10(a)(1)(iii) and the conditions for exemption in this section for all hazardous waste received from a very small quantity generator. For purposes of the labeling and marking regulations in paragraph (a)(5) of this section, the large quantity generator must label the container or unit with the date accumulation started (*i.e.*, the date the hazardous waste was received from the very small quantity generator). If the large quantity generator is consolidating incoming hazardous waste from a very small quantity generator with either its own hazardous waste or with hazardous waste from other very small quantity generators, the large quantity generator must label each container or unit with the earliest date any hazardous waste in the container was accumulated on site.

(g) *Rejected load.* A large quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of § 264.72 or § 265.72 of this chapter may accumulate the returned waste on site in accordance with paragraphs (a) and (b) of this section. Upon receipt of the returned shipment, the generator must:

(1) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(2) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

[81 FR 85808, Nov. 28, 2016]

§ 262.18 EPA identification numbers and re-notification for small quantity generators and large quantity generators.

(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without

having received an EPA identification number from the Administrator.

(b) A generator who has not received an EPA identification number must obtain one by applying to the Administrator using EPA Form 8700–12. Upon receiving the request the Administrator will assign an EPA identification number to the generator.

(c) A generator must not offer its hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

(d) *Re-notification*. (1) A small quantity generator must re-notify EPA starting in 2021 and every four years thereafter using EPA Form 8700–12. This re-notification must be submitted by September 1st of each year in which re-notifications are required.

(2) A large quantity generator must re-notify EPA by March 1 of each even-numbered year thereafter using EPA Form 8700–12. A large quantity generator may submit this re-notification as part of its Biennial Report required under § 262.41.

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

[81 FR 85808, Nov. 28, 2016]

Subpart B—Manifest Requirements Applicable to Small and Large Quantity Generators

§ 262.20 General requirements.

(a)(1) A generator that transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, or disposal facility that offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control number 2050–0039) on EPA Form 8700–22, and, if necessary, EPA Form 8700–22A.

(2) The revised manifest form and procedures in 40 CFR 260.10, 261.7, 262.20, 262.21, 262.27, 262.32, 262.34, 262.54, and 262.60, shall not apply until September 5, 2006. The manifest form and procedures in 40 CFR 260.10, 261.7, 262.20, 262.21, 262.32, 262.34, 262.54, and 262.60, contained in the 40 CFR, parts 260 to 265, edition revised as of July 1, 2004, shall be applicable until September 5, 2006.

(3) *Electronic manifest*. In lieu of using the manifest form specified in paragraph (a)(1) of this section, a person required to prepare a manifest under paragraph (a)(1) of this section may prepare and use an electronic manifest, provided that the person:

(i) Complies with the requirements in § 262.24 for use of electronic manifests, and

(ii) Complies with the requirements of 40 CFR 3.10 for the reporting of electronic documents to EPA.

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

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

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

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

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

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

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

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

(f) The requirements of this subpart and § 262.32(b) do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person,

even if such contiguous property is divided by a public or private right-of-way. Notwithstanding 40 CFR 263.10(a), the generator or transporter must comply with the requirements for transporters set forth in 40 CFR 263.30 and 263.31 in the event of a discharge of hazardous waste on a public or private right-of-way.

[45 FR 33142, May 19, 1980, as amended at 49 FR 10500, Mar. 20, 1984; 51 FR 10175, Mar. 24, 1986; 53 FR 45090, Nov. 8, 1988; 62 FR 6651, Feb. 12, 1997; 70 FR 10815, Mar. 4, 2005; 70 FR 35037, June 16, 2005; 79 FR 7558, Feb. 7, 2014; 83 FR 451, Jan. 3, 2018]

§ 262.21 Manifest tracking numbers, manifest printing, and obtaining manifests.

(a)(1) A registrant may not print, or have printed, the manifest for use of distribution unless it has received approval from the EPA Director of the Office of Resource Conservation and Recovery to do so under paragraphs (c) and (e) of this section.

(2) The approved registrant is responsible for ensuring that the organizations identified in its application are in compliance with the procedures of its approved application and the requirements of this section. The registrant is responsible for assigning manifest tracking numbers to its manifests.

(b) A registrant must submit an initial application to the EPA Director of the Office of Resource Conservation and Recovery that contains the following information:

(1) Name and mailing address of registrant;

(2) Name, telephone number and email address of contact person;

(3) Brief description of registrant's government or business activity;

(4) EPA identification number of the registrant, if applicable;

(5) Description of the scope of the operations that the registrant plans to undertake in printing, distributing, and using its manifests, including:

(i) A description of the printing operation. The description should include an explanation of whether the registrant intends to print its manifests in-house (*i.e.*, using its own printing establishments) or through a separate (*i.e.*, unaffiliated) printing company. If the registrant intends to use a separate printing company to print the manifest on its behalf, the application must identify this printing company and discuss how the registrant will oversee the company. If this includes the use of intermediaries (e.g., prime and subcontractor relationships), the role of each must be discussed. The application must provide the name and mailing address of each company. It also must provide the name and telephone number of the contact person at each company.

(ii) A description of how the registrant will ensure that its organization and unaffiliated companies, if any, comply with the requirements of this section. The application must discuss how the registrant will ensure that a unique manifest tracking number will be pre-printed on each manifest. The application must describe the internal control procedures to be followed by the registrant and unaffiliated companies to ensure that numbers are tightly controlled and remain unique. In particular, the application must describe how the registrant will assign manifest tracking numbers to its manifests. If computer systems or other infrastructure will be used to maintain, track, or assign numbers, these should be indicated. The application must also indicate how the printer will pre-print a unique number on each form (e.g., crash or press numbering). The application also must explain the other quality procedures to be followed by each establishment and printing company to ensure that all required print specifications are consistently achieved and that printing violations are identified and corrected at the earliest practicable time.

(iii) An indication of whether the registrant intends to use the manifests for its own business operations or to distribute the manifests to a separate company or to the general public (e.g., for purchase).

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

as such information pertains to the establishments or company being proposed to print the manifest.

(7) Proposed unique three-letter manifest tracking number suffix. If the registrant is approved to print the manifest, the registrant must use this suffix to pre-print a unique manifest tracking number on each manifest.

(8) A signed certification by a duly authorized employee of the registrant that the organizations and companies in its application will comply with the procedures of its approved application and the requirements of this section and that it will notify the EPA Director of the Office of Resource Conservation and Recovery of any duplicated manifest tracking numbers on manifests that have been used or distributed to other parties as soon as this becomes known.

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

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

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

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

(ii) Paper weight of each copy;

(iii) Ink color of the manifest's instructions. If screening of the ink was used, the registrant must indicate the extent of the screening; and

(iv) Method of binding the copies.

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

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

(f) Paper manifests and continuation sheets must be printed according to the following specifications:

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

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

(3) The manifest and continuation sheet must be printed on 8½ × 11-inch white paper, excluding common stubs (e.g., top- or side-bound stubs). The paper must be durable enough to withstand normal use.

(4) The manifest and continuation sheet must be printed in black ink that can be legibly photocopied, scanned, or faxed, except that the marginal words indicating copy distribution must be printed with a distinct ink color or with another method (*e.g.*, white text against black background in text box, or, black text against grey background in text box) that clearly distinguishes the copy distribution notations from the other text and data entries on the form.

(5) The manifest and continuation sheet must be printed as five-copy forms. Copy-to-copy registration must

be exact within 1/32nd of an inch. Handwritten and typed impressions on the form must be legible on all five copies. Copies must be bound together by one or more common stubs that reasonably ensure that they will not become detached inadvertently during normal use.

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

(i) Page 1 (top copy): ''Designated facility to EPA's e-Manifest system'';

(ii) Page 2: ''Designated facility to generator'';

(iii) Page 3: ''Designated facility copy'';

(iv) Page 4: ''Transporter copy''; and

(v) Page 5 (bottom copy): ''Generator's initial copy.''

(7) The instructions for the manifest form (EPA Form 8700–22) and the manifest continuation sheet (EPA Form 8700–22A) shall be printed in accordance with the content that is currently approved under OMB Control Number 2050–0039 and published to the e-Manifest program's website. The instructions must appear legibly on the back of the copies of the manifest and continuation sheet as provided in this paragraph (f). The instructions must not be visible through the front of the copies when photocopied or faxed.

(i) Manifest Form 8700–22.

(A) The ''Instructions for Generators'' on Copy 5;

(B) The ''Instructions for International Shipment Block'' and ''Instructions for Transporters'' on Copy 4; and

(C) The ''Instructions for Treatment, Storage, and Disposal Facilities'' on Copy 3.

(ii) Manifest Form 8700–22A.

(A) The ''Instructions for Generators'' on Copy 5;

(B) The ''Instructions for Transporters'' on Copy 4; and

(C) The ''Instructions for Treatment, Storage, and Disposal Facilities'' on Copy 3.

(8) The designated facility copy of each manifest and continuation sheet must include in the bottom margin the following warning in prominent font: ''If you received this manifest, you have responsibilities under the e-Manifest Act. See instructions on reverse side.''

(g)(1) A generator may use manifests printed by any source so long as the source of the printed form has received approval from EPA to print the manifest under paragraphs (c) and (e) of this section. A registered source may be a:

(i) State agency;

(ii) Commercial printer;

(iii) Hazardous waste generator, transporter or TSDF; or

(iv) Hazardous waste broker or other preparer who prepares or arranges shipments of hazardous waste for transportation.

(2) A generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under these states' authorized programs. Generators also must determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.

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

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

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

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

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

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

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

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

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

(ii) Exhibits a continuing pattern of behavior in using or distributing manifests that contain duplicate manifest tracking numbers.

(2) EPA will send a warning letter to the registrant that specifies the date by which it must come into compliance with the requirements. If the registrant does not come in compliance by the specified date, EPA will send a second letter notifying the registrant that EPA has suspended or revoked its printing privileges. An approved registrant must provide information on its printing activities to EPA if requested.

[70 FR 10815, Mar. 4, 2005, as amended at 74 FR 30230, June 25, 2009; 76 FR 36366, June 22, 2011; 83 FR 451, Jan. 3, 2018]

§ 262.22 Number of copies.

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

§ 262.23 Use of the manifest.

(a) The generator must:

(1) Sign the manifest certification by hand; and

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

(3) Retain one copy, in accordance with § 262.40(a).

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

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

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

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

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

(3) The last rail transporter to handle the waste in the United States if exported by rail.

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

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

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

(1) Sign either:

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

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

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

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

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

[45 FR 33142, May 19, 1980, as amended at 45 FR 86973, Dec. 31, 1980; 55 FR 2354, Jan. 23, 1990; 75 FR 13004, Mar. 18, 2010]

§ 262.24 Use of the electronic manifest.

(a) *Legal equivalence to paper manifests.* Electronic manifests that are obtained, completed, and transmitted in accordance with § 262.20(a)(3), and used in accordance with this section in lieu of EPA Forms 8700–22 and 8700–22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

(1) Any requirement in these regulations to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 262.25.

(2) Any requirement in these regulations to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the system.

(3) Any requirement in these regulations for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector.

(4) No generator may be held liable for the inability to produce an electronic manifest for inspection under this section if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.

(b) A generator may participate in the electronic manifest system either by accessing the electronic manifest

system from its own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for off-site transportation.

(c) *Restriction on use of electronic manifests.* A generator may use an electronic manifest for the tracking of waste shipments involving any RCRA hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the use of the electronic manifest, except that:

(1) A generator may sign by hand and retain a paper copy of the manifest signed by hand by the initial transporter, in lieu of executing the generator copy electronically, thereby enabling the transporter and subsequent waste handlers to execute the remainder of the manifest copies electronically.

(2) [Reserved]

(d) *Requirement for one printed copy.* To the extent the Hazardous Materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR 177.817, a generator originating an electronic manifest must also provide the initial transporter with one printed copy of the electronic manifest.

(e) *Special procedures when electronic manifest is unavailable.* If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator must obtain and complete a paper manifest and if necessary, a continuation sheet (EPA Forms 8700–22 and 8700–22A) in accordance with the manifest instructions, and use these paper forms from this point forward in accordance with the requirements of § 262.23.

(f) *Special procedures for electronic signature methods undergoing tests.* If a generator has prepared an electronic manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the generator shall also sign with an ink signature the generator/offeror certification on the printed copy of the manifest provided under paragraph (d) of this section.

(g) [Reserved]

(h) *Post-receipt manifest data corrections.* After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (*e.g.*, waste handler) named on the manifest. Generators may participate electronically in the post-receipt data corrections process by following the process described in § 264.71(l) of this chapter, which applies to corrections made to either paper or electronic manifest records.

[79 FR 7558, Feb. 7, 2014, as amended at 83 FR 452, Jan. 3, 2018]

§ 262.25 Electronic manifest signatures.

Electronic signature methods for the e-Manifest system shall:

(a) Be a legally valid and enforceable signature under applicable EPA and other Federal requirements pertaining to electronic signatures; and

(b) Be a method that is designed and implemented in a manner that EPA considers to be as cost-effective and practical as possible for the users of the manifest.

[79 FR 7558, Feb. 7, 2014]

§ 262.27 Waste minimization certification.

A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the uniform hazardous waste manifest:

(a) ''I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the

present and future threat to human health and the environment;'' or

(b) ''I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.''

[70 FR 10817, Mar. 4, 2005]

Subpart C—Pre-Transport Requirements Applicable to Small and Large Quantity Generators

§ 262.30 Packaging.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable Department of Transportation regulations on packaging under 49 CFR parts 173, 178, and 179.

§ 262.31 Labeling.

Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR part 172.

§ 262.32 Marking.

(a) Before transporting or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR part 172;

(b) Before transporting hazardous waste or offering hazardous waste for transportation off site, a generator must mark each container of 119 gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 CFR 172.304:

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

(2) Generator's Name and Address _____.

(3) Generator's EPA Identification Number _____.

(4) Manifest Tracking Number _____.

(5) EPA Hazardous Waste Number(s) _____.

(c) A generator may use a nationally recognized electronic system, such as bar coding, to identify the EPA Hazardous Waste Number(s), as required by paragraph (b)(5) or paragraph (d).

(d) Lab packs that will be incinerated in compliance with § 268.42(c) are not required to be marked with EPA Hazardous Waste Number(s), except D004, D005, D006, D007, D008, D010, and D011, where applicable.

[45 FR 33142, May 19, 1980, as amended at 70 FR 10817, Mar. 4, 2005; 81 FR 85818, Nov. 28, 2016]

§ 262.33 Placarding.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR part 172, subpart F.

[70 FR 35037, June 16, 2005]

§ 262.34 [Reserved]

§ 262.35 Liquids in landfills prohibition.

The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited. Prior to disposal in a hazardous waste landfill, liquids must meet additional requirements as specified in §§ 264.314 and 265.314.

[81 FR 85818, Nov. 28, 2016]

Subpart D—Recordkeeping and Reporting Applicable to Small and Large Quantity Generators

§ 262.40 Recordkeeping.

(a) A generator must keep a copy of each manifest signed in accordance with § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three

years from the date the waste was accepted by the initial transporter.

(b) A generator must keep a copy of each Biennial Report and Exception Report for a period of at least three years from the due date of the report.

(c) See § 262.11(f) for recordkeeping requirements for documenting hazardous waste determinations.

(d) The periods or 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.

[45 FR 33142, May 19, 1980, as amended at 48 FR 3981, Jan. 28, 1983; 82 FR 85818, Nov. 28, 2016]

§ 262.41 Biennial report for large quantity generators.

(a) A generator who is a large quantity generator for at least one month of an odd-numbered year (reporting year) who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must complete and submit EPA Form 8700–13 A/B to the Regional Administrator by March 1 of the following even-numbered year and must cover generator activities during the previous year.

(b) Any generator who is a large quantity generator for at least one month of an odd-numbered year (reporting year) who treats, stores, or disposes of hazardous waste on site must complete and submit EPA Form 8700–13 A/B to the Regional Administrator by March 1 of the following even-numbered year covering those wastes in accordance with the provisions of 40 CFR parts 264, 265, 266, 267 and 270. This requirement also applies to large quantity generators that receive hazardous waste from very small quantity generators pursuant to § 262.17(f).

(c) Exports of hazardous waste to foreign countries are not required to be reported on the Biennial Report form. A separate annual report requirement is set forth at § 262.83(g) for hazardous waste exporters.

[81 FR 85818, Nov. 28, 2017]

§ 262.42 Exception reporting.

(a)(1) A generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in § 261.31 or § 261.33(e) in a calendar month, who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

(2) A generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in § 261.31or § 261.33(e) in a calendar month, must submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

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

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

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

NOTE: The submission to EPA need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.

(c) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of 40 CFR 264.72(e)(1) through (6) or 40 CFR 265.72(e)(1) through (6)), the generator must comply with the requirements of paragraph (a) or (b) of this section, as applicable, for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of paragraph (a) or (b) of this section for a shipment forwarding such waste to an alternate facility by a designated facility:

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

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

[52 FR 35898, Sept. 23, 1987, as amended at 75 FR 13005, Mar. 18, 2010]

§ 262.43 Additional reporting.

The Administrator, as deemed necessary under sections 2002(a) and 3002(a)(6) of the Act, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 40 CFR part 261.

[82 FR 85818, Nov. 28, 2016]

§ 262.44 Recordkeeping for small quantity generators.

A small quantity generator is subject only to the following independent requirements in this subpart:

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

(b) Section 262.42(b), exception reporting; and

(c) Section 262.43, additional reporting.

[52 FR 35899, Sept. 23, 1987, as amended at 81 FR 85819, Nov. 28, 2016]

Subparts E–F [Reserved]

Subpart G—Farmers

§ 262.70 Farmers.

A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this part or other standards in 40 CFR parts 264, 265, 268, or 270 for those wastes provided he triple rinses each emptied pesticide container in accordance with § 261.7(b)(3) and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.

[53 FR 27165, July 19, 1988, as amended at 71 FR 40271, July 14, 2006]

Subpart H—Transboundary Movements of Hazardous Waste for Recovery or Disposal

SOURCE: 81 FR 85715, Nov. 28, 2016, unless otherwise noted.

§ 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:

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

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

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

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

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

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

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

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

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

(10) D10 Incineration on land.

(11) D11 Incineration at sea.

(12) D12 Permanent storage.

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

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

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

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

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

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

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

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

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

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

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

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

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

OECD 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:

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

(2) R2 Solvent reclamation/regeneration.

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

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

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

(6) R6 Regeneration of acids or bases.

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

(8) R8 Recovery of components used from catalysts.

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

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

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

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

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

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

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

(16) RC16 Interim storage prior to any of operations R1 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 40 CFR 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 (e) of this section of the need to return the shipment. EPA will then inform the competent authority of the country of export, citing the reason(s) for returning the waste. The U.S. transporter must complete the return within ninety (90) days from the time EPA informs the country of export of the need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the concerned countries.

(d) *Laboratory analysis exemption.* Export or import of a hazardous waste sample is exempt from the requirements of this subpart if the sample is destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery or disposal operations, does not exceed twenty-five 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 Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

(2) For hand-delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, William Jefferson Clinton South Building, Room 6144, 1200 Pennsylvania Ave. NW, Washington, DC 20004.

[81 FR 85715, Nov. 28, 2016, as amended at 83 FR 38263, Aug. 6, 2018]

§ 262.83 Exports of hazardous waste.

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

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

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

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

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

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

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

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

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

(*1*) EPA license code;

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

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

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

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

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

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

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

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

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

(*2*) Providing the transporter with an additional copy of the manifest, and instructing the transporter via mail, email or fax to deliver that copy to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with 40 CFR 263.20(g)(4)(ii)

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

(A) EPA license code;

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

(C) EPA consent number for each hazardous waste;

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

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

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

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

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

(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 email address;

(ii) Foreign receiving facility name, address, telephone, fax numbers, email 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 email address;

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

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

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

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

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

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

(x) Means of transport planned to be used;

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

(xii) Specification of the recovery or disposal operation(s) as defined in § 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) of this section and additionally state that the facility is pre-consented. Exporters must submit the notification to EPA using the allowable methods listed in paragraph (b)(1) of this section at least ten days before the first shipment is expected to leave the United States.

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

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

(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 paragraphs (b)(1)(i) through (xiii) of this section.

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

(7) Export of hazardous wastes for recycling or disposal operations that were originally imported into the United States for recycling or disposal operations in a third country is prohibited unless an exporter in the United States complies with the export requirements in §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 §§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 (ii) of this section.

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

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

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

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

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

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

(iv) Foreign receiving facility name, address, telephone, fax numbers, email 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 email address;

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

(vii) Date movement commenced;

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

(ix) Company name, EPA ID number, address, telephone, fax, and email 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 (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, R13, or RC16, or interim disposal operations D13 through D15 or DC17, (recovery and disposal operations defined in 40 CFR 262.81) as appropriate, will:

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

(ii) Promptly send copies of the confirmation of recovery or disposal that it receives from the final foreign recovery or disposal facility within one 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 1 TO PARAGRAPH (f)(7): Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD Member countries and other foreign countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, persons or facilities located in those OECD Member countries or other foreign countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

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

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

(g*) Annual reports.* The exporter shall file an annual report with EPA no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. Prior to one 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 40 CFR 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 (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.

[45 FR 33142, May 19, 1980, as amended at 82 FR 60900, Dec. 26, 2017]

§ 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 email address;

(ii) Receiving facility name, EPA ID number, address, telephone, fax numbers, email 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 email address;

(iv) Intended transporter(s) and/or their agent(s); address, telephone, fax, and email 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 lists incorporated by reference in 40 CFR 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

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

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

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

Name:

Signature:
Date:

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

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

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

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

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

(6) Export of hazardous wastes originally imported into the United States. Export of hazardous wastes that were originally imported into the United States for recycling or disposal operations is prohibited unless an exporter in the United States complies with the export requirements in § 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 40 CFR 264.71(a)(3) and 265.71(a)(3).

(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 (ii) of this section.

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

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

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

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

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

(iii) Foreign exporter name, address, telephone, fax numbers, and email address;

(iv) Receiving facility name, EPA ID number, address, telephone, fax numbers, email 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 email address;

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

(vii) Date movement commenced;

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

(ix) Company name, EPA ID number, address, telephone, fax, and email 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, 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. The recovery and disposal operations in this paragraph are defined in § 262.81.

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

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

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

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

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

(1) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty 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. The recovery and disposal operations in this paragraph are defined in § 262.81.

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

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

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

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

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

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

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

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

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

[45 FR 33142, May 19, 1980, as amended at 83 FR 60901, Dec. 26, 2017]

§§ 262.85–262.89 [Reserved]

Subparts I–J [Reserved]

Subpart K—Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities

SOURCE: 73 FR 72954, Dec. 1, 2008, unless otherwise noted.

§ 262.200 Definitions for this subpart.

The following definitions apply to this subpart:

College/University means a private or public, post-secondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the U.S. Department of Education.

Eligible academic entity means a college or university, or a non-profit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

Formal written affiliation agreement for a non-profit research institute means a written document that establishes a relationship between institutions for the purposes of research and/or education and is signed by authorized representatives, as defined by § 260.10, from each institution. A relationship on a project-by-project or grant-by-grant basis is not considered a formal written affiliation agreement. A *formal written affiliation agreement* for a teaching hospital means a master affiliation agreement and program letter of agreement, as defined by the Accreditation Council for Graduate Medical Education, with an accredited medical program or medical school.

Laboratory means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also considered laboratories.

Laboratory clean-out means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or that have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (e.g., at the end of a semester or academic year) or as a result of a renovation, relocation, or change in laboratory supervisor/occupant. A regularly scheduled removal of unwanted material as required by § 262.208 does not qualify as a laboratory clean-out.

Laboratory worker means a person who handles chemicals and/or unwanted material in a laboratory and may include, but is not limited to, faculty, staff, post-doctoral fellows, interns, researchers, technicians, supervisors/managers, and principal investigators. A person does not need to be paid or otherwise compensated for his/her work in the laboratory to be considered a laboratory worker. Undergraduate and graduate students in a supervised classroom setting are not laboratory workers.

Non-profit research institute means an organization that conducts research as its primary function and files as a non-profit organization under the tax code of 26 U.S.C. 501(c)(3).

Reactive acutely hazardous unwanted material means an unwanted material that is one of the acutely hazardous commercial chemical products listed in § 261.33(e) for reactivity.

Teaching hospital means a hospital that trains students to become physicians, nurses or other health or laboratory personnel.

Trained professional means a person who has completed the applicable RCRA training requirements of § 262.17 for large quantity generators, or is knowledgeable about normal operations and emergencies in accordance

with § 262.16 for small quantity generators and very small quantity generators. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

Unwanted material means any chemical, mixtures of chemicals, products of experiments or other material from a laboratory that is no longer needed, wanted or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to § 261.2, or a hazardous waste pursuant to § 261.3. If an eligible academic entity elects to use another equally effective term in lieu of ''unwanted material,'' as allowed by § 262.206(a)(1)(i), the equally effective term has the same meaning and is subject to the same requirements as ''unwanted material'' under this subpart.

Working container means a small container (*i.e.*, two gallons or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

[73 FR 72954, Dec. 1, 2008, as amended at 75 FR 79308, Dec. 20, 2010; 81 FR 85819, Nov. 28, 2016]

§ 262.201 Applicability of this subpart.

(a) *Large quantity generators and small quantity generators.* This subpart provides alternative requirements to the requirements in §§ 262.11 and 262.15 for the hazardous waste determination and accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subpart, provided that they complete the notification requirements of § 262.203.

(b) *Very small quantity generators.* This subpart provides alternative requirements to the conditional exemption in § 262.14 for the accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subpart, provided that they complete the notification requirements of § 262.203.

[81 FR 85819, Nov. 28, 2016]

§ 262.202 This subpart is optional.

(a) *Large quantity generators and small quantity generators.* Eligible academic entities have the option of complying with this subpart with respect to its laboratories, as an alternative to complying with the requirements of §§ 262.11 and 262.15.

(b) Very small quantity generators. Eligible academic entities have the option of complying with this subpart with respect to laboratories, as an alternative to complying with the conditional exemption of § 262.14.

[81 FR 85819, Nov. 28, 2016]

§ 262.203 How an eligible academic entity indicates it will be subject to the requirements of this subpart.

(a) An eligible academic entity must notify the appropriate EPA Regional Administrator in writing, using the RCRA Subtitle C Site Identification Form (EPA Form 8700–12), that it is electing to be subject to the requirements of this subpart for all the laboratories owned by the eligible academic entity under the same EPA identification number. An eligible academic entity that is a very small quantity generator and does not have an EPA identification number must notify that it is electing to be subject to the requirements of this subpart for all the laboratories owned by the eligible academic entity that are on site, as defined by § 260.10 of this chapter. An eligible academic entity must submit a separate notification (Site Identification Form) for each EPA identification number (or site, for very small quantity generators) that is electing to be subject to the requirements of this subpart, and must submit the Site Identification Form before it begins operating under this subpart.

(b) When submitting the Site Identification Form, the eligible academic entity must, at a minimum, fill out the following fields on the form:

(1) Reason for Submittal.

(2) Site EPA identification number (except for very small quantity generators).

(3) Site Name.
(4) Site Location Information.
(5) Site Land Type.
(6) North American Industry Classification System (NAICS) Code(s) for the Site.
(7) Site Mailing Address.
(8) Site Contact Person.
(9) Operator and Legal Owner of the Site.
(10) Type of Regulated Waste Activity.
(11) Certification.

(c) An eligible academic entity must keep a copy of the notification on file at the eligible academic entity for as long as its laboratories are subject to this subpart.

(d) A teaching hospital that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the teaching hospital for as long as its laboratories are subject to this subpart.

(e) A non-profit research institute that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the non-profit research institute for as long as its laboratories are subject to this subpart.

[73 FR 72954, Dec. 1, 2008, as amended at 81 FR 85819, Nov. 28, 2016]

§ 262.204 How an eligible academic entity indicates it will withdraw from the requirements of this subpart.

(a) An eligible academic entity must notify the appropriate EPA Regional Administrator in writing, using the RCRA Subtitle C Site Identification Form (EPA Form 8700–12), that it is electing to no longer be subject to the requirements of this subpart for all the laboratories owned by the eligible academic entity under the same EPA identification number and that it will comply with the requirements of §§ 262.11 and 262.15 for small quantity generators and large quantity generators. An eligible academic entity that is a very small quantity generator and does not have an EPA identification number must notify that it is withdrawing from the requirements of this subpart for all the laboratories owned by the eligible academic entity that are on site and that it will comply with the conditional exemption in § 262.14. An eligible academic entity must submit a separate notification (Site Identification Form) for each EPA identification number (or site, for very small quantity generators) that is withdrawing from the requirements of this subpart and must submit the Site Identification Form before it begins operating under the standards in §§ 262.11 and 262.15 for small quantity generators and large quantity generators or § 262.14 for very small quantity generators.

(b) When submitting the Site Identification Form, the eligible academic entity must, at a minimum, fill out the following fields on the form:
(1) Reason for Submittal.
(2) Site EPA Identification Number (except for conditionally exempt small quantity generators).
(3) Site Name.
(4) Site Location Information.
(5) Site Land Type.
(6) North American Industry Classification System (NAICS) Code(s) for the Site.
(7) Site Mailing Address.
(8) Site Contact Person.
(9) Operator and Legal Owner of the Site.
(10) Type of Regulated Waste Activity.
(11) Certification.

(c) An eligible academic entity must keep a copy of the withdrawal notice on file at the eligible academic entity for three years from the date of the notification.

[73 FR 72954, Dec. 1, 2008, as amended at 81 FR 85819, Nov. 28, 2016]

§ 262.205 Summary of the requirements of this subpart.

An eligible academic entity that chooses to be subject to this subpart is not required to have interim status or a RCRA Part B permit for the accumulation of unwanted material and hazardous waste in its laboratories, provided the laboratories comply with the provisions of this subpart and the eligible academic entity has a Laboratory Management Plan (LMP) in accordance with § 262.214 that describes how the

laboratories owned by the eligible academic entity will comply with the requirements of this subpart.

§ 262.206 Labeling and management standards for containers of unwanted material in the laboratory.

An eligible academic entity must manage containers of unwanted material while in the laboratory in accordance with the requirements in this section.

(a) Labeling: Label unwanted material as follows:

(1) The following information must be affixed or attached to the container:

(i) The words ''unwanted material'' or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in Part I of the Laboratory Management Plan, and

(ii) Sufficient information to alert emergency responders to the contents of the container. Examples of information that would be sufficient to alert emergency responders to the contents of the container include, but are not limited to:

(A) The name of the chemical(s),

(B) The type or class of chemical, such as organic solvents or halogenated organic solvents.

(2) The following information may be affixed or attached to the container, but must at a minimum be associated with the container:

(i) The date that the unwanted material first began accumulating in the container, and

(ii) Information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and hazardous waste and to assign the proper hazardous waste code(s), pursuant to § 262.11. Examples of information that would allow a trained professional to properly identify whether an unwanted material is a solid or hazardous waste include, but are not limited to:

(A) The name and/or description of the chemical contents or composition of the unwanted material, or, if known, the product of the chemical reaction,

(B) Whether the unwanted material has been used or is unused,

(C) A description of the manner in which the chemical was produced or processed, if applicable.

(b) Management of Containers in the Laboratory: An eligible academic entity must properly manage containers of unwanted material in the laboratory to assure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Proper container management must include the following:

(1) Containers are maintained and kept in good condition and damaged containers are replaced, overpacked, or repaired, and

(2) Containers are compatible with their contents to avoid reactions between the contents and the container; and are made of, or lined with, material that is compatible with the unwanted material so that the container's integrity is not impaired, and

(3) Containers must be kept closed at all times, except:

(i) When adding, removing or bulking unwanted material, or

(ii) A working container may be open until the end of the procedure or work shift, or until it is full, whichever comes first, at which time the working container must either be closed or the contents emptied into a separate container that is then closed, or

(iii) When venting of a container is necessary:

(A) For the proper operation of laboratory equipment, such as with in-line collection of unwanted materials from high performance liquid chromatographs, or

(B) To prevent dangerous situations, such as build-up of extreme pressure.

[73 FR 72954, Dec. 1, 2008, as amended at 75 FR 79308, Dec. 20, 2010; 81 FR 85820, Nov. 28, 2016]

§ 262.207 Training.

An eligible academic entity must provide training to all individuals working in a laboratory at the eligible academic entity, as follows:

(a) Training for laboratory workers and students must be commensurate with their duties so they understand

the requirements in this subpart and can implement them.

(b) An eligible academic entity can provide training for laboratory workers and students in a variety of ways, including, but not limited to:

(1) Instruction by the professor or laboratory manager before or during an experiment; or

(2) Formal classroom training; or

(3) Electronic/written training; or

(4) On-the-job training; or

(5) Written or oral exams.

(c) An eligible academic entity that is a large quantity generator must maintain documentation for the durations specified in § 265.16(e) demonstrating training for all laboratory workers that is sufficient to determine whether laboratory workers have been trained. Examples of documentation demonstrating training can include, but are not limited to, the following:

(1) Sign-in/attendance sheet(s) for training session(s); or

(2) Syllabus for training session; or

(3) Certificate of training completion; or

(4) Test results.

(d) A trained professional must:

(1) Accompany the transfer of unwanted material and hazardous waste when the unwanted material and hazardous waste is removed from the laboratory, and

(2) Make the hazardous waste determination, pursuant to § 262.11(a) through (d), for unwanted material.

[73 FR 72954, Dec. 1, 2008, as amended at 81 FR 85820, Nov. 28, 2016]

§ 262.208 Removing containers of unwanted material from the laboratory.

(a) Removing containers of unwanted material on a regular schedule. An eligible academic entity must either:

(1) Remove all containers of unwanted material from each laboratory on a regular interval, not to exceed 12 months; or

(2) Remove containers of unwanted material from each laboratory within 12 months of each container's accumulation start date.

(b) The eligible academic entity must specify in Part I of its Laboratory Management Plan whether it will comply with paragraph (a)(1) or (a)(2) of this section for the regular removal of unwanted material from its laboratories.

(c) The eligible academic entity must specify in Part II of its Laboratory Management Plan how it will comply with paragraph (a)(1) or (a)(2) of this section and develop a schedule for regular removals of unwanted material from its laboratories.

(d) Removing containers of unwanted material when volumes are exceeded.

(1) If a laboratory accumulates a total volume of unwanted material (including reactive acutely hazardous unwanted material) in excess of 55 gallons before the regularly scheduled removal, the eligible academic entity must ensure that all containers of unwanted material in the laboratory (including reactive acutely hazardous unwanted material):

(i) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that 55 gallons is exceeded; and

(ii) Are removed from the laboratory within 10 calendar days of the date that 55 gallons was exceeded, or at the next regularly scheduled removal, whichever comes first.

(2) If a laboratory accumulates more than 1 quart of liquid reactive acutely hazardous unwanted material or more than 1 kg (2.2 pounds) of solid reactive acutely hazardous unwanted material before the regularly scheduled removal, then the eligible academic entity must ensure that all containers of reactive acutely hazardous unwanted material:

(i) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that 1 quart or 1 kg is exceeded; and

(ii) Are removed from the laboratory within 10 calendar days of the date that 1 quart or 1 kg was exceeded, or at the next regularly scheduled removal, whichever comes first.

[73 FR 72954, Dec. 1, 2008, as amended at 81 FR 85820, Nov. 28, 2016]

§ 262.209 Where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the laboratory.

(a) Large quantity generators and small quantity generators—an eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to § 262.11, for unwanted material in any of the following areas:

(1) In the laboratory before the unwanted material is removed from the laboratory, in accordance with § 262.210;

(2) Within 4 calendar days of arriving at an on-site central accumulation area, in accordance with § 262.211; and

(3) Within 4 calendar days of arriving at an on-site interim status or permitted treatment, storage or disposal facility, in accordance with § 262.212.

(b) *Very small quantity generators.* An eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to § 262.11(a) through (d), for unwanted material in the laboratory before the unwanted material is removed from the laboratory, in accordance with § 262.210.

[73 FR 72954, Dec. 1, 2008, as amended at 81 FR 85820, Nov. 28, 2016]

§ 262.210 Making the hazardous waste determination in the laboratory before the unwanted material is removed from the laboratory.

If an eligible academic entity makes the hazardous waste determination, pursuant to § 262.11, for unwanted material in the laboratory, it must comply with the following:

(a) A trained professional must make the hazardous waste determination, pursuant to § 262.11(a) through (d), before the unwanted material is removed from the laboratory.

(b) If an unwanted material is a hazardous waste, the eligible academic entity must:

(1) Write the words ''hazardous waste'' on the container label that is affixed or attached to the container, before the hazardous waste may be removed from the laboratory; and

(2) Write the appropriate hazardous waste code(s) on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste is transported off-site.

(3) Count the hazardous waste toward the eligible academic entity's generator category, pursuant to § 262.13, in the calendar month that the hazardous waste determination was made.

(c) A trained professional must accompany all hazardous waste that is transferred from the laboratory(ies) to an on-site central accumulation area or on-site interim status or permitted treatment, storage or disposal facility.

(d) When hazardous waste is removed from the laboratory:

(1) Large quantity generators and small quantity generators must ensure it is taken directly from the laboratory(ies) to an on-site central accumulation area, or on-site interim status or permitted treatment, storage or disposal facility, or transported off-site.

(2) Very small quantity generators must ensure it is taken directly from the laboratory(ies) to any of the types of facilities listed in § 262.14.

(e) An unwanted material that is a hazardous waste is subject to all applicable hazardous waste regulations when it is removed from the laboratory.

[73 FR 72954, Dec. 1, 2008, as amended at 81 FR 85820, Nov. 28, 2016]

§ 262.211 Making the hazardous waste determination at an on-site central accumulation area.

If an eligible academic entity makes the hazardous waste determination, pursuant to § 262.11, for unwanted material at an on-site central accumulation area, it must comply with the following:

(a) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site central accumulation area.

(b) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site central accumulation area.

(c) The unwanted material becomes subject to the generator accumulation regulations of § 262.16 for small quantity generators or § 262.17 for large quantity generators as soon as it arrives in the central accumulation area,

except for the ''hazardous waste'' labeling conditions of § 262.16(b)(6) and § 262.17(a)(5).

(d) A trained professional must determine, pursuant to § 262.11(a) through (d), if the unwanted material is a hazardous waste within 4 calendar days of the unwanted materials' arrival at the on-site central accumulation area.

(e) If the unwanted material is a hazardous waste, the eligible academic entity must:

(1) Write the words ''hazardous waste'' on the container label that is affixed or attached to the container, within 4 calendar days of arriving at the on-site central accumulation area and before the hazardous waste may be removed from the on-site central accumulation area, and

(2) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed of on-site or transported off-site, and

(3) Count the hazardous waste toward the eligible academic entity's generator category, pursuant to § 262.13 in the calendar month that the hazardous waste determination was made, and

(4) Manage the hazardous waste according to all applicable hazardous waste regulations.

[73 FR 72954, Dec. 1, 2008, as amended at 81 FR 85820, Nov. 28, 2016]

§ 262.212 Making the hazardous waste determination at an on-site interim status or permitted treatment, storage or disposal facility.

If an eligible academic entity makes the hazardous waste determination, pursuant to § 262.11, for unwanted material at an on-site interim status or permitted treatment, storage or disposal facility, it must comply with the following:

(a) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site interim status or permitted treatment, storage or disposal facility.

(b) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site interim status or permitted treatment, storage or disposal facility.

(c) The unwanted material becomes subject to the terms of the eligible academic entity's hazardous waste permit or interim status as soon as it arrives in the on-site treatment, storage or disposal facility.

(d) A trained professional must determine, pursuant to § 262.11(a) through (d), if the unwanted material is a hazardous waste within 4 calendar days of the unwanted materials' arrival at an on-site interim status or permitted treatment, storage, or disposal facility.

(e) If the unwanted material is a hazardous waste, the eligible academic entity must:

(1) Write the words ''hazardous waste'' on the container label that is affixed or attached to the container within 4 calendar days of arriving at the on-site interim status or permitted treatment, storage or disposal facility and before the hazardous waste may be removed from the on-site interim status or permitted treatment, storage or disposal facility, and

(2) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed on-site or transported off-site, and

(3) Count the hazardous waste toward the eligible academic entity's generator status, pursuant to § 261.5(c) and (d) in the calendar month that the hazardous waste determination was made, and

(4) Manage the hazardous waste according to all applicable hazardous waste regulations.

[73 FR 72954, Dec. 1, 2008, as amended at 75 FR 79308, Dec. 20, 2010; 81 FR 85820, Nov. 28, 2016]

§ 262.213 Laboratory clean-outs.

(a) One time per 12 month period for each laboratory, an eligible academic entity may opt to conduct a laboratory clean-out that is subject to all the applicable requirements of this subpart, except that:

(1) If the volume of unwanted material in the laboratory exceeds 55 gallons (or 1 quart of liquid reactive

acutely hazardous unwanted material or 1 kg of solid reactive acutely hazardous unwanted material), the eligible academic entity is not required to remove all unwanted materials from the laboratory within 10 calendar days of exceeding 55 gallons (or 1 quart of liquid reactive acutely hazardous unwanted material or 1 kg or solid reactive acutely hazardous unwanted material), as required by §262.208. Instead, the eligible academic entity must remove all unwanted materials from the laboratory within 30 calendar days from the start of the laboratory clean-out; and

(2) For the purposes of on-site accumulation, an eligible academic entity is not required to count a hazardous waste that is an unused commercial chemical product (listed in 40 CFR part 261, subpart D or exhibiting one or more characteristics in 40 CFR part 261, subpart C) generated solely during the laboratory clean-out toward its hazardous waste generator category, pursuant to §262.13. An unwanted material that is generated prior to the beginning of the laboratory clean-out and is still in the laboratory at the time the laboratory clean-out commences must be counted toward hazardous waste generator category, pursuant to §262.13, if it is determined to be hazardous waste; and

(3) For the purposes of off-site management, an eligible academic entity must count all its hazardous waste, regardless of whether the hazardous waste was counted toward generator category under paragraph (a)(2) of this section, and if it generates more than 1 kg/month of acute hazardous waste or more than 100 kg/month of non-acute hazardous waste (*i.e.,* the very small quantity generator limits as defined in §260.10 of this chapter), the hazardous waste is subject to all applicable hazardous waste regulations when it is transported off site; and

(4) An eligible academic entity must document the activities of the laboratory clean-out. The documentation must, at a minimum, identify the laboratory being cleaned out, the date the laboratory clean-out begins and ends, and the volume of hazardous waste generated during the laboratory clean-out. The eligible academic entity must maintain the records for a period of three years from the date the clean-out ends; and

(b) For all other laboratory clean-outs conducted during the same 12-month period, an eligible academic entity is subject to all the applicable requirements of this subpart, including, but not limited to:

(1) The requirement to remove all unwanted materials from the laboratory within 10 calendar days of exceeding 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), as required by §262.208; and

(2) The requirement to count all hazardous waste, including unused hazardous waste, generated during the laboratory clean-out toward its hazardous waste generator category, pursuant to §262.13.

[73 FR 72954, Dec. 1, 2008, as amended at 81 FR 85820, Nov. 28, 2016]

§262.214 Laboratory management plan.

An eligible academic entity must develop and retain a written Laboratory Management Plan, or revise an existing written plan. The Laboratory Management Plan is a site-specific document that describes how the eligible academic entity will manage unwanted materials in compliance with this subpart. An eligible academic entity may write one Laboratory Management Plan for all the laboratories owned by the eligible academic entity that have opted into this subpart, even if the laboratories are located at sites with different EPA Identification Numbers. The Laboratory Management Plan must contain two parts with a total of nine elements identified in paragraphs (a) and (b) of this section. In Part I of its Laboratory Management Plan, an eligible academic entity must describe its procedures for each of the elements listed in paragraph (a) of this section. An eligible academic entity must implement and comply with the specific provisions that it develops to address the elements in Part I of the Laboratory Management Plan. In Part II of its Laboratory Management Plan, an eligible academic entity must describe its best management practices for each of the elements listed in paragraph (b) of this section. The specific actions

taken by an eligible academic entity to implement each element in Part II of its Laboratory Management Plan may vary from the procedures described in the eligible academic entity's Laboratory Management Plan, without constituting a violation of this subpart. An eligible academic entity may include additional elements and best management practices in Part II of its Laboratory Management Plan if it chooses.

(a) The eligible academic entity must implement and comply with the specific provisions of Part I of its Laboratory Management Plan. In Part I of its Laboratory Management Plan, an eligible academic entity must:

(1) Describe procedures for container labeling in accordance with § 262.206(a), as follows:

(i) Identifying whether the eligible academic entity will use the term ''unwanted material'' on the containers in the laboratory. If not, identify an equally effective term that will be used in lieu of ''unwanted material'' and consistently by the eligible academic entity. The equally effective term, if used, has the same meaning and is subject to the same requirements as ''unwanted material.''

(ii) Identifying the manner in which information that is ''associated with the container'' will be imparted.

(2) Identify whether the eligible academic entity will comply with § 262.208(a)(1) or (a)(2) for regularly scheduled removals of unwanted material from the laboratory.

(b) In Part II of its Laboratory Management Plan, an eligible academic entity must:

(1) Describe its intended best practices for container labeling and management (see the required standards at § 262.206).

(2) Describe its intended best practices for providing training for laboratory workers and students commensurate with their duties (see the required standards at § 262.207(a)).

(3) Describe its intended best practices for providing training to ensure safe on-site transfers of unwanted material and hazardous waste by trained professionals (see the required standards at § 262.207(d)(1)).

(4) Describe its intended best practices for removing unwanted material from the laboratory, including:

(i) For regularly scheduled removals—Develop a regular schedule for identifying and removing unwanted materials from its laboratories (see the required standards at § 262.208(a)(1) and (a)(2)).

(ii) For removals when maximum volumes are exceeded:

(A) Describe its intended best practices for removing unwanted materials from the laboratory within 10 calendar days when unwanted materials have exceeded their maximum volumes (see the required standards at § 262.208(d)).

(B) Describe its intended best practices for communicating that unwanted materials have exceeded their maximum volumes.

(5) Describe its intended best practices for making hazardous waste determinations, including specifying the duties of the individuals involved in the process (see the required standards at § 262.11(a) through (d) and §§ 262.209 through 262.212).

(6) Describe its intended best practices for laboratory clean-outs, if the eligible academic entity plans to use the incentives for laboratory clean-outs provided in § 262.213, including:

(i) Procedures for conducting laboratory clean-outs (see the required standards at § 262.213(a)(1) through (3)); and

(ii) Procedures for documenting laboratory clean-outs (see the required standards at § 262.213(a)(4)).

(7) Describe its intended best practices for emergency prevention, including:

(i) Procedures for emergency prevention, notification, and response, appropriate to the hazards in the laboratory; and

(ii) A list of chemicals that the eligible academic entity has, or is likely to have, that become more dangerous when they exceed their expiration date and/or as they degrade; and

(iii) Procedures to safely dispose of chemicals that become more dangerous when they exceed their expiration date and/or as they degrade; and

(iv) Procedures for the timely characterization of unknown chemicals.

(c) An eligible academic entity must make its Laboratory Management Plan

available to laboratory workers, students, or any others at the eligible academic entity who request it.

(d) An eligible academic entity must review and revise its Laboratory Management Plan, as needed.

[73 FR 72954, Dec. 1, 2008, as amended at 75 FR 79308, Dec. 20, 2010; 81 FR 85821, Nov. 28, 2016]

§ 262.215 Unwanted material that is not solid or hazardous waste.

(a) If an unwanted material does not meet the definition of solid waste in § 261.2, it is no longer subject to this subpart or to the RCRA hazardous waste regulations.

(b) If an unwanted material does not meet the definition of hazardous waste in § 261.3, it is no longer subject to this subpart or to the RCRA hazardous waste regulations, but must be managed in compliance with any other applicable regulations and/or conditions.

§ 262.216 Non-laboratory hazardous waste generated at an eligible academic entity.

An eligible academic entity that generates hazardous waste outside of a laboratory is not eligible to manage that hazardous waste under this subpart; and

(a) Remains subject to the generator requirements of §§ 262.11 and 262.15 for large quantity generators and small quantity generators (if the hazardous waste is managed in a satellite accumulation area), and all other applicable generator requirements of 40 CFR part 262, with respect to that hazardous waste; or

(b) Remains subject to the conditional exemption of § 262.14 for very small quantity generators, with respect to that hazardous waste.

[73 FR 72954, Dec. 1, 2008, as amended at 81 FR 85821, Nov. 28, 2016]

Subpart L—Alternative Standards for Episodic Generation

SOURCE: 81 FR 85821, Nov. 28, 2016, unless otherwise noted.

§ 262.230 Applicability.

This subpart is applicable to very small quantity generators and small quantity generators as defined in § 260.10 of this chapter.

§ 262.231 Definitions for this subpart.

Episodic event means an activity or activities, either planned or unplanned, that does not normally occur during generator operations, resulting in an increase in the generation of hazardous wastes that exceeds the calendar month quantity limits for the generator's usual category.

Planned episodic event means an episodic event that the generator planned and prepared for, including regular maintenance, tank cleanouts, short-term projects, and removal of excess chemical inventory

Unplanned episodic event means an episodic event that the generator did not plan or reasonably did not expect to occur, including production process upsets, product recalls, accidental spills, or ''acts of nature,'' such as tornado, hurricane, or flood.

§ 262.232 Conditions for a generator managing hazardous waste from an episodic event.

(a) *Very small quantity generator.* A very small quantity generator may maintain its existing generator category for hazardous waste generated during an episodic event provided that the generator complies with the following conditions:

(1) The very small quantity generator is limited to one episodic event per calendar year, unless a petition is granted under § 262.233;

(2) *Notification.* The very small quantity generator must notify EPA no later than thirty (30) calendar days prior to initiating a planned episodic event using EPA Form 8700–12. In the event of an unplanned episodic event, the generator must notify EPA within 72 hours of the unplanned event via phone, email, or fax and subsequently submit EPA Form 8700–12. The generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of hazardous waste expected to be generated as a result of the episodic event, and shall identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or

respond to an emergency in compliance with § 262.16(b)(9)(i);

(3) *EPA ID Number.* The very small quantity generator must have an EPA identification number or obtain an EPA identification number using EPA Form 8700–12;

(4) *Accumulation.* A very small quantity generator is prohibited from accumulating hazardous waste generated from an episodic event on drip pads and in containment buildings. When accumulating hazardous waste in containers and tanks the following conditions apply:

(i) *Containers.* A very small quantity generator accumulating in containers must mark or label its containers with the following:

(A) The words ''Episodic Hazardous Waste'';

(B) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

(C) The date upon which the episodic event began, clearly visible for inspection on each container.

(ii) *Tanks.* A very small quantity generator accumulating episodic hazardous waste in tanks must do the following:

(A) Mark or label the tank with the words ''Episodic Hazardous Waste'';

(B) Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

(C) Use inventory logs, monitoring equipment or other records to identify the date upon which each episodic event begins; and

(D) Keep inventory logs or records with the above information on site and readily available for inspection.

(iii) Hazardous waste must be managed in a manner that minimizes the possibility of a fire, explosion, or release of hazardous waste or hazardous waste constituents to the air, soil, or water;

(A) Containers must be in good condition and compatible with the hazardous waste being accumulated therein. Containers must be kept closed except to add or remove waste; and.

(B) Tanks must be in good condition and compatible with the hazardous waste accumulated therein. Tanks must have procedures in place to prevent the overflow (*e.g.*, be equipped with a means to stop inflow with systems such as a waste feed cutoff system or bypass system to a standby tank when hazardous waste is continuously fed into the tank). Tanks must be inspected at least once each operating day to ensure all applicable discharge control equipment, such as waste feed cutoff systems, bypass systems, and drainage systems are in good working order and to ensure the tank is operated according to its design by reviewing the data gathered from monitoring equipment such as pressure and temperature gauges from the inspection.

(5) The very small quantity generator must comply with the hazardous waste manifest provisions of subpart B of this part when it sends its episodic event hazardous waste off site to a designated facility, as defined in § 260.10 of this chapter.

(6) The very small quantity generator has up to sixty (60) calendar days from the start of the episodic event to manifest and send its hazardous waste generated from the episodic event to a designated facility, as defined in § 260.10 of this chapter.

(7) Very small quantity generators must maintain the following records

for three (3) years from the end date of the episodic event:

(i) Beginning and end dates of the episodic event;

(ii) A description of the episodic event;

(iii) A description of the types and quantities of hazardous wastes generated during the event;

(iv) A description of how the hazardous waste was managed as well as the name of the RCRA-designated facility that received the hazardous waste;

(v) Name(s) of hazardous waste transporters; and

(vi) An approval letter from EPA if the generator petitioned to conduct one additional episodic event per calendar year.

(b) *Small quantity generators.* A small quantity generator may maintain its existing generator category during an episodic event provided that the generator complies with the following conditions:

(1) The small quantity generator is limited to one episodic event per calendar year unless a petition is granted under § 262.233;

(2) *Notification.* The small quantity generator must notify EPA no later than thirty (30) calendar days prior to initiating a planned episodic event using EPA Form 8700–12. In the event of an unplanned episodic event, the small quantity generator must notify EPA within 72 hours of the unplanned event via phone, email, or fax, and subsequently submit EPA Form 8700–12. The small quantity generator shall include the start date and end date of the episodic event and the reason(s) for the event, types and estimated quantities of hazardous wastes expected to be generated as a result of the episodic event, and identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to emergency;

(3) *EPA ID Number.* The small quantity generator must have an EPA identification number or obtain an EPA identification number using EPA Form 8700–12; and

(4) *Accumulation by small quantity generators.* A small quantity generator is prohibited from accumulating hazardous wastes generated from an episodic event waste on drip pads and in containment buildings. When accumulating hazardous waste generated from an episodic event in containers and tanks, the following conditions apply:

(i) *Containers.* A small quantity generator accumulating episodic hazardous waste in containers must meet the standards at § 262.16(b)(2) of this chapter and must mark or label its containers with the following:

(A) The words ''Episodic Hazardous Waste'';

(B) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

(C) The date upon which the episodic event began, clearly visible for inspection on each container.

(ii) *Tanks.* A small quantity generator accumulating episodic hazardous waste in tanks must meet the standards at § 262.16(b)(3) and must do the following:

(A) Mark or label its tank with the words ''Episodic Hazardous Waste'';

(B) Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

(C) Use inventory logs, monitoring equipment or other records to identify

the date upon which each period of accumulation begins and ends; and

(D) Keep inventory logs or records with the above information on site and available for inspection.

(5) The small quantity generator must treat hazardous waste generated from an episodic event on site or manifest and ship such hazardous waste off site to a designated facility (as defined by § 260.10 of this chapter) within sixty (60) calendar days from the start of the episodic event.

(6) The small quantity generator must maintain the following records for three (3) years from the end date of the episodic event:

(i) Beginning and end dates of the episodic event;

(ii) A description of the episodic event;

(iii) A description of the types and quantities of hazardous wastes generated during the event;

(iv) A description of how the hazardous waste was managed as well as the name of the designated facility (as defined by § 260.10 of this chapter) that received the hazardous waste;

(v) Name(s) of hazardous waste transporters; and

(vi) An approval letter from EPA if the generator petitioned to conduct one additional episodic event per calendar year.

§ 262.233 Petition to manage one additional episodic event per calendar year.

(a) A generator may petition the Regional Administrator for a second episodic event in a calendar year without impacting its generator category under the following conditions:

(1) If a very small quantity generator or small quantity generator has already held a planned episodic event in a calendar year, the generator may petition EPA for an additional unplanned episodic event in that calendar year within 72 hours of the unplanned event.

(2) If a very small quantity generator or small quantity generator has already held an unplanned episodic event in a calendar year, the generator may petition EPA for an additional planned episodic event in that calendar year.

(b) The petition must include the following:

(1) The reason(s) why an additional episodic event is needed and the nature of the episodic event;

(2) The estimated amount of hazardous waste to be managed from the event;

(3) How the hazardous waste is to be managed;

(4) The estimated length of time needed to complete management of the hazardous waste generated from the episodic event—not to exceed sixty (60) days; and

(5) Information regarding the previous episodic event managed by the generator, including the nature of the event, whether it was a planned or unplanned event, and how the generator complied with the conditions.

(c) The petition must be made to the Regional Administrator in writing, either on paper or electronically.

(d) The generator must retain written approval in its records for three (3) years from the date the episodic event ended.

Subpart M—Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators

SOURCE: 81 FR 85823, Nov. 28, 2016, unless otherwise noted.

§ 262.250 Applicability.

The regulations of this subpart apply to those areas of a large quantity generator where hazardous waste is generated or accumulated on site.

§ 262.251 Maintenance and operation of facility.

A large quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

§ 262.252 Required equipment.

All areas deemed applicable by § 262.250 must be equipped with the items in paragraphs (a) through (d) of this section (unless none of the hazards

posed by waste handled at the facility could require a particular kind of equipment specified below or the actual hazardous waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). A large quantity generator may determine the most appropriate locations within its facility to locate equipment necessary to prepare for and respond to emergencies:

(a) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

(b) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

(c) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

(d) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

§ 262.253 Testing and maintenance of equipment.

All communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

§ 262.254 Access to communications or alarm system.

(a) Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access (*e.g.*, direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, *unless* such a device is not required under § 262.252.

(b) In the event there is just one employee on the premises while the facility is operating, the employee must have immediate access (*e.g.*, direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, *unless* such a device is not required under § 262.252.

§ 262.255 Required aisle space.

The large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

§ 262.256 Arrangements with local authorities.

(a) The large quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if it is determined to be the appropriate organization with which to make arrangements.

(1) A large quantity generator attempting to make arrangements with its local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals.

(2) As part of this coordination, the large quantity generator shall attempt to make arrangements, as necessary, to familiarize the above organizations with the layout of the facility, the properties of the hazardous waste handled at the facility and associated hazards, places where personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes as well as the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

(3) Where more than one police or fire department might respond to an emergency, the large quantity generator shall attempt to make arrangements designating primary emergency authority to a specific fire or police department, and arrangements with any others to provide support to the primary emergency authority.

(b) The large quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

(c) A facility possessing 24-hour response capabilities may seek a waiver from the authority having jurisdiction (AHJ) over the fire code within the facility's state or locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the waiver is documented in the operating record.

§ 262.260 Purpose and implementation of contingency plan.

(a) A large quantity generator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

(b) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

§ 262.261 Content of contingency plan.

(a) The contingency plan must describe the actions facility personnel must take to comply with §§ 262.260 and 262.265 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

(b) If the generator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with part 112 of this chapter, or some other emergency or contingency plan, it need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the standards of this part. The generator may develop one contingency plan that meets all regulatory standards. EPA recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance (''One Plan'').

(c) The plan must describe arrangements agreed to with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals or, if applicable, the Local Emergency Planning Committee, pursuant to § 262.256.

(d) The plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator (see § 262.264), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. In situations where the generator facility has an emergency coordinator continuously on duty because it operates 24 hours per day, every day of the year, the plan may list the staffed position (*e.g.*, operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times.

(e) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(f) The plan must include an evacuation plan for generator personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

§ 262.262 Copies of contingency plan.

A copy of the contingency plan and all revisions to the plan must be maintained at the large quantity generator and—

(a) The large quantity generator must submit a copy of the contingency plan and all revisions to all local emergency responders (*i.e.*, police departments, fire departments, hospitals and State and local emergency response teams that may be called upon to provide emergency services). This document may also be submitted to the Local Emergency Planning Committee, as appropriate.

(b) A large quantity generator that first becomes subject to these provisions after May 30, 2017 or a large quantity generator that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified at paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee. The quick reference guide must include the following elements:

(1) The types/names of hazardous wastes in layman's terms and the associated hazard associated with each hazardous waste present at any one time (*e.g.*, toxic paint wastes, spent ignitable solvent, corrosive acid);

(2) The estimated maximum amount of each hazardous waste that may be present at any one time;

(3) The identification of any hazardous wastes where exposure would require unique or special treatment by medical or hospital staff;

(4) A map of the facility showing where hazardous wastes are generated, accumulated and treated and routes for accessing these wastes;

(5) A street map of the facility in relation to surrounding businesses, schools and residential areas to understand how best to get to the facility and also evacuate citizens and workers;

(6) The locations of water supply (*e.g.*, fire hydrant and its flow rate);

(7) The identification of on-site notification systems (*e.g.*, a fire alarm that rings off site, smoke alarms); and

(8) The name of the emergency coordinator(s) and 7/24-hour emergency telephone number(s) or, in the case of a facility where an emergency coordinator is continuously on duty, the emergency telephone number for the emergency coordinator.

(c) Generators must update, if necessary, their quick reference guides, whenever the contingency plan is amended and submit these documents to the local emergency responders identified at paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee.

§ 262.263 Amendment of contingency plan.

The contingency plan must be reviewed, and immediately amended, if necessary, whenever:

(a) Applicable regulations are revised;

(b) The plan fails in an emergency;

(c) The generator facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency;

(d) The list of emergency coordinators changes; or

(e) The list of emergency equipment changes.

§ 262.264 Emergency coordinator.

At all times, there must be at least one employee either on the generator's premises or on call (*i.e.*, available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures and implementing the necessary emergency procedures outlined in § 262.265. Although responsibilities may vary depending on factors such as type and variety of hazardous waste(s) handled by the facility, as well as type and

complexity of the facility, this emergency coordinator must be thoroughly familiar with all aspects of the generator's contingency plan, all operations and activities at the facility, the location and characteristics of hazardous waste handled, the location of all records within the facility, and the facility's layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

§ 262.265 Emergency procedures.

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(1) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(2) Notify appropriate state or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. The emergency coordinator may do this by observation or review of the facility records or manifests and, if necessary, by chemical analysis.

(c) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (*e.g.*, the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, the emergency coordinator must report the findings as follows:

(1) If the assessment indicates that evacuation of local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated; and

(2) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll free number 800/424–8802). The report must include:

(i) Name and telephone number of reporter;

(ii) Name and address of the generator;

(iii) Time and type of incident (*e.g.*, release, fire);

(iv) Name and quantity of material(s) involved, to the extent known;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health, or the environment, outside the facility.

(e) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the generator's facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released hazardous waste, and removing or isolating containers.

(f) If the generator stops operations in response to a fire, explosion or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(g) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the generator can demonstrate, in accordance with § 261.3(c) or (d) of this chapter, that the recovered material is not a hazardous waste, then it is a newly generated hazardous waste that must be managed in accordance with all the applicable requirements and conditions for exemption in parts 262, 263, and 265 of this chapter.

(h) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(1) No hazardous waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(2) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(i) The generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, the generator must submit a written report on the incident to the Regional Administrator. The report must include:

(1) Name, address, and telephone number of the generator;

(2) Date, time, and type of incident (*e.g.*, fire, explosion);

(3) Name and quantity of material(s) involved;

(4) The extent of injuries, if any;

(5) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(6) Estimated quantity and disposition of recovered material that resulted from the incident.

PART 263—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

Subpart A—General

Subpart B—Compliance With the Manifest System and Recordkeeping

Subpart C—Hazardous Waste Discharges

AUTHORITY: 42 U.S.C. 6906, 6912, 6922–6925, 6937, 6938, and 6939g.

SOURCE: 45 FR 33151, May 19, 1980, unless otherwise noted.

Subpart A—General

§ 263.10 Scope.

(a) These regulations establish standards which apply to persons transporting hazardous waste within the United States if the transportation requires a manifest under 40 CFR part 262.

NOTE: The regulations set forth in parts 262 and 263 establish the responsibilities of generators and transporters of hazardous waste in the handling, transportation, and management of that waste. In these regulations, EPA has expressly adopted certain regulations of the Department of Transportation (DOT) governing the transportation of hazardous materials. These regulations concern, among other things, labeling, marking, placarding, using proper containers, and reporting discharges. EPA has expressly adopted these regulations in order to satisfy its statutory obligation to promulgate regulations which are necessary to protect human health and the environment in the transportation of hazardous waste. EPA's adoption of these DOT regulations ensures consistency with the requirements of DOT and thus avoids the establishment of duplicative or conflicting requirements with respect to these matters. These EPA regulations which apply to both interstate and intrastate transportation of hazardous waste are enforceable by EPA.

DOT has revised its hazardous materials transportation regulations in order to encompass the transportation of hazardous waste and to regulate intrastate, as well as interstate, transportation of hazardous waste. Transporters of hazardous waste are cautioned that DOT's regulations are fully applicable to their activities and enforceable by DOT. These DOT regulations are codified in title 49, Code of Federal Regulations, subchapter C.

(b) These regulations do not apply to on-site transportation of hazardous waste by generators or by owners or operators of permitted hazardous waste management facilities.

(c) A transporter of hazardous waste must also comply with 40 CFR part 262, Standards Applicable to Generators of Hazardous Waste, if he:

(1) Transports hazardous waste into the United States from abroad; or

(2) Mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container.