

Strikeout/Underline Version of Proposed Text

§ 66260.10. Definitions.

When used in this division, the following terms have the meanings given below:

“Aboveground tank” means a device meeting the definition of “tank” in section 66260.10 and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

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

“Destination facility” means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in paragraphs (a) and (c) of sections 273.13 and 273.33 of 40 Code of Federal Regulations and section 66273.33. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

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

“Electronic manifest” or “e-Manifest” means the electronic format of the hazardous waste manifest that is obtained from U.S. EPA’s national e-Manifest system and transmitted electronically to the system, and that is the legal equivalent of U.S. EPA Forms 8700-22 (Manifest) and 8700-22A (Continuation Sheet).

“Electronic Manifest System” or “e-Manifest System” means U.S. EPA’s national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

“Recognized trader” means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to

United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

“User of the electronic manifest system” means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that:

(1) Is required to use a manifest to comply with:

(A) Any federal or state requirement to track the shipment, transportation, and receipt of hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or

(B) Any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

(2) Elects to use the system to obtain, complete and transmit an electronic manifest format supplied by the U.S. EPA electronic manifest system, or

(3) Elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with 40 Code of Federal Regulations sections 264.71(a)(2)(v) or 265.71(a)(2)(v). These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.

Note: Authority cited: Sections 25141, 25150, 25158.1, 25158.4, 25159, 25159.5, 25187.7, 25200.10, 25204, 25214.9, 25218.3(d), 25316 and 58012, Health and Safety Code; Governor's Reorganizational Plan #1 of 1991; and Section 42475, Public Resources Code. Reference: Sections 25110.02, 25110.1, 25110.5, 25111, 25112, 25112.5, 25113, 25114, 25115, 25117, 25117.1, 25117.8, 25117.9, 25117.11, 25118, 25119, 25120, 25121, 25121.5, 25122.7, 25123, 25123.3, 25123.5, 25123.6, 25141, 25150, 25158.2, 25159, 25159.5, 25187.7, 25200.10, 25201.6, 25204, 25214.9, 25218.1(f), 25218.3, 25316, 25354(b), 25355.5, 25355.6, 25358.1, 25358.9, 25359.8, 25361, 25501, 25529 and 58012, Health and Safety Code; and 40 CFR Sections 260.10, 261.1, 262.21, 264.551, 264.1031, 268.2, 270.2 and 273.6.

§ 66260.11. References.

(a) When used in this division, the following publications are incorporated by reference:

~~(69) OECD Green List of Wastes (revised May 1994), Amber List of Wastes and Red List of Wastes (both revised May 1993) as set forth in Appendix 3, Appendix 4~~

and Appendix 5, respectively, to the OECD Council Decision C(92)39/FINAL (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations), available from the Organisation for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France.

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

(A) Guidance Manual for the Control of Transboundary Movements of Recoverable Wastes, copyright 2009, Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure and Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure, IBR approved for 40 Code of Federal Regulations section sections 262.82(a), 262.83(b), (d), and (g), and 262.84(b) and (d) and sections 66262.82(a), 66262.83(b), (d), and (g), and 66262.84(b) and (d).

Note: Authority cited: Sections 25141, 25150, 25159 and 58012, Health and Safety Code. Reference: Sections 25141, 25159 and 25159.5, Health and Safety Code; and 40 CFR Section 260.11.

§ 66261.4. Exclusions.

(a) Materials which are not wastes. The following materials are not wastes for the purpose of this chapter:

(d) samples;

(1) except as provided in subsections (d)(2) and (4) of this section, a sample of waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this division or to the notification requirements of Health and Safety Code section 25153.6 when:

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

(e) Treatability Study Samples.

(1) Except as provided in subsections (e)(2) and (7) of this section, any person who generates a treatability study sample for the purpose of conducting a treatability

study is not subject to Chapter 6.5 of Division 20 of the Health and Safety Code with respect to that sample, except for the requirements of subdivision (e) of Health and Safety Code section 25162, or this division, ~~except for sections 66262.50, 66262.52, and 66262.53~~ when:

(6) A generator applying for an exemption pursuant to subdivision (e)(5) shall submit all of the following information in writing to the department:

(F) Such other information that the Department considers necessary.

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

Note: Authority cited: Sections 25140, 25141, 25141.5, 25150, 25158.4, 25159, 25159.5, 25214.9, 25214.10.2, 58004 and 58012, Health and Safety Code. Reference: Sections 25117, 25212, 25124, 25140, 25141, 25141.5, 25143, 25143.1, 25143.2, 25143.4(a), 25143.11, 25158.2, 25158.3, 25159, 25159.5 and 25214.9, Health and Safety Code; and 40 CFR Section 261.4.

§ 66261.6. Requirements for Recyclable Materials.

(a) (1) Recyclable materials are subject to the applicable requirements for generators, transporters and facilities of articles 1 and 2 of chapter 16 of this division, except as specified otherwise for the materials listed in subsections (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6) of this section.

(7) Hazardous waste that is exported to or imported from ~~designated member countries of the Organization for Economic Cooperation and Development (OECD) (as defined in 40 CFR section 262.58(a)(1) or section 66262.58(a)(1))~~ for purpose of recovery is subject to the requirements of 40 Code of Federal Regulations Part 262, Subpart H ~~or~~ and this article, if it is subject to either the Federal manifesting requirements of 40 Code of Federal Regulations Part 262, or to the universal waste management standards of 40 Code of Federal Regulations Part 273.

Note: Authority cited: Sections 25143.2(e), 25150, 25159, 25159.5, 25170, 25179.6, 25245, 25250.22 and 58012, Health and Safety Code. Reference: Sections 25143,

25143.2, 25150, 25159, 25159.5, 25163, 25170, 25179.6, 25250.5 and 25250.22, Health and Safety Code; and 40 CFR Sections 261.6 and 266.23.

§ 66262.10. Purpose, Scope, and Applicability.

(a) This chapter establishes standards for generators of hazardous waste located in California.

~~(d) Any person who exports or imports hazardous waste subject to the Federal manifesting requirements of 40 CFR Part 262, or to the universal waste management standards of 40 CFR Part 273, to or from the countries listed in 40 CFR section 262.58(a)(1) or section 66262.58(a)(1) for recovery of hazardous waste, shall comply with 40 CFR Part 262, Subpart H or this article.~~

(d) Any person who exports or imports hazardous wastes shall comply with 40 Code of Federal Regulations section 262.12, 40 Code of Federal Regulations part 262, subpart H, section 66262.12, and article 8, chapter 12 of this division.

Note: Authority cited: Sections 25150, 25159, 25159.5, 25179.6 and 58012, Health and Safety Code. Reference: Sections 25150, 25159, 25159.5, 25169.7 and 58012, Health and Safety Code; and 40 Code of Federal Regulations section 262.10.

§ 66262.12. Identification Numbers for the Generator.

(a) Except as specified in (d), a generator shall not treat, store, dispose of, transport or offer for transportation, hazardous waste without having received an Identification Number.

(d) A recognized trader shall not arrange for import or export of hazardous waste without having received an Identification Number.

~~(d)~~ Generators who generate no more than 100 kilograms of waste per month that is hazardous solely due to the presence of silver in the waste pursuant to Health and Safety Code section 25143.13 are not required to obtain an Identification Number.

Note: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25143.13, 25159, 25159.5 and 25160.2, Health and Safety Code; and 40 CFR Sections 261.5 and 262.12.

§ 66262.41. Biennial Report.

~~(a) For the Biennial report on 1995 activities, only generators that are required under Title 40 of the Code of Federal Regulations (CFR), section 262.41 to prepare and submit this report are subject to this section. This report, due on March 1, 1996 is to be submitted on U.S. EPA form 8700-13A/B (5-80) (8-95) provided by the Department. Generators required to submit this report for activities conducted during 1995 are generators which meet any of the following criteria:~~

~~(1) The site generated in any single month 1,000 kg (2,200 lbs) or more of RCRA hazardous waste; or~~

~~(2) The site generated in any single month, or accumulated at any time, 1 kg (2.2 lbs) of RCRA acute hazardous waste; or~~

~~(3) The site generated or accumulated at any time more than 100 kg (220 lbs) of spill cleanup materials contaminated with RCRA acute hazardous waste; or~~

~~(4) The site treated, stored, or disposed of RCRA hazardous waste on site in units subject to RCRA permitting requirements during 1995.~~

~~(b_a) A generator who ships any hazardous waste offsite to a transfer, treatment, storage or disposal facility within the United States shall prepare and submit a single copy of a Biennial Report, U.S. EPA Form 8700-13A/B, 5-80, (Revised 11-89) to the Department by March 1 of each even-numbered year. The Biennial Report shall be submitted on forms provided by the Department and shall cover generator activities during the previous calendar year, and shall include the following information:~~

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~~(b_b) Any generator who treats, stores or disposes of hazardous waste onsite shall submit an annual report covering those wastes in accordance with the provisions of chapters 20, 14, 15 and 16 of this division. Reporting for exports of hazardous waste is not required on the Biennial Report form. A separate annual report requirement is set forth in 40 Code of Federal Regulations section 262.83(g) and section 66262.5683 for hazardous waste exporters.~~

~~(b_c) Additional information concerning the quantities and disposition of wastes identified or listed in chapter 11 shall be required as needed by the Department or U.S. EPA Administrator.~~

Note: Authority cited: Sections 208, 25150, 25159 and 25161, Health and Safety Code. Reference: Sections 25159, 25159.5, 25160 and 25244.4, Health and Safety Code; 40 CFR Section 262.41.

Article 5. Exports of Hazardous Waste [Reserved]

~~§ 66262.50. Applicability.~~

~~§ 66262.52. General Requirements.~~

~~§ 66262.53. Notification of Intent to Export.~~

~~§ 66262.54. Special Manifest Requirements.~~

~~§ 66262.55. Exception Reports for Exporters.~~

~~§ 66262.56. Annual Export Reports.~~

~~§ 66262.57. Recordkeeping.~~

~~§ 66262.58. International Agreements.~~

Article 6. Imports of Hazardous Waste [Reserved]

~~§ 66262.60. Imports of Hazardous Waste.~~

§ 66262.80. Applicability.

(a) The requirements of 40 Code of Federal Regulations Part 262, Subpart H ~~or~~ and this article apply to ~~imports and exports~~ transboundary movements of wastes that are considered hazardous under U.S. national procedures ~~and are destined for recovery operations in the countries listed in 40 CFR section 262.58(a)(1) or section 66262.58(a)(1)~~. A waste is considered hazardous under U.S. national procedures if it meets the federal definition of hazardous waste in 40 Code of Federal Regulations section 261.3 and it is subject to either the Federal manifesting requirements of 40 Code of Federal Regulations Part 262, or to the universal waste management standards of 40 Code of Federal Regulations Part 273.

(b) Any person (including notifier, consignee, 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 or notifier duties, if applicable, under 40 Code of Federal Regulations Part 262, Subpart H ~~or~~ and this article.

Note: Authority cited: Sections 25150, 25159, 25159.5, 58004 and 58012, Health and Safety Code. Reference: Sections 25150, 25159, 25159.5 and 58012, Health and Safety Code; and 40 CFR Section 262.80.

§ 66262.81. Definitions.

The following definitions apply to 40 Code of Federal Regulations Part 262, Subpart H ~~or~~ and this article.

(a) “Competent authorities” means the regulatory authority or authorities of concerned countries having jurisdiction over ~~transfrontier~~transboundary movements of wastes destined for recovery operations.

(b) “Concerned eCountries concerned” means the countries of exporting and importing ~~OECD member countries and any OECD member countries of transit.~~

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

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

~~(e) “Exporting country” means any designated OECD member country in 40 CFR section 262.58(a)(1) or section 66262.58(a)(1) from which a transfrontier movement of wastes is planned or has commenced.~~

(e) “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.

~~(f) “Importing country” means any designated OECD country in 40 CFR section 262.58(a)(1) or 66262.58(a)(1) to which a transfrontier movement of wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.~~

~~(df) “Country of transit” means any designated OECD country in 40 CFR sections 262.58(a)(1) and (a)(2) or sections 66262.58(a)(1) and (a)(2) other than the country of exporting or country of importing across which a ~~transfrontier~~transboundary movement of hazardous wastes is planned or takes place.~~

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

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

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

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

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

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

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

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

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

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

(10) D10 Incineration on land.

(11) D11 Incineration at sea.

(12) D12 Permanent storage.

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

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

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

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

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

(h) "EPA Acknowledgment of Consent" or "AOC" means the letter U.S. 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 Code of Federal Regulations section 30.1.

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

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

(i) "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.

(j) "Exporter" also known as "primary exporter" on the RCRA hazardous waste manifest, means the person domiciled in the United States who is required to originate the

movement document in accordance with 40 Code of Federal Regulations section 262.83(d) or the manifest for a shipment of hazardous waste in accordance with 40 Code of Federal Regulations part 262, subpart B, or article 2 of this chapter, which specifies a foreign receiving facility as the facility to which the hazardous wastes shall be sent, or any recognized trader who proposes export of the hazardous wastes for recovery or disposal operations in the country of import.

(k) "Foreign exporter" means the person under the jurisdiction of the country of export who has, or shall 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.

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

(l) "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.

(m) "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.

(n) "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.

(o) "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.

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

~~(hg)~~ "OECD area" means all land or marine areas under the national jurisdiction of any ~~designated OECD m~~Member country in 40 CFR section 262.58 or section 66262.58. When the regulations refer to shipments to or from an OECD Member country, this means OECD area.

(r) "OECD" means the Organization for Economic Cooperation and Development.

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

(t) “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.

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

~~(kv) “Recovery operations” means activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses as listed in Table 2.B of the Annex of OECD Council Decision C(88)90(Final) of May 27, 1988, (available from the Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, first floor, Arlington, VA 22203 (Docket # F-94-IEHF-FFFFF) and the Organization for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France) 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 control;
- (8) R8 Recovery of components 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-R10 or RC14 (for transboundary shipments with Canada only);
- (12) R12 Exchange of wastes for submission to any of the operations numbered R1-R11 or RC14 (for transboundary shipments with Canada only);

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

(w) "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.

Note: Authority cited: Sections 25150, 25159, 25159.5, 58004 and 58012, Health and Safety Code. Reference: Sections 25150, 25159, 25159.5 and 58012, Health and Safety Code; and 40 CFR Section 262.81.

§ 66262.82. General Conditions.

~~(a) Scope. The level of control for exports and imports of waste is indicated by assignment of the waste to a green-, amber-, or red-list and by U.S. national procedures as defined in 40 CFR section 262.80(a) or section 66262.80(a). The green-, amber-, and red-lists are incorporated by reference in 40 CFR section 262.89(e) or section 66262.89(e).~~

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

~~(A) Green-list wastes that are considered hazardous under U.S. national procedures are subject to amber-list controls.~~

~~(B) Green-list wastes that are sufficiently contaminated or mixed with amber-list wastes, such that the waste or waste mixture is considered hazardous under U.S. national procedures, are subject to amber-list controls.~~

~~(C) Green-list wastes that are sufficiently contaminated or mixed with other wastes subject to red-list controls such that the waste or waste mixture is considered hazardous under U.S. national procedures shall be handled in accordance with the red-list controls.~~

~~(2) Wastes on the amber-list that are considered hazardous under U.S. national procedures as defined in 40 CFR section 262.80(a) or section 66262.80(a) are subject to the amber-list controls of 40 CFR Part 262, Subpart H or this article.~~

~~(A) If amber-list wastes are sufficiently contaminated or mixed with other wastes subject to red-list controls such that the waste or waste mixture is considered hazardous under U.S. national procedures, the wastes shall be handled in accordance with the red-list controls.~~

~~(B) [Reserved].~~

~~(3) Wastes on the red-list that are considered hazardous under U.S. national procedures as defined in 40 CFR section 262.80(a) or section 66262.80(a) are subject to the red-list controls of 40 CFR Part 262, Subpart H or this article. Some wastes on the amber or red-lists are not listed or otherwise identified as hazardous under RCRA (e.g., polychlorinated biphenyls) and therefore are not subject to the amber or red-list controls of 40 CFR Part 262, Subpart H or this article. Regardless of the status of the waste under RCRA, however, other federal environmental statutes (e.g., the federal Toxic Substances Control Act) shall restrict certain waste imports or exports. Such restrictions continue to apply without regard to 40 CFR Part 262, Subpart H or this article.~~

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

~~(A) If such wastes are considered hazardous under U.S. national procedures as defined in 40 CFR section 262.80(a) or section 66262.80(a), these wastes are subject to the red-list controls; or~~

~~(B) If such wastes are not considered hazardous under U.S. national procedures as defined in 40 CFR section 262.80(a) or section 66262.80(a), such wastes shall move as though they appeared on the green-list.~~

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

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

~~(2) The transfrontier movement shall be in compliance with applicable international transport agreements. These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADN (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).~~

~~(3) Any transit of waste through a non-OECD member country shall be conducted in compliance with all applicable international and national laws and regulations~~

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

~~(1) Re-export of wastes subject to the amber-list control system from the U.S., as the importing country, to a third country listed in 40 CFR section 262.58(a)(1) or section 66262.58(a)(1) shall occur only after a notifier in the U.S. provides notification to and obtains consent of the competent authorities in the third country, the original~~

~~exporting country, and new transit countries. The notification shall comply with the notice and consent procedures in 40 CFR section 262.83 or section 66262.83 for all concerned countries and the original exporting country. The competent authorities of the original exporting country as well as the competent authorities of all other concerned countries have 30 days to object to the proposed movement.~~

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

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

~~(2) Re-export of waste subject to the red list control system from the original importing country to a third country listed in 40 CFR section 262.58(a)(1) or section 66262.58(a)(1) shall occur only following notification of the competent authorities of the third country, the original exporting country, and new transit countries by a notifier in the original importing country in accordance with 40 CFR section 262.83 or section 66262.83. The transfrontier movement shall not proceed until receipt by the original importing country of written consent from the competent authorities of the third country, the original exporting country, and new transit countries.~~

~~(3) In the case of re-export of amber or red list wastes to a country other than those in 40 CFR section 262.58(a)(1) or section 66262.58(a)(1), notification to and consent of the competent authorities of the original OECD member country of export and any OECD member countries of transit is required as specified in 40 CFR sections 262.82(c)(1) and (c)(2) or subsections (c)(1) and (c)(2) of this section in addition to compliance with all international agreements and arrangements to which the first importing OECD member country is a party and all applicable regulatory requirements for exports from the first importing country.~~

(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 Code of Federal Regulations section 260.11.

(1) Green list wastes.

(A) 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 40 Code of Federal Regulations section 262.82.

(B) Green wastes that are hazardous wastes are subject to the requirements of 40 Code of Federal Regulations section 262.82.

(2) Amber list wastes.

(A) Amber wastes that are hazardous wastes are subject to the requirements of 40 Code of Federal Regulations section 262.82, 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.

(1) For exports, the exporter shall comply with 40 Code of Federal Regulations section 262.83.

(2) For imports, the recovery or disposal facility and the importer shall comply with 40 Code of Federal Regulations section 262.84.

(B) 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 40 Code of Federal Regulations section 262.82. 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.

(C) Some Amber list wastes are not listed or otherwise identified as hazardous under RCRA, and therefore are not subject to the requirements of 40 Code of Federal Regulations section 262.82. 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 40 Code of Federal Regulations section 262.82.

(3) Mixtures of wastes.

(A) 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 40 Code of Federal Regulations section 262.82.

1. 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.

(B) 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 40 Code of Federal Regulations section 262.82.

1. 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:

(A) If such wastes are hazardous wastes, such wastes are subject to the requirements of 40 Code of Federal Regulations section 262.82.

(B) If such wastes are not hazardous wastes, such wastes are not subject to the requirements of 40 Code of Federal Regulations section 262.82.

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

(1) The hazardous waste shall 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 shall be in compliance with applicable international transport agreements; and

(A) These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADN (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).

(3) Any transit of hazardous waste through one or more countries shall 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 shall be returned to the country of export. The U.S. transporter shall inform U.S. EPA at the specified mailing address in subsection (e) of this section of the need to return the shipment. U.S. EPA shall then inform the competent authority of the country of export, citing the reason(s) for returning the waste. The U.S. transporter shall complete the return within ninety (90) days from the time U.S. EPA informs the country of export of the need to return the waste, unless informed in writing by U.S. 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 40 Code of Federal Regulations section 262.82 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 Code of Federal Regulations section 261.4(d) or (e).

(e) U.S. EPA Address for submittals by postal mail or hand delivery. Submittals required in 40 Code of Federal Regulations section 262.82 to be made by postal mail or hand delivery should be sent to the following addresses:

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

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

Note: Authority cited: Sections 25150, 25159, 25159.5, 58004 and 58012, Health and Safety Code. Reference: Sections 25150, 25159, 25159.5 and 58012, Health and Safety Code; and 40 CFR Section 262.82.

§ 66262.83. Notification and Consent. Exports of Hazardous Waste

~~(a) Applicability. Consent shall be obtained from the competent authorities of the relevant OECD importing and transit countries prior to exporting hazardous waste destined for recovery operations subject to 40 CFR Part 262, Subpart H or this article. Hazardous wastes subject to amber-list controls are subject to the requirements of 40 CFR section 262.83(b) or subsection (b) of this section; hazardous wastes subject to red-list controls are subject to the requirements of 40 CFR section 262.83(c) or subsection (c) of this section; and wastes not identified on any list are subject to the requirements of 40 CFR section 262.83(d) or subsection (d) of this section.~~

~~(b) Amber-list wastes. The export from the U.S. of hazardous wastes as described in 40 CFR section 262.80(a) or section 66262.80(a) that appear on the amber-list is prohibited unless the notification and consent requirements of 40 CFR section 262.83(b)(1) or section 262.83(b)(2) or subsection (b)(1) or subsection (b)(2) of this section are met.~~

~~(1) Transactions requiring specific consent:~~

~~(A) Notification. At least forty-five (45) days prior to commencement of the transfrontier movement, the notifier shall provide written notification in English of the proposed transfrontier movement to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, with the words "Attention: OECD Export Notification" prominently displayed on the envelope. This notification shall include all of the information identified in 40 CFR section 262.83(e) or subsection (e) of this section. In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, and the same RCRA waste codes are to be sent periodically to the same recovery facility by the same~~

~~notifier, the notifier shall submit one notification of intent to export these wastes in multiple shipments during a period of up to one year.~~

~~(B) Tacit consent. If no objection has been lodged by any concerned country (i.e., exporting, importing, or transit countries) to a notification provided pursuant to 40 CFR section 262.83(b)(1)(i) or subsection (b)(1)(A) of this section within 30 days after the date of issuance of the Acknowledgment of Receipt of notification by the competent authority of the importing country, the transfrontier movement shall commence. Tacit consent expires one calendar year after the close of the 30-day period; renotification and renewal of all consents is required for exports after that date.~~

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

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

~~(A) The notifier shall provide USEPA the information identified in 40 CFR section 262.83(e) or subsection (e) of this section in English, at least 10 days in advance of commencing shipment to a pre-approved facility. The notification should indicate that the recovery facility is pre-approved, and shall apply to a single specific shipment or to multiple shipments as described in 40 CFR section 262.83(b)(1)(i) or subsection~~

~~(b)(1)(A) of this section. This information shall be sent to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, with the words "OECD Export Notification - Pre-approved Facility" prominently displayed on the envelope.~~

~~(B) Shipments shall commence after the notification required in 40 CFR section 262.83(b)(1)(i) or subsection (b)(1)(A) of this section has been received by the competent authorities of all concerned countries, unless the notifier has received information indicating that the competent authorities of one or more concerned countries objects to the shipment.~~

~~(c) Red-list wastes. The export from the U.S. of hazardous wastes as described in 40 CFR section 262.80(a) or section 66262.80(a) that appear on the red list is prohibited unless notice is given pursuant to 40 CFR section 262.83(b)(1)(i) or subsection (b)(1)(A) of this section and the notifier receives written consent from the importing country and any transit countries prior to commencement of the transfrontier movement.~~

~~(d) Unlisted wastes. Wastes not assigned to the green-, amber-, or red-list that are considered hazardous under U.S. national procedures as defined in 40 CFR section 262.80(a) or section 66262.80(a) are subject to the notification and consent requirements established for red-list wastes in accordance with 40 CFR section 262.83(c) or subsection (c) of this section. Unlisted wastes that are not considered hazardous under U.S. national procedures as defined in 40 CFR section 262.80(a) or section 66262.80(a) are not subject to amber or red controls when exported or imported.~~

~~(e) Notification information. Notifications submitted under 40 CFR section 262.83 or this section shall include:~~

- ~~(1) Serial number or other accepted identifier of the notification form;~~
- ~~(2) Notifier name and USEPA identification number (if applicable), address, and telephone and telefax numbers;~~
- ~~(3) Importing recovery facility name, address, telephone and telefax numbers, and technologies employed;~~
- ~~(4) Consignee name (if not the owner or operator of the recovery facility) address, and telephone and telefax numbers; whether the consignee will engage in waste exchange or storage prior to delivering the waste to the final recovery facility and identification of recovery operations to be employed at the final recovery facility;~~
- ~~(5) Intended transporters or their agents;~~
- ~~(6) Country of export and relevant competent authority, and point of departure;~~
- ~~(7) Countries of transit and relevant competent authorities and points of entry and departure;~~
- ~~(8) Country of import and relevant competent authority, and point of entry;~~
- ~~(9) Statement of whether the notification is a single notification or a general notification. If general, include period of validity requested;~~
- ~~(10) Date foreseen for commencement of transfrontier movement;~~
- ~~(11) Designation of waste type(s) from the appropriate list (amber or red and waste list code), descriptions of each waste type, estimated total quantity of each, RCRA waste code, and United Nations number for each waste type; and~~
- ~~(12) Certification/Declaration signed by the notifier that states:~~

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

~~Name: _____~~

~~Signature: _____~~

Date: _____

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

(a) General export requirements. Except as provided in subsections (a)(5) and (6) of this section, exporters that have received an AOC from U.S. 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 subsection (f) of this section;

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

(3) The exporter receives an AOC from U.S. 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 subsection (d) of this section;

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

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

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

1. 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 Code of Federal Regulations section 30.4(b), and includes the following items in the EEI, along with the other information required under 15 Code of Federal Regulations section 30.6:

a. U.S. EPA license code;

b. Commodity classification code for each hazardous waste per 15 Code of Federal Regulations section 30.6(a)(12);

c. U.S. EPA consent number for each hazardous waste;

d. Country of ultimate destination code per 15 Code of Federal Regulations section 30.6(a)(5);

e. Date of export per 15 Code of Federal Regulations section 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 Code of Federal Regulations section 30.6(a)(15); or

h. U.S. 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.

2. Complies with a paper-based process by:

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

b. 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 Code of Federal Regulations section 263.20(g)(4)(ii).

(B) 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 Code of Federal Regulations section 30.4(b), and includes the following items in the EEI, along with the other information required under 15 Code of Federal Regulations section 30.6:

1. U.S. EPA license code;

2. Commodity classification code for each hazardous waste per 15 Code of Federal Regulations section 30.6(a)(12);

3. U.S. EPA consent number for each hazardous waste;

4. Country of ultimate destination code per 15 Code of Federal Regulations section 30.6(a)(5);

5. Date of export per 15 Code of Federal Regulations section 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 Code of Federal Regulations section 30.6(a)(15); or

8. U.S. 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 shall provide notification in English to U.S. EPA of the proposed transboundary movement. Notifications shall be submitted electronically using U.S. EPA's Waste Import Export Tracking System (WIETS), or its successor system. In addition, a copy of the notification shall be sent to the Import/Export Coordinator, Department of Toxic Substances Control, 2375 Northside Drive, Ste. 100, San Diego, CA 92108. Notwithstanding any other provision of law or regulation, notifications for non-RCRA hazardous waste exports shall only be sent to the Department. 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 shall include all of the following information:

(A) Exporter name and U.S. EPA identification number, address, telephone, fax numbers, and email address;

(B) Foreign receiving facility name, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in 40 Code of Federal Regulations section 262.81;

(C) Foreign importer name (if not the owner or operator of the foreign receiving facility), address, telephone, fax numbers, and email address;

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

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

(F) 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;

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

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

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

(J) Means of transport planned to be used;

(K) Description(s) of each hazardous waste, including whether each hazardous waste is regulated universal waste under 40 Code of Federal Regulations part 273, and chapter 23, spent lead-acid batteries being exported for recovery of lead under 40 Code of Federal Regulations part 266, subpart G, or industrial ethyl alcohol being exported for reclamation under 40 Code of Federal Regulations section 261.6(a)(3)(i), estimated total quantity of each waste in either metric tons or cubic meters, the applicable RCRA waste code(s) for each hazardous waste, if applicable, the California Hazardous Waste Code Number (from chapter 11, Appendix XII), the applicable OECD waste code from the lists incorporated by reference in 40 Code of Federal Regulations section 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each waste;

(L) Specification of the recovery or disposal operation(s) as defined in 40 Code of Federal Regulations section 262.81.

(M) 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 shall include all information listed in subsections (b)(1)(A) through (b)(1)(M) of this section and additionally state that the facility is pre-consented. Exporters shall submit the notification to U.S. EPA using the allowable methods listed in subsection (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 subsection (b)(1)(B) of this section shall 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 subsection (b)(1) of this section shall 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 shall be employed at the final foreign recovery or disposal facility. The recovery and disposal operations in this subsection are defined in 40 Code of Federal Regulations section 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 shall submit a renotification of the changes to U.S. EPA using the allowable methods in subsection (b)(1) of this section and the Department with a written renotification of the change. 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 U.S. 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, U.S. EPA shall coordinate with the Department of State to provide the complete notification to country of import and any countries of transit. In all other cases, U.S. EPA shall provide the notification directly to the country of import and any countries of transit. A notification is complete when U.S. EPA receives a notification which U.S. EPA determines satisfies the requirements of subsections (b)(1)(A) through (b)(1)(M) of this section. Where a claim of confidentiality is asserted with respect to any notification information required by subsections (b)(1)(A) through (b)(1)(M) of this section, U.S. EPA may find the notification not complete until any such claim is resolved in accordance with 40 Code of Federal Regulations section 260.2.

(6) Where the countries of import and transit consent to the proposed transboundary movement(s) of the hazardous waste(s), U.S. EPA shall forward an U.S. 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, U.S. EPA shall 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 of this section, including providing notification to U.S. EPA in accordance with subsection (b)(1) of this section. In addition to listing all required

information in subsections (b)(1)(A) through (b)(1)(M) of this section, the exporter shall provide the original consent number issued for the initial import of the wastes in the notification, and receive an AOC from U.S. 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 U.S. EPA, the exporter shall furnish to U.S. 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 shall comply with the manifest requirements of 40 Code of Federal Regulations sections 262.20 through 262.23 except that:

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

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

(3) The exporter shall 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) (U.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 shall ensure that a movement document meeting the conditions of subsection (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 subsections (d)(1)(A) and (B) of this section.

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

(B) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment, the exporter shall 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 shall include the following subsections (d)(2)(A) through (d)(2)(O) of this section:

- (A) The corresponding consent number(s) and hazardous waste number(s) for the listed hazardous waste from the relevant U.S. EPA AOC(s);
- (B) The shipment number and the total number of shipments from the U.S. EPA AOC;
- (C) Exporter name and U.S. EPA identification number, address, telephone, fax numbers, and email address;
- (D) Foreign receiving facility name, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in 40 Code of Federal Regulations section 262.81;
- (E) Foreign importer name (if not the owner or operator of the foreign receiving facility), address, telephone, fax numbers, and email address;
- (F) 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 Code of Federal Regulations section 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;
- (G) Date movement commenced;
- (H) Name (if not exporter), address, telephone, fax numbers, and email of company originating the shipment;
- (I) Company name, U.S. EPA ID number, address, telephone, fax, and email address of all transporters;
- (J) Identification (license, registered name or registration number) of means of transport, including types of packaging;
- (K) Any special precautions to be taken by transporter(s);
- (L) Certification/declaration signed and dated by the exporter that the information in the movement document is complete and correct;
- (M) Appropriate signatures for each custody transfer (e.g., transporter, importer, and owner or operator of the foreign receiving facility);
- (N) 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 shall sign the movement document (e.g., transporter, foreign importer, and owner or operator of the foreign receiving facility); and
- (O) As part of the contract requirements per subsection (f) of this section, the exporter shall 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 shall additionally require that the foreign receiving facility send a copy to U.S. EPA at the same time using the allowable methods listed in subsection (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 shall ensure that the hazardous waste is returned to the United States or re-exported to a third country. If the waste shall be returned, the exporter shall provide for the return of the hazardous waste shipment within ninety days from the time the country of import informs U.S. EPA of the need to return the waste or such other period of time as the concerned countries agree. In all cases, the exporter shall submit an exception report to U.S. EPA in accordance with subsection (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 shall 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 shall 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 shall specify the name and U.S. EPA ID number, where available, of subsections (f)(2)(A) through (D) of this section:

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

(B) Each person who shall have physical custody of the hazardous wastes;

(C) Each person who shall have legal control of the hazardous wastes; and

(D) The foreign receiving facility.

(3) Contracts or equivalent arrangements shall specify which party to the contract shall 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 shall specify that:

(A) The transporter or foreign receiving facility having actual possession or physical control over the hazardous wastes shall immediately inform the exporter, U.S. 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

(B) The person specified in the contract shall 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 subsection (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 U.S. EPA and the competent authorities in the new country of import and any transit countries prior to re-export.

(4) Contracts shall 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 shall be in effect on or after the electronic import-export reporting compliance date, the contracts shall additionally specify that the foreign receiving facility send a copy to U.S. EPA at the same time using the allowable methods listed in subsection (b)(1) of this section on or after that date.

(5) Contracts shall 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 shall be in effect on or after the electronic import-export reporting compliance date, the contracts shall additionally specify that the foreign receiving facility send a copy to U.S. EPA at the same time using the allowable methods listed in subsection (b)(1) of this section on or after that date.

(6) Contracts shall 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 Code of Federal Regulations section 262.81) as appropriate, shall:

(A) Provide the notification required in subsection (f)(3)(B) 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

(B) 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 shall be in effect on or after the electronic import-export reporting compliance date, the contracts shall additionally specify

that the foreign facility send copies to U.S. EPA at the same time using the allowable method listed in subsection (b)(1) of this section on or after that date.

(7) Contracts or equivalent arrangements shall 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.

(A) 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 shall contain provisions requiring each contracting party to comply with all applicable requirements of this section.

(9) Upon request by U.S. EPA, U.S. exporters, importers, or recovery facilities shall submit to U.S. EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted in accordance with 40 Code of Federal Regulations section 2.203(b) shall be treated as confidential and shall be disclosed by U.S. EPA only as provided in 40 Code of Federal Regulations section 260.2.

(g) Annual reports. The exporter shall file an annual report with U.S. 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 shall mail or hand-deliver annual reports to U.S. EPA using one of the addresses specified in 40 Code of Federal Regulations section 262.82(e), or submit to U.S. EPA using the allowable methods specified in subsection (b)(1) of this section if the exporter has electronically filed U.S. EPA information in AES, or its successor system, per subsection (a)(6)(A)(1) of this section for all shipments made the previous calendar year. Subsequently, the exporter shall submit annual reports to U.S. EPA using the allowable methods specified in subsection (b)(1) of this section. A copy of each report shall be sent to the Department at the following address: Import/Export Coordinator, Department of Toxic Substances Control, 2375 Northside Drive, Ste. 100, San Diego, CA 92108. The annual report shall include all of the following subsections (g)(1) through (6) of this section specified as follows:

(1) The U.S. 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:

(A) A description of the hazardous waste;

(B) The applicable U.S. EPA hazardous waste code(s) (from 40 Code of Federal Regulations part 261, subpart C or D) for each waste and if applicable the California Hazardous Waste Code Number (from chapter 11, Appendix XII);

(C) The applicable waste code from the appropriate OECD waste list incorporated by reference in 40 Code of Federal Regulations section 260.11;

(D) The applicable DOT ID number;

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

(F) 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 40 Code of Federal Regulations section 262.41:

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

(B) 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 shall file an exception report in lieu of the requirements of 40 Code of Federal Regulations section 262.42 (if applicable) and section 66262.42 of

chapter 12 with U.S. EPA and the Department for RCRA hazardous waste, or with the Department for non-RCRA hazardous waste, if any of the following occurs:

(A) The exporter has not received a copy of the 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 shall file the exception report within the next thirty (30) days;

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

(C) The foreign receiving facility notifies the exporter, or the country of import notifies U.S. EPA, of the need to return the shipment to the U.S. or arrange alternate management, in which case the exporter shall 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 shall be mailed or hand delivered to U.S. EPA using the addresses listed in 40 Code of Federal Regulations section 262.82(e). Subsequently, exception reports shall be submitted to U.S. EPA using the allowable methods listed in subsection (b)(1) of this section.

(3) The primary exporter shall submit the exception reports to the department at:

DTSC Report Repository

Generator Information Services Section

P.O. Box 806

Sacramento, CA 95812-0806

(i) Recordkeeping.

(1) The exporter shall keep the following records in subsections (i)(1)(A) through (E) of this section and provide them to U.S. EPA or authorized state personnel upon request:

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

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

(C) 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

(D) 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.

(E) A copy of each contract or equivalent arrangement established per 40 Code of Federal Regulations section 262.85 for at least three (3) years from the expiration date of the contract or equivalent arrangement.

(2) Exporters may satisfy these recordkeeping requirements by retaining electronically submitted documents in the exporter's account on U.S. 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 U.S. 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 U.S. 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 U.S. EPA Administrator.

Note: Authority cited: Sections 208, 25150, 25159, 25159.5, 58004 and 58012, Health and Safety Code. Reference: Sections 208, 25150, 25150.2, 25159, 25159.5, 25160, 25162 and 58012, Health and Safety Code; and 40 CFR Section 262.80, 262.81, 262.82, 262.83.

§ 66262.84. Tracking Document. Imports of Hazardous Waste.

~~(a) All U.S. parties subject to the contract provisions of 40 CFR section 262.85 or section 66262.85 shall ensure that a tracking document meeting the conditions of 40 CFR section 262.84(b) or section 66262.84(b) accompanies each transfrontier shipment of wastes subject to amber list or red list controls from the initiation of the shipment until it reaches the final recovery facility, including cases in which the waste is stored and/or exchanged by the consignee prior to shipment to the final recovery facility, except as provided in 40 CFR sections 262.84(a)(1) and (2) or subsections (a)(1) and (a)(2) of this section.~~

~~(1) For shipments of hazardous waste within the U.S. solely by water (bulk shipments only) the generator shall forward the tracking document with the manifest to the last water (bulk shipment) transporter to handle the waste in the U.S. if~~

~~exported by water, (in accordance with the manifest routing procedures of 40 CFR section 262.23(c) or section 66262.23(c)).~~

~~(2) For rail shipments of hazardous waste within the U.S. which originate at the site of generation, the generator shall forward the tracking document with the manifest (in accordance with the routing procedures for the manifest in 40 CFR section 262.23(d) or section 66262.23(d)) to the next non-rail transporter, if any, or the last rail transporter to handle the waste in the U.S. if exported by rail.~~

~~(b) The tracking document shall include all information required under 40 CFR section 262.83 or section 66262.83 (for notification), and the following:~~

~~(1) Date shipment commenced.~~

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

~~(3) Company name and USEPA identification number of all transporters.~~

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

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

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

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

~~1. All necessary consents have been received; OR~~

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

~~3. The shipment is directed at a recovery facility pre-authorized for that type of waste within the OECD area; such an authorization has not been revoked, and no objection has been received from any of the concerned countries.~~

~~Name: _____~~

~~Signature: _____~~

~~Date: _____~~

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

~~(c) Notifiers also shall comply with the special manifest requirements of 40 CFR section 262.54(a), (b), (c), (e), and (i) or sections 66262.54(a), (b), (c), (e), and (i) and~~

consignees shall comply with the import requirements of 40 CFR Part 262, Subpart F or section 66262.60.

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

~~(e) Within three (3) working days of the receipt of imports subject to 40 CFR Part 262, Subpart H or this article, the owner or operator of the U.S. recovery facility shall send signed copies of the tracking document to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, and to the competent authorities of the exporting and transit countries.~~

(a) General import requirements.

(1) With the exception of subsection (a)(5) of this section, importers of shipments covered under a consent from U.S. 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 shall comply with the requirements of this chapter and the special requirements of this article.

(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 shall submit a notification to U.S. EPA in accordance with subsection (b) of this section.

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

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

(5) The importer shall ensure compliance with the manifest instructions for import shipments in subsection (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 U.S. EPA and the competent authorities for the countries of transit, but U.S. EPA does regulate the waste as hazardous waste:

(1) The importer is required to provide notification in English to U.S. 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 (the United States does not currently require financial assurance for these waste shipments).

Notifications submitted prior to the electronic import-export reporting compliance date shall be mailed or hand delivered to U.S. EPA at the addresses specified in 40 Code of Federal Regulations section 262.82(e). Notifications submitted on or after the electronic import-export reporting compliance date shall be submitted electronically using U.S. 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 shall include all of the following information:

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

(B) Receiving facility name, U.S. EPA ID number, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in 40 Code of Federal Regulations section 262.81;

(C) Importer name (if not the owner or operator of the receiving facility), U.S. EPA ID number, physical address (a P.O. Box may be listed in addition to the physical address), telephone, fax numbers, and email address;

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

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

(F) 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;

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

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

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

(J) Means of transport planned to be used;

(K) Description(s) of each hazardous waste, including whether each hazardous waste is regulated universal waste under 40 Code of Federal Regulations part 273, or California Code of Regulation, title 22, chapter 23, spent lead-acid batteries being exported for recovery of lead under 40 Code of Federal Regulations part 266, subpart G, 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 Code of Federal Regulations section 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(L) Specification of the recovery or disposal operation(s) as defined in 40 Code of Federal Regulations section 262.81; and

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

1. 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. 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 subsection (b)(1)(B) of this section shall engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, the notification submitted according to subsection (b)(1) of this section shall 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, shall be employed at the final recovery or disposal facility. The recovery and disposal operations in this subsection are defined in 40 Code of Federal Regulations section 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 shall submit a renotification of the changes to U.S. EPA using the allowable methods in subsection (b)(1) of this section. Any shipment using the requested changes cannot take place until U.S. EPA and the countries of transit consent to the changes and the importer receives an U.S. EPA AOC letter documenting the consents to the changes.

(4) A notification is complete when U.S. EPA determines the notification satisfies the requirements of subsection (b)(1)(A) through (M) of this section. Where a claim of confidentiality is asserted with respect to any notification information required by subsection (b)(1)(A) through (M) of this section, U.S. EPA may find the notification not complete until any such claim is resolved in accordance with 40 Code of Federal Regulations section 260.2.

(5) Where U.S. EPA and the countries of transit consent to the proposed transboundary movement(s) of the hazardous waste(s), U.S. EPA shall forward an

U.S. EPA AOC letter to the importer documenting the countries' consents and U.S. EPA's consent. Where any of the countries of transit or U.S. EPA objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, U.S. EPA shall 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 40 Code of Federal Regulations section 262.83(b)(7).

(c) RCRA Manifest instructions for import shipments.

(1) When importing hazardous waste, the importer shall meet all the requirements of 40 Code of Federal Regulations section 262.20 for the manifest except that:

(A) In place of the generator's name, address and U.S. EPA identification number, the name and address of the foreign generator and the importer's name, address and U.S. EPA identification number shall be used.

(B) In place of the generator's signature on the certification statement, the importer or his agent shall 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 U.S. EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

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

(4) The importer shall 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 Code of Federal Regulations sections 264.71(a)(3) and 265.71(a)(3).

(5) In lieu of the requirements of 40 Code of Federal Regulations section 262.20(d), where a shipment cannot be delivered for any reason to the receiving facility, the importer shall instruct the transporter in writing via fax, email or mail to:

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

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

(d) Movement document requirements for import shipments.

(1) The importer shall ensure that a movement document meeting the conditions of subsection (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 subsections (d)(1)(A) and (B).

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

(B) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment, the importer shall 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 shall include the following subsection (d)(2)(A) through (O) of this section:

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

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

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

(D) Receiving facility name, U.S. EPA ID number, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in 40 Code of Federal Regulations section 262.81;

(E) Importer name (if not the owner or operator of the receiving facility), U.S. EPA ID number, address, telephone, fax numbers, and email address;

(F) 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 Code of Federal Regulations section 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(G) Date movement commenced;

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

(I) Company name, U.S. EPA ID number, address, telephone, fax, and email address of all transporters;

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

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

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

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

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

(O) The receiving facility shall 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 U.S. EPA electronically using U.S. 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 subsection (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 shall be returned to the country of export or exported to a third country. The provisions of subsection (b)(6) of this section apply to any hazardous waste shipments to be exported to a third country. If the return shipment shall cross any transit country, the return shipment may only occur after U.S. 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 shall 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 shall be executed by the foreign exporter, importer, and the owner or operator of the receiving facility, and shall 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 shall specify the name and U.S. EPA ID number, where available, of subsection (f)(2)(A) through (D) of this section:

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

(B) Each person who shall have physical custody of the hazardous wastes;

- (C) Each person who shall have legal control of the hazardous wastes; and
- (D) The receiving facility.

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

(4) Contracts or equivalent arrangements shall specify which party to the contract shall 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 shall specify that:

(A) The transporter or receiving facility having actual possession or physical control over the hazardous wastes shall 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

(B) The person specified in the contract shall 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 40 Code of Federal Regulations section 262.83(b)(7).

(5) Contracts shall 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, shall provide the notification required in 40 Code of Federal Regulations section 262.83(b)(7) prior to the re-export of hazardous wastes. The recovery and disposal operations in this subsection are defined in 40 Code of Federal Regulations section 262.81.

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

(A) 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 shall contain provisions requiring each contracting party to comply with all applicable requirements of this article.

(8) Upon request by U.S. EPA, importers or disposal or recovery facilities shall submit to U.S. EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted in accordance with 40 Code of Federal Regulations section 2.203(b) shall be treated as confidential and shall be disclosed by U.S. EPA only as provided in 40 Code of Federal Regulations section 260.2.

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

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

(2) If the receiving facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, the receiving facility shall promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one (1) year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC14 to RC15, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export, and for confirmations received on or after the electronic import-export reporting compliance date, to U.S. EPA electronically using U.S. EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in this subsection are defined in 40 Code of Federal Regulations section 262.81.

(h) Recordkeeping.

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

(A) A copy of each notification that the importer sends to U.S. EPA under subsection (b)(1) of this section and each U.S. 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

(B) A copy of each contract or equivalent arrangement established per subsection (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:

(A) 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;

(B) 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;

(C) 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 40 Code of Federal Regulations section 262.81), a copy of each confirmation of recovery or disposal that the final recovery or disposal facility sent to it for at least three (3) years from the date that the final recovery or disposal facility completed processing the waste shipment; and

(D) A copy of each contract or equivalent arrangement established per subsection (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 U.S. 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 U.S. 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 article if the importer or receiving facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with U.S. 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 U.S. EPA Administrator.

Note: Authority cited: Sections 25150.2 and 25159, Health and Safety Code. Reference: Sections 25150.2, 25159, and 25159.5, Health and Safety Code; and 40 Code of Federal Regulations Section 262.84.

§ 66263.10. Applicability.

(a) These regulations establish standards which apply to persons transporting hazardous waste within, into, out of or through the State if the transportation requires a manifest under section 25160 of the Health and Safety Code.

(1) The regulations set forth in 40 Code of Federal Regulations 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, U.S. EPA has expressly adopted certain regulations of the U.S. 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. U.S. 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. U.S. 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 U.S. EPA regulations, which apply to both interstate and intrastate transportation of hazardous waste, are enforceable by U.S. EPA.

(2) 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 49 of the Code of Federal Regulations, subtitle B, chapter I, subchapter C.

~~(d) A transporter of hazardous waste subject to the Federal manifesting requirements of 40 CFR Part 262, or subject to the universal waste management standards of 40 CFR Part 273, that is being imported from or exported to any of the other countries listed in 40 CFR section 262.58(a)(1) or section 66262.58(a)(1) for purposes of recovery or disposal is subject to 40 Code of Federal Regulations Part 262, Subpart H ~~or~~ and this article and to all other relevant requirements of 40 Code of Federal Regulations Part 262, Subpart H ~~or~~ and this article, including, but not limited to, 40 Code of Federal Regulations sections 262.83(d) and 262.84(d), ~~or~~ and sections 66262.83(d) section 66262.84(d) for tracking movement documents.~~

Note: Authority cited: Sections 208, 25150, 25159, 25159.5 and 25160, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code, 40 CFR Section 263.10.

§ 66263.20. Manifest Procedures for the Transporter.

(a) A transporter shall not accept hazardous waste from a generator unless it is accompanied by a manifest completed and signed in accordance with the provisions of article 2, chapter 12 of this division. In the case of RCRA hazardous waste exports other than those subject to Subpart H of 40 Code of Federal Regulations Part 262 ~~or~~ and this article, a transporter shall not accept such waste from a primary exporter or other person (1) if the transporter knows the shipment does not conform to the U.S. EPA

Acknowledgment of Consent; (2) unless, in addition to a manifest signed in accordance with the provisions of article 2, chapter 12 of this division, such waste is also accompanied by an U.S. EPA Acknowledgment of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of Subpart H of 40 Code of Federal Regulations Part 262, ~~or and~~ this article, a transporter shall not accept hazardous waste without a ~~tracking document that includes all information required by 40 Code of Federal Regulations section 262.84 or section 66262.84 of this division.~~ manifest signed by the generator in accordance with this 40 Code of Federal Regulations section 263.20 and this article, as appropriate, and a movement document that includes all information required by 40 Code of Federal Regulations section 262.83(d) and section 66262.83(d).

(c) The transporter shall ensure that the manifest accompanies the hazardous waste. In the case of RCRA hazardous waste exports, ~~the transporter shall ensure that a copy of the U.S. EPA Acknowledgment of Consent also accompanies the hazardous waste.~~ occurring under the terms of a consent issued by U.S. EPA to the exporter, the transporter shall ensure that a movement document that includes all information required by 40 Code of Federal Regulations section 262.83(d) and section 66262.83(d) also accompanies the hazardous waste. In the case of imports of RCRA hazardous waste occurring under the terms of a consent issued by U.S. EPA to the country of export or the importer, the transporter shall ensure that a movement document that includes all information required by 40 Code of Federal Regulations section 262.84(d) and section 66262.84(d) also accompanies the hazardous waste.

(h) ****

(2) a shipping paper containing all the information required on the manifest (excluding the Identification Numbers, generator certification, and signatures) and, for RCRA hazardous waste exports, ~~an U.S. EPA Acknowledgment of Consent accompanies the hazardous waste; and~~ or imports occurring under the terms of a consent issued by U.S. EPA, a movement document that includes all information required by 40 Code of Federal Regulations section 262.83(d) and section 66262.83(d) or 40 Code of Federal Regulations section 262.84(d) and section 66262.84(d) accompanies the hazardous waste; and

(i) ****

(2) Rail transporters shall ensure that a shipping paper containing all the information required on the manifest (excluding the Identification Numbers, generator certification, and signatures) and, for exports or imports of RCRA hazardous waste ~~an U.S. EPA Acknowledgment of Consent accompanies the hazardous waste at all~~

~~times. Intermediate rail transporters are not required to sign either the manifest or shipping paper. occurring under the terms of a consent issued by U.S. EPA, a movement document that includes all information required by 40 Code of Federal Regulations section 262.83(d) and Section 66262.83(d) or 40 Code of Federal Regulations section 262.84(d) and Section 66262.84(d) accompanies the hazardous waste at all times. Intermediate rail transporters are not required to sign the manifest, movement document, or shipping paper.~~

(j) Transporters who transport hazardous waste out of the United States shall:

~~(1) for shipments initiated before September 5, 2006, indicate on the manifest the date the hazardous waste left the United States from the State.~~

~~For shipments initiated on and after September 5, 2006, sSign and date the manifest in the International Shipments block (Item 16) to indicate the date that the shipment left the United States; and~~

~~(2) for shipments initiated before September 5, 2006, sign the manifest and retain one copy in accordance with section 66263.22(c).~~

~~For shipments initiated on and after September 5, 2006, rRetain one copy in accordance with 40 Code of Federal Regulations section 263.22(d) and section 66263.22, subsection-(d); and~~

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

~~(4) for RCRA-regulated hazardous waste, give a copy of the manifest to a U.S. Customs official at the point of departure from the United States. For paper manifests only,~~

~~(A) Send a copy of the manifest to the e-Manifest system in accordance with the allowable methods specified in 40 Code of Federal Regulations section 264.71(a)(2)(v); and~~

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

Note: Authority cited: Sections 25150, 25159, 25159.5, 25160, 25161 and 25162, Health and Safety Code. Reference: Sections 25150, 25159, 25159.5, 25160 and 25162, Health and Safety Code; and 40 Code of Federal Regulations Section 263.20.

§ 66264.12. Required Notices.

(a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to 40 Code of Federal Regulations part 262, subpart H and article 8, chapter 12 of this division from a foreign source shall submit the following required notices:

(1) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source shall notify the Department in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required. The notification shall be sent to the Import/Export Coordinator, Department of Toxic Substances Control, ~~Hazardous Waste Management Program, Statewide Compliance Division, Chatsworth Regional Office, 9211 Oakdale Avenue, Chatsworth, CA 91311-6505.~~ 2375 Northside Drive, Ste. 100, San Diego, CA 92108.

~~(2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to 40 CFR Part 262, Subpart H or this article shall provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Enforcement Planning, Targeting and Data Division (2222A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; and to the competent authorities of all other concerned countries within three working days of receipt of the shipment. The original of the signed tracking document shall be maintained at the facility for at least three years.~~

(2) As per 40 Code of Federal Regulations section 262.84(b) and section 66262.84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from U.S. EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer shall provide notification of the proposed transboundary movement in English to U.S. EPA using the allowable methods listed in 40 Code of Federal Regulations section 262.84(b)(1) and section 66262.84(b)(1) at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(3) As per 40 Code of Federal Regulations section 262.84(d)(2)(xv) and section 66262.84(d)(2)(O), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to U.S. EPA electronically using U.S. EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document

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

(4) As per 40 Code of Federal Regulations section 262.84(f)(4) and section 66262.84(f)(4), if the facility has physical control of the waste and it shall be sent to an alternate facility or returned to the country of export, such owner or operator of the facility shall inform U.S. EPA, using the allowable methods listed in 40 Code of Federal Regulations section 262.84(b)(1) and section 66262.84(b)(1), of the need to return or arrange alternate management of the shipment.

(5) As per 40 Code of Federal Regulations section 262.84(g) and section 66262.84(g), such owner or operator shall:

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

(B) If the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to U.S. EPA electronically using U.S. EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in this subsection are defined in 40 Code of Federal Regulations section 262.81 and section 66262.81.

(c) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator shall notify the new owner or operator in writing of the requirements of 40 Code of Federal Regulations section 264.12, this chapter, 40 Code of Federal Regulations part 270, and chapter 20 of this division. An owner's or operator's failure to notify the new owner or operator of the requirements of ~~this chapter~~ shall not relieve the new owner or operator of the obligation to comply with all applicable requirements.

Note: Authority cited: Sections 25150 and 25159, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code; and 40 Code of Federal Regulations Section 264.12.

§ 66264.71. Use of Manifest System.

(a)(1) ****

(3) The owner or operator of a facility receiving hazardous waste subject to 40 Code of Federal Regulations part 262, subpart H and article 8, chapter 12 of this division, from a foreign source shall:

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

(B) Send a copy of the manifest within thirty (30) days of delivery to U.S. EPA using the addresses listed in 40 Code of Federal Regulations section 262.82(e) and section 66262.82(e) until the facility can submit such a copy to the e-Manifest system per 40 Code of Federal Regulations section 264.71(a)(2)(v).

~~(d) In addition to submitting a copy of the manifest to the department, if a facility receives federally regulated hazardous waste imported from a foreign source, the receiving facility shall mail a copy of the manifest to the following address within 30 days of delivery: International Compliance Assurance Division, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. As per 40 Code of Federal Regulations section 262.84(d)(2)(xv) and section 66262.84(d)(2)(O), within three (3) working days of the receipt of a shipment subject to 40 Code of Federal Regulations part 262, subpart H and article 8, chapter 12 of this division, the owner or operator of a facility shall provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control~~

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

~~(e) Within three working days of the receipt of a shipment subject to the requirements of 40 Code of Federal Regulations Part 262, Subpart H or this article, the owner or operator of the facility shall provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Enforcement Planning, Targeting and Data Division (2222A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and to competent authorities of all other concerned countries. The original copy of the tracking document shall be maintained at the facility for at least three years from the date of signature.~~

(fe) Whenever hazardous waste is received by a facility from a transporter in a vehicle or bulk container that will be removed from the facility after emptying, the transporter shall determine by inspection whether the vehicle or bulk container is empty pursuant to section 66261.7 prior to the removal of the vehicle or bulk container from the facility.

(gf) If a vehicle or bulk container cannot be rendered empty pursuant to section 66261.7 by equipment and methods available at the facility, the transporter shall follow the procedure in subsection (b) of section 66263.21. If the vehicle or bulk container is not empty, the transporter shall not move the vehicle or bulk container without the designated facility preparing a new manifest pursuant to section 66264.72 or 40 Code of Federal Regulations section 264.72 if located out of state.

(hg) The provisions of section 66262.34 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of section 66262.34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

Note: Authority cited: Sections 25150, 25159, 25159.5 and 58012, Health and Safety Code. Reference: Sections 25150, 25159 and 25159.5, Health and Safety Code; and 40 Code of Federal Regulations Section 264.71

§ 66265.12. Required Notices.

(a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to 40 Code of Federal Regulations part 262, subpart H and article 8, chapter 12, of this division from a foreign source shall submit the following required notices:

(1) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source shall notify the Department in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. The notification shall be sent to the Import/Export Coordinator, Department of Toxic Substances Control, ~~Hazardous Waste Management Program, Statewide Compliance Division, Chatsworth Regional Office, 9211 Oakdale Avenue, Chatsworth, CA 91311-6505,~~ 2375 Northside Drive, Ste. 100, San Diego, CA 92108. Notice of subsequent shipments of the same waste from the same foreign source is not required.

~~(2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to the requirements of 40 CFR Part 262, Subpart H or this article shall provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 and to the competent authorities of all other concerned countries within three working days of receipt of the shipment. The original of the signed tracking document shall be maintained at the facility for at least three years.~~

(2) As per 40 Code of Federal Regulations section 262.84(b) and section 66262.84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from U.S. EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer shall provide notification of the proposed transboundary movement in English to U.S. EPA using the allowable methods listed in 40 Code of Federal Regulations section 262.84(b)(1) and section 66262.84(b)(1) at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(3) As per 40 Code of Federal Regulations section 262.84(d)(2)(xv) and section 66262.84(d)(2)(O), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste

respectively; and on or after the electronic import-export reporting compliance date, to U.S. EPA electronically using U.S. EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document shall be maintained at the facility for at least three (3) years. The owner or operator of a facility shall satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on U.S. 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 U.S. EPA or authorized state inspector. No owner or operator of a facility shall be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with U.S. EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the owner or operator of a facility bears no responsibility.

(4) As per 40 Code of Federal Regulations section 262.84(f)(4) and section 66262.84(f)(4), if the facility has physical control of the waste and it shall be sent to an alternate facility or returned to the country of export, such owner or operator of the facility shall inform U.S. EPA, using the allowable methods listed in 40 Code of Federal Regulations section 262.84(b)(1) and section 66262.84(b)(1), of the need to return or arrange alternate management of the shipment.

(5) As per 40 Code of Federal Regulations section 262.84(g) and section 66262.84(g), such owner or operator shall:

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

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

disposal operations in this subsection are defined in 40 Code of Federal Regulations section 262.81 and section 66262.81.

Note: Authority cited: Sections 25150 and 25159, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code; and 40 Code of Federal Regulations Section 265.12.

§ 66265.71. Use of Manifest System.

(a)(1) ****

(3) The owner or operator of a facility that receives hazardous waste subject to 40 Code of Federal Regulations part 262, subpart H and article 8, chapter 12 of this division from a foreign source shall:

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

(B) Send a copy of the manifest to U.S. EPA using the addresses listed in 40 Code of Federal Regulations section 262.82(e) and section 66262.82(e) within thirty (30) days of delivery until the facility can submit such a copy to the e-Manifest system per 40 Code of Federal Regulations section 265.71(a)(2)(v).

(f) As per 40 Code of Federal Regulations section 262.84(d)(2)(xv) and section 66262.84(d)(2)(O), within three (3) working days of the receipt of a shipment subject to 40 Code of Federal Regulations part 262, subpart H and article 8, chapter 12 of this division, the owner or operator of a facility shall provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to U.S. EPA electronically using U.S. EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document shall be maintained at the facility for at least three (3) years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on U.S. 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 U.S. EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under

this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with U.S. EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

(fg) Whenever hazardous waste is received by a facility from a transporter in a vehicle or bulk container that will be removed from the facility after emptying, the transporter shall determine by inspection whether the vehicle or bulk container is empty pursuant to section 66261.7 prior to the removal of the vehicle or bulk container from the facility.

(gh) If a vehicle or bulk container cannot be rendered empty pursuant to section 66261.7 by equipment and methods available at the facility, the transporter shall follow the procedure in subsection (b) of section 66263.21. If the vehicle or bulk container is not empty, the transporter shall not move the vehicle or bulk container without the designated facility preparing a new manifest for container residues pursuant to section 66265.72 or 40 Code of Federal Regulations section 265.72, if located out of state.

(hj) The provisions of section 66262.34 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of section 66262.34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

Note: Authority cited: Sections 25150, 25159, 25159.5 and 58012, Health and Safety Code. Reference: Sections 25150, 25159 and 25159.5, Health and Safety Code; and 40 Code of Federal Regulations Section 265.71; *Hazardous Waste Report, Instructions and Forms* (EPA Form 8700-13A/B); and 70 Fed. Reg. 10776 (Mar. 4, 2005), p. 10789-10787.

§ 66273.39. Tracking Universal Waste Shipments.

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

(c) Shipments offsite. A universal waste handler shall keep a record of each shipment of universal waste sent from the universal waste handler's facility to another facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste sent shall include the following information:

Note: Authority cited: Sections 25141, 25150, 25150.6, 25219.1, 25219.2 and 58012, Health and Safety Code. Reference: Sections 25141, 25150, 25159.5, 25219, 25219.1 and 25219.2, Health and Safety Code; 40 CFR Section 273.39.

§ 66273.40. Exports.

(a) Universal waste handler requirements.

(1) A universal waste handler who sends universal waste, not including electronic devices, CRTs, and CRT glass, ~~to an OECD country specified in section 66262.58, subsection (a)(1),~~ is subject to the requirements of 40 Code of Federal Regulations part 262, subpart H and article 8, of chapter 12 of this division.

~~(2) A universal waste handler who sends universal waste, not including electronic devices, CRTs, and CRT glass, to a foreign destination in a country other than an OECD country specified in section 66262.58(a)(1), shall:~~

~~(A) Comply with the requirements applicable to a primary exporter in sections 66262.53, 66262.56(a)(1) through (a)(4), (a)(6), and (b), and 66262.57;~~

~~(B) Export such universal waste only upon consent of the receiving country and in conformance with article 5 of chapter 12 and the EPA Acknowledgment of Consent, as defined in section 66260.10; and~~

~~(C) Provide to the transporter transporting the universal waste for export, a copy of the EPA Acknowledgment of Consent for that universal waste.~~

(32) A universal waste handler who sends electronic devices, CRTs, and/or CRT glass to any foreign destination shall do all of the following:

(A) For used CRTs to be exported for reclamation, comply with the federal notification and U.S. EPA Acknowledgment of Consent requirements of 40 Code of Federal Regulations Section 261.39(a)(5), if applicable.

(B) For used, intact CRTs to be exported for reuse, comply with the federal notification and recordkeeping requirements of 40 Code of Federal Regulations Section 261.41, if applicable.

(C) In accordance with subsection (a)(43) of this section, notify the Department of an intended export before any electronic devices, CRTs, and/or CRT glass are scheduled to leave the United States. A completed notification shall be submitted to the address specified in subsections (a)(54) and (a)(65) of this section sixty (60) calendar days before the initial shipment is intended to be shipped offsite. This notification shall cover export activities extending over a twelve (12) month or lesser period.

(D) Concurrently send a copy of the notification required pursuant to subsection (a)(32)(C) of this section, to the CUPA having jurisdiction over the universal

waste handler's facility, or, if there is no such CUPA, to the agency authorized pursuant to subdivision (f) of Health and Safety Code section 25404.3.

(43) The notification submitted pursuant to subsection (a)(32)(C) of this section shall be in writing, be signed by the universal waste handler, and include:

(54) Electronic submissions. If submitted electronically, Department notifications submitted pursuant to subsection (a)(32) of this section shall be sent to the Department at <http://www.dtsc.ca.gov>. For electronic export notifications, the universal waste handler signature required by subsection (a)(43) of this section shall be submitted to the address provided in subsection (a)(65) of this section.

(65) Written submissions. If submitted in writing, Department notifications submitted pursuant to subsection (a)(32) of this section shall be sent to the Department by certified mail, return receipt requested, at the following address: Department of Toxic Substances Control, Universal Waste Notification and Reporting Staff, P.O. Box 806, Sacramento, CA 95812-0806, with "Attention: Notification to Export Electronic Devices, CRTs, and/or CRT Glass" prominently displayed on the front of the envelope.

(b) A person who exports used CRTs for reclamation shall forward a copy of the completed U.S. EPA Acknowledgment of Consent forwarded to the person by ~~USEPA~~ U.S. EPA pursuant to 40 Code of Federal Regulations section 261.39(a)(5)(iv) to the Department. This copy shall be forwarded to the Department at the address shown in subsection (a)(54) or (a)(65) of this section within 30 calendar days of receipt. If submitted by mail, "Attention: Acknowledgment of Consent to Export CRTs" shall be prominently displayed on the front of the envelope.

(c) A person who exports shall keep copies of notifications and all applicable records which demonstrate compliance pursuant to subsections (a)(43)(B)7. through (a)(43)(B)9. and subsection (b) of this section for a period of three years from the date of shipment.

Note: Authority cited: Sections 25141, 25150, 25150.2, 25150.6, 25201, 25214.9, 25219.1 and 58012, Health and Safety Code; and Section 42475, Public Resources Code. Reference: Sections 25141, 25150, 25150.2, 25159.5, 25219, 25219.1 and 25219.2, Health and Safety Code; Section 42476.5, Public Resources Code; and 40 CFR Sections 261.39, 261.40, 261.41 and 273.40.

§ 66273.41. Imports.

(a) A person who manages a universal waste that is imported into the United States from a foreign country, ~~other than an OECD country specified in section 66262.58,~~ subsection (a)(1), is subject to the applicable requirements of this chapter, beginning 40

Code of Federal Regulations part 262, subpart H and article 8, chapter 12 of this division immediately after the universal waste enters the United States, as indicated in 40 Code of Federal Regulations part 273, subpart F, section 273.70, paragraphs (a) through (c) and subsections (a)(1) through (a)(3) of this section:

(1) A universal waste transporter is subject to the universal waste transporter requirements of 40 Code of Federal Regulations part 273, subpart D and article 5 of this chapter.

(2) A universal waste handler is subject to the universal waste handler requirements of 40 Code of Federal Regulations part 273, subpart C and article 3 of this chapter, as applicable.

(3) An owner or operator of a destination facility is subject to the destination facility requirements of 40 Code of Federal Regulations part 273, subpart E and article 6 of this chapter.

(b) A person who manages a universal waste that is imported into the United States from an OECD country ~~specified in section 66262.58, subsection (a)(1),~~ is subject to ~~subsections (a)(1) through (a)(3) of this section, in addition to the requirements of article 8 of chapter 12.~~

Note: Authority cited: Sections 25141, 25150, 25214.6, 25219.1, 25219.2 and 58012, Health and Safety Code. Reference: Sections 25141, 25150, 25159.5, 25212, 25214.6, 25219, 25219.1 and 25219.2, Health and Safety Code.

§ 66273.56. Exports.

~~(a)(1) A universal waste transporter who transports universal waste to an OECD country specified in section 66262.58(a)(1)~~ a foreign destination is subject to the requirements of 40 Code of Federal Regulations part 262, subpart H and article 8, of chapter 12, of this division.

~~(2) A universal waste transporter who transports universal waste to a foreign destination in a country other than an OECD country specified in section 66262.58, subsection (a)(1), shall not accept a shipment of such waste if the universal waste transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the universal waste transporter shall ensure that:~~

~~(A) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and~~

~~(B) The shipment is delivered to the facility designated by the person who initiated the shipment.~~

Note: Authority cited: Sections 25141, 25150, 25150.2, 25150.6, 25201, 25214.9, 25219.1 and 58012, Health and Safety Code; and Section 42475, Public Resources Code. Reference: Sections 25141, 25150, 25159.5, 25201, 25214.9, 25219, 25219.1 and 25219.2, Health and Safety Code; and 40 CFR Section 273.56.

§ 66273.62. Tracking Universal Waste Shipments.

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

Note: Authority cited: Sections 25141, 25150, 25150.6, 25219.1 and 58012, Health and Safety Code. Reference: Sections 25141, 25150, 25159.5, 25219, 25219.1 and 25219.2, Health and Safety Code; 40 CFR Section 273.62.

§ 67450.25. Requirements Applicable to Permanent Household Hazardous Waste Collection Facilities Deemed to Have a Permit by Rule.

(a) The operator or contractor who operates a PHHWCF deemed to have a permit by rule pursuant to section 66270.60 shall do all of the following:

(1) Maintain compliance with sections 66262.10 through ~~66262.57~~66262.44, (except section 66262.41), article 8, chapter 12 of this division (Transboundary Movements of Hazardous Waste for Recovery or Disposal), 66264.175, and 66265.148, except as follows:

Note: Authority cited: Sections 25150 and 25218.3(d)-, Health and Safety Code. Reference: Sections 25150, 25185.6, 25186, 25200, 25200.14, 25202.9 and 25218.3, Health and Safety Code.

§ 67450.44. Requirements Applicable to K-12 Schools Hazardous Waste Collection, Consolidation, and Accumulation Facilities Deemed to Have a Permit by Rule.

(a) The owner or operator who operates a SHWCCAF deemed to have a permit by rule shall do all of the following:

(1) Maintain compliance with sections 66262.10 through ~~66262.57~~44 (Generator Standards) and article 8, chapter 12 of this division (Transboundary Movements of Hazardous Waste for Recovery or Disposal) for any hazardous wastes generated at the SHWCCAF, except section 66262.41.

Note: Authority cited: Sections 25150 and 25150.6, Health and Safety Code. Reference: Sections 25150, 25185.6, 25200, 25200.14 and 25404.1, Health and Safety Code.