



VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY ALERT

Hazardous Waste Export-Import Revisions Proposed Rule

On October 19, 2015, the Environmental Protection Agency (EPA) published a proposed rule (80 FR 63283-63320) that would amend the existing regulations for the export and import of hazardous wastes from and into the United States. Specifically, the proposed revisions of the existing regulations are intended to streamline some of the requirements to minimize burden; improve tracking of the transportation and disposition of individual imported and exported shipments of hazardous wastes; improve the Agency's ability to monitor compliance with applicable legal requirements; and enable regulated parties and the government to benefit from the electronic submission of data. EPA's determination that some revisions to the import/export regulations are needed is also bolstered by the 2013 Commission for Environmental Cooperation (CEC) report as well as the 2015 EPA Office of Inspector General (OIG) report.

Significant Proposed Revisions

Some of the more significant revisions included in this proposal are:

1. Standardize the import/export regulations to more closely mirror the current regulations for international shipments between members of the Organization for Economic Cooperation and Development (OECD);
2. Enable electronic submittals of all export and import related documents; and
3. Enable electronic validation of consent in the Automated Export System (AES) for shipments subject to RCRA export consent requirements prior to export.

Summary

EPA is proposing the following revisions:

1. EPA is proposing to remove 40 CFR 262 Subpart E – Exports of Hazardous Waste and Subpart F – Imports of Hazardous Waste and amend 40 CFR 262 Subpart H – Transboundary Movements of Hazardous Waste for Recovery or Disposal. This amendment is intended to consolidate the regulations and standardize requirements applicable to ALL exports and imports of RCRA hazardous wastes, improve clarity of the requirements, and more accurately reflect the current procedures.

A. Exports of Hazardous Waste – 40 CFR 262.83

40 CFR 262.83 would be amended to establish the standards for the Exportation of Hazardous Wastes. This section would include new subsections as outlined below:

- (a) General Export Requirements
- (b) Notifications
- (c) RCRA Manifest Instructions for Export Shipments
- (d) Movement Document Requirements for Export Shipments
 - This proposed rule would require the use of an international movement document for all export shipments of hazardous waste including universal waste, SLABs shipped for reclamation, hazardous recyclable materials shipped for precious metals recovery,

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industrial ethyl alcohol shipped for reclamation and hazardous waste samples of more than 25 kilograms.

- (e) Duty to Return or Re-Export Hazardous Wastes
- (f) Export Contract Requirements
- (g) Annual Reports
- (h) Exception Reports
- (i) Recordkeeping

B. Imports of Hazardous Waste – 40 CFR 262.84

40 CFR 262.84 would be amended to establish the standards for the Importation of Hazardous Wastes. This section would include new subsections as outlined below:

- (a) General Import Requirements
- (b) Notifications
- (c) RCRA Manifest Instructions for Import Shipments
- (d) Movement Document Requirements for Import Shipments
 - This proposed rule would require the use of an international movement document for all import shipments of hazardous waste including universal waste, SLABs shipped for reclamation, hazardous recyclable materials shipped for precious metals recovery, industrial ethyl alcohol shipped for reclamation and hazardous waste samples of more than 25 kilograms.
- (e) Duty to Return or Export Hazardous Wastes
- (f) Import Contract Requirements
- (g) Confirmation of Recovery or Disposal
- (h) Recordkeeping

2. This proposed rule would require the electronic submittal of import and export documents using EPA's Cross-Media Electronic Reporting Regulations (CROMERR). The following documents would be required to be submitted electronically:
 - A. Export notices for hazardous wastes and CRTs being shipped for recycling;
 - B. Import notices when the country of export does not control as a hazardous waste export and EPA has not received a notice from the country of export;
 - C. Export annual reports for hazardous waste and CRTs being shipped for recycling;
 - D. Export exception reports;
 - E. Export confirmations of receipt;
 - F. Export confirmations of completing recovery;
 - G. Import confirmations of receipt;
 - H. Import confirmation of completing recovery; and
 - I. Import notifications regarding a need to make alternate arrangements of a need to return a waste shipment.
3. Exporters or U.S. authorized agents (recognized traders) would be required to file EPA–required information into the Automated Export System (AES) prior to departure in accordance with the deadlines specified in 15 CFR 30.4 (e.g., for truck shipments, no less than one hour prior to the arrival of the truck at the U.S. border) and to provide the Internal Transaction Number (ITN) issued by the AES. In addition, EPA would require that exporters submit electronic export notices into EPA's waste import/export database to enable the transmittal of all reference data needed for validation from EPA to AES.
4. Notification and consent procedures covered by contracts requiring all parties to comply with applicable requirements would be required. The notification/consent number would be required to be listed on the movement document (manifest) and would be required to include a signed certification statement that all contracts are in place and all required consents have been obtained. When using a RCRA

hazardous waste manifest for the importation the consent number would be listed in the “Special Handling Instructions and Additional Information” in place of attaching copies of the import consent documentation.

5. This proposed rule would require that treatment, disposal, or recovery of the exported or imported waste must be completed within one year of receipt, the destination facility would be required to send confirmation of the treatment, disposal or recovery to the exporter and to the Agencies.
6. EPA is proposing to add a definition for a “recognized trader.” A “recognized trader” is a person acting as an exporter or importer, who does not physically handle a hazardous waste. A “recognized trader” would be required to obtain an EPA ID Number using EPA Form 8700-12 prior to arranging for the import or export of hazardous wastes. The proposed definition is:

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.”

7. Incorporation by Reference of OECD Amber and Green Waste Lists

In this proposed rule, EPA is proposing to incorporate by reference the most current OECD Amber and Green waste lists in 40 CFR 260.11(g)(1). The document referenced is the 2009 “Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations.”

8. Exclusion of Samples Imported or Exported for Hazardous Waste Characterization or Treatability Studies

EPA is proposing to limit the quantity of samples that can be imported or exported under the waste characterization exclusion in 40 CFR 261.4(d) or the treatability study exclusion in 40 CFR 261.4(e) to a maximum of 25 kilograms.

9. Spent Lead Acid Battery (SLAB) Requirements

A RCRA hazardous waste manifest would NOT be required under the proposed rule for SLABs but the international movement document requirements would apply to all import and export shipments. In addition SLAB exporters and importers would be required to obtain EPA ID numbers.

Comments Due

Comments on this proposed rule must be submitted to EPA by December 18, 2015.

Link

The link below will allow you to view/print this proposed rule.

<http://www.gpo.gov/fdsys/pkg/FR-2015-10-19/pdf/2015-25348.pdf>