

Chapter NR 662

HAZARDOUS WASTE GENERATOR STANDARDS

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Subchapter A — General**NR 662.010 Purpose, scope and applicability.**

(1) This chapter establishes standards for generators of hazardous waste.

(2) Section NR 662.220 (2) and (3) shall be used to determine the applicability of provisions of subchs. A to V that are dependent on calculations of the quantity of hazardous waste generated per month.

(3) A generator who treats, stores or disposes of hazardous waste on-site shall only comply with s. NR 662.011 for determining whether or not the generator has a hazardous waste, s. NR 662.012 for obtaining an EPA identification number, s. NR 662.034 or 662.192 for accumulation of hazardous waste, s. NR 662.040 (3) and (4) for recordkeeping, s. NR 662.043 for additional reporting and if applicable, s. NR 662.070 for farmers, with respect to that waste.

(4) Any person who exports or imports hazardous waste, subject to the manifesting requirements of subchs. A to S or the universal waste management standards of ch. NR 673, to or from the countries listed in s. NR 662.058 (1) (a) for recovery, shall comply with subch. H.

(5) Any person who imports hazardous waste into the United States shall comply with the standards applicable to generators established in subchs. A to S.

(6) A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of s. NR 662.070 is not required to comply with other standards in subchs. A to V or ch. NR 670, 664, 665 or 668 with respect to the pesticides.

(7) A person who generates a hazardous waste as defined by ch. NR 661 is subject to the compliance requirements and penalties prescribed in ch. 291, Stats., if that person does not comply with the requirements of subchs. A to V.

(8) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage or disposal facility shall comply with the generator standards established in subchs. A to V.

(9) Persons responding to an explosives or munitions emergency in accordance with ss. NR 664.0001 (7) (h) 1. d. or 4. or 665.0001 (3) (k) 1. d. or 4. and 670.001 (3) (c) 1. d. or 3. are not required to comply with the standards of subchs. A to V.

Note: The provisions of s. NR 662.034, 662.192 or 662.220 are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of s. NR 662.034, 662.192 or 662.220 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

Note: A generator who treats, stores or disposes of hazardous waste on-site shall comply with the applicable standards and license requirements in chs. NR 664, 665, 666, 668 and 670.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.011 Hazardous waste determination. A person who generates a solid waste, as defined in s. NR 661.02, shall determine if that waste is a hazardous waste using the following method:

(1) The person may first determine if the waste is excluded from regulation under s. NR 661.04.

(2) The person shall then determine if the waste is listed as a hazardous waste in subch. D (lists of hazardous wastes) of ch. NR 661.

Note: Even if the waste is listed, the generator still has an opportunity under s. NR 660.22 to demonstrate to the EPA that the waste from the generator's particular facility or operation is not a hazardous waste.

(3) For purposes of compliance with ch. NR 668, or if the waste is not listed in subch. D (lists of hazardous wastes) of ch. NR 661, the generator shall then determine whether the waste is identified in subch. C (characteristics of hazardous waste) of ch. NR 661 by any of the following:

(a) Testing the waste according to the methods set forth in subch. C (characteristics of hazardous waste) of ch. NR 661, or according to an equivalent method approved by the department under s. NR 660.21.

1. Chemical and physical samples shall be analyzed by a laboratory certified or registered under ch. NR 149, except for field analyses for pH, specific conductance and temperature.

(b) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

(4) If the waste is determined to be hazardous, the generator shall refer to chs. NR 661, 664, 665, 666, 668 and 673 for possible exclusions or restrictions pertaining to management of the specific waste.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.012 EPA identification numbers. (1) A generator may not treat, store, dispose of, transport or offer for transportation, hazardous waste without having received an EPA identification number from the department, another authorized state or EPA.

(2) A generator who has not received an EPA identification number may obtain one by applying to the department using EPA form 8700-12. Upon receiving the request, the department will assign an EPA identification number to the generator.

Note: See s. NR 660.07 for information on obtaining EPA form 8700-12.

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

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

Subchapter B — Manifest

NR 662.020 General requirements. (1) A generator who transports, or offers for transport, a hazardous waste for off-site treatment, storage or disposal, or the owner or operator of a treatment, storage or disposal facility who offers for transport a rejected hazardous waste load, shall prepare a manifest, OMB control number 2050-0039, on EPA Form 8700-22, and if necessary, EPA Form 8700-22A, according to the instructions in the appendix to 40 CFR part 262.

(2) A generator shall designate on the manifest one facility which is licensed or permitted to handle the waste described on the manifest.

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

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

Note: A conditional manifest exemption for hazardous waste produced by small quantity generators is in s. NR 662.191.

(6) The requirements of this subchapter and s. NR 662.032 (2) do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if the contiguous property is divided by a public or private right-of-way. Notwithstanding s. NR 663.10 (1), the generator or transporter shall comply with the requirements for transporters in ss. NR 663.30 and 663.31 in the event of a discharge of hazardous waste on a public or private right-of-way.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; CR 06-102: am. (1) Register March 2007 No. 615, eff. 4-1-07.

NR 662.021 Acquisition of manifests. **History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; CR 06-102: r. Register March 2007 No. 615, eff. 4-1-07.

NR 662.022 Number of copies. The manifest consists of at least the number of copies which will provide the generator, each transporter, the owner or operator of the designated facility, and a copy to be returned to the generator.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.023 Use of the manifest. (1) The generator shall do all of the following:

(a) Sign the manifest certification by hand.

(b) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest.

(c) Retain one copy, in accordance with s. NR 662.040 (1) or 662.193 (1) (a).

(2) The generator shall give the transporter the remaining copies of the manifest.

(3) For shipments of hazardous waste outside of Wisconsin, the generator shall submit a copy of each manifest to the department within 30 days of receiving the signed copy from the designated facility.

Note: Send copies of manifests to the Department of Natural Resources, Bureau of Waste and Materials Management, Box 8094, Madison, WI 53708.

(4) For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator shall send 3 copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(5) For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator shall send at least 3 copies of the manifest dated and signed in accordance with this section to any of the following:

(a) The next non-rail transporter, if any.

(b) The designated facility if transported solely by rail.

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

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

Note: See s. NR 663.20 (5) and (6) for special provisions for rail or water (bulk shipment) transporters.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.027 Waste minimization certification. A generator who initiates a shipment of hazardous waste shall certify one of the following statements in Item 15 of the uniform hazardous waste manifest:

(1) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment;" or

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

History: CR 06-102: cr. Register March 2007 No. 615, eff. 4-1-07.

Subchapter C — Pre-Transport

NR 662.030 Packaging. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall package the waste in accordance with the applicable U.S. department of transportation regulations on packaging under 49 CFR parts 173, 178 and 179.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.031 Labeling. Before transporting or offering hazardous waste for transportation off-site, a generator shall label each package in accordance with the applicable U.S. department

of transportation regulations on hazardous materials under 49 CFR part 172.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.032 Marking. (1) Before transporting or offering hazardous waste for transportation off-site, a generator shall mark each package of hazardous waste in accordance with the applicable U.S. department of transportation regulations on hazardous materials under 49 CFR part 172.

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

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

Generator’s Name and Address_____.

Generator’s EPA Identification Number_____.

Manifest Tracking Number_____.”

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; CR 06-102: am. (2) Register March 2007 No. 615, eff. 4-1-07.

NR 662.033 Placarding. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall placard or offer the initial transporter the appropriate placards according to U.S. department of transportation regulations for hazardous materials under 49 CFR part 172, subpart F.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.034 Accumulation. (1) NINETY-DAY ACCUMULATION TIME. Except as provided in s. NR 662.192 (1), (2) and (3), a generator may accumulate hazardous waste on-site for 90 days or less without an operating license or interim license, provided that all of the following requirements are met:

(a) The waste is placed as follows:

1. In containers and the generator complies with the applicable requirements of subchs. I (containers), AA (air emission standards for process vents), BB (air emission standards for equipment leaks) and CC (air emission standards for tanks, surface impoundments and containers) of ch. NR 665.

2. In tanks and the generator complies with the applicable requirements of subchs. J (tank systems), AA (air emission standards for process vents), BB (air emission standards for equipment leaks) and CC (air emission standards for tanks, surface impoundments and containers) of ch. NR 665 except ss. NR 665.0197 (3) and 665.0200.

3. On drip pads and the generator complies with subch. W (drip pads) of ch. NR 665 and maintains all of the following records at the facility:

a. A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days.

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

4. In containment buildings and the generator complies with subch. DD (containment buildings) of ch. NR 665 and has placed the professional engineer certification that the building complies with the design standards specified in s. NR 665.1101 in the facility’s operating record no later than 60 days after the date of initial operation of the unit. After August 1, 2006, PE certification will be required prior to operation of the unit. The owner or operator shall maintain any of the following records at the facility:

a. A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the

90 day limit and documentation that the procedures are complied with.

b. Documentation that the unit is emptied at least once every 90 days. In addition, the generator is exempt from all of the requirements in subchs. G (closure and long-term care) and H (financial requirements) of ch. NR 665, except for ss. NR 665.0111 and 665.0114.

(b) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

(c) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, “Hazardous Waste”.

(d) The generator complies with the requirements for owners or operators in subchs. C (preparedness and prevention) and D (contingency plan and emergency procedures) of ch. NR 665 and ss. NR 665.0016 and 668.07 (1) (e).

(2) STORAGE FACILITY LICENSING AND ACCUMULATION TIME EXTENSION. A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of chs. NR 664 and 665 and the license requirements of ch. NR 670 unless the generator has been granted an extension to the 90-day period. The department may grant an extension if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the department on a case-by-case basis.

(3) SATELLITE ACCUMULATION. (a) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in s. NR 661.33 (5) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without an operating license or interim license and without complying with sub. (1) provided the generator does all of the following:

1. Complies with ss. NR 665.0171, 665.0172 and 665.0173 (1).

2. Marks the containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.

(b) A generator who accumulates either hazardous waste or acutely hazardous waste listed in s. NR 661.33 (5) in excess of the amounts listed in par. (a) at or near any point of generation shall, with respect to that amount of excess waste, comply within 3 days with sub. (1) or other applicable provisions of chs. NR 660 to 673. During the 3-day period the generator shall continue to comply with par. (a) 1. and 2. The generator shall mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

Note: Special accumulation requirements for small quantity generators are in s. NR 662.192.

(7) F006 WASTEWATER TREATMENT SLUDGES - 180-DAY ACCUMULATION TIME. A generator who generates 1,000 kilograms (2,205 pounds) or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the hazardous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days without an operating license or interim license provided that all of the following conditions are met:

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

(b) The F006 waste is legitimately recycled through metals recovery.

(c) No more than 20,000 kilograms (44,100 pounds) of F006 waste is accumulated on-site at any one time.

(d) The F006 waste is managed in accordance with all of the following:

1. The F006 waste is placed:

a. In containers and the generator complies with the applicable requirements of subchs. I (containers), AA (air emission standards for process vents), BB (air emission standards for equipment leaks) and CC (air emission standards for tanks, surface impoundments and containers) of ch. NR 665.

b. In tanks and the generator complies with the applicable requirements of subchs. J (tank systems), AA (air emission standards for process vents), BB (air emission standards for equipment leaks) and CC (air emission standards for tanks, surface impoundments and containers) of ch. NR 665, except ss. NR 665.0197 (3) and 665.0200.

c. In containment buildings and the generator complies with subch. DD (containment buildings) of ch. NR 665, and has placed the professional engineer certification that the building complies with the design standards specified in s. NR 665.1101 in the facility's operating record prior to operation of the unit. The owner or operator shall maintain any of the following records at the facility:

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

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

2. In addition, such a generator is exempt from all the requirements in subchs. G (closure and long-term care) and H (financial requirements) of ch. NR 665, except for ss. NR 665.0111 and 665.0114.

3. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

4. While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste".

5. The generator complies with the requirements for owners or operators in subchs. C (preparedness and prevention) and D (contingency plan and emergency procedures) of ch. NR 665 and ss. NR 665.0016 and 668.07 (1) (e).

(8) F006 WASTEWATER TREATMENT SLUDGES - 270-DAY ACCUMULATION TIME. A generator who generates 1,000 kilograms (2,205 pounds) or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on-site for more than 90 days, but not more than 270 days without an operating license or interim license if the generator complies with the requirements of sub. (7) (a) to (d).

(9) F006 WASTEWATER TREATMENT SLUDGES - STORAGE FACILITY LICENSING, ACCUMULATION TIME EXTENSION AND ACCUMULATION LIMIT EXCEPTION. A generator accumulating F006 in accordance with subs. (7) and (8) who accumulates F006 waste on-site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms (44,100 pounds) of F006 waste on-site is an operator of a storage facility and is subject to the requirements of chs. NR 664 and 665 and the license requirements of ch. NR 670 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram (44,100 pound) accumulation limit. Extensions and exceptions may be granted by the department if F006 waste must remain on-site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms (44,100 pounds) of F006 waste must remain on-site due to unforeseen, temporary and uncontrollable circumstances. An extension of up to 30 days or an

exception to the accumulation limit may be granted at the discretion of the department on a case-by-case basis.

(13) REJECTED WASTE SHIPMENTS. A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue according to the manifest discrepancy provisions of s. NR 664.0072 or 665.0072 may accumulate the returned waste on-site according to subs. (1) and (2), depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator shall do one of the following:

(a) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest.

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

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; CR 06-102: cr. (13) Register March 2007 No. 615, eff. 4-1-07.

Subchapter D — Recordkeeping and Reporting

NR 662.040 Recordkeeping. (1) A generator shall keep a copy of each manifest signed in accordance with s. NR 662.023 (1) for 3 years or until the generator receives a signed copy from the designated facility which received the waste. This signed copy shall be retained as a record for at least 3 years from the date the waste was accepted by the initial transporter.

(2) A generator shall keep a copy of each annual report and exception report for a period of at least 3 years from the due date of the report.

(3) A generator shall keep records of any test results, waste analyses or other determinations made in accordance with s. NR 662.011 for at least 3 years from the date that the waste was last sent to on-site or off-site treatment, storage or disposal.

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

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.041 Annual report. (1) A generator who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States shall prepare and submit a single copy of an annual report to the department by March 1 of each year. The annual report shall be submitted on department forms and cover generator activities during the previous year.

(2) Each annual report shall include all of the following information:

(a) The EPA identification number, name and address of the generator.

(b) The calendar year covered by the report.

(c) The certification signed by the generator or authorized representative.

(d) The generator fee worksheet to determine the environmental repair fee that shall be paid to the department as specified in s. 289.67 (2), Stats.

(3) Each annual report for odd numbered years shall include the following information:

(a) The information in sub. (2) (a) to (d).

(b) The EPA identification number, name and address for each off-site treatment, storage or disposal facility in the United States to which waste was shipped during the year.

(c) The name and EPA identification number of each transporter used during the reporting year for shipments to a treatment, storage or disposal facility within the United States.

(d) A description, EPA hazardous waste number (from subch. C or D of ch. NR 661), U.S. department of transportation hazard class and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage or disposal facility within the

United States. This information shall be listed by EPA identification number of each off-site facility to which waste was shipped.

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

(f) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent the information is available for years prior to 1987.

Note: The annual report forms may be obtained at:

<http://dnr.wi.gov/org/aw/air/emission/crs/index.htm>, or by E-mail: wi.us, phone (608) 266-2111 or Fax: (608) 267-2768

(4) Any generator who treats, stores or disposes of hazardous waste on-site shall submit an annual report covering those wastes in accordance with the provisions of chs. NR 670, 664, 665 and 666. Reporting for exports of hazardous waste is not required on the annual report form. A separate annual report requirement is set forth at s. NR 662.056.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.042 Exception reporting. (1) A generator of greater than 1,000 kilograms (2,205 pounds) of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter shall contact the transporter or the owner or operator of the designated facility to determine the status of the hazardous waste.

(2) A generator of greater than 1,000 kilograms (2,205 pounds) of hazardous waste in a calendar month shall submit an exception report to the department if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The exception report shall include all of the following:

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

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

Note: The exception reporting requirement for small quantity generators is in s. NR 662.193(2)

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.043 Additional reporting. The department may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in ch. NR 661.

Note: Special recordkeeping and reporting requirements for small quantity generators are in s. NR 662.193.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

Subchapter E — Exports

Note: The export requirements on which this subchapter is based (40 CFR part 262, subpart E) are administered by EPA and not the department because the exercise of foreign relations and international commerce powers is reserved to the federal government under the U.S. Constitution. Wisconsin has adopted these requirements into its rules for the convenience of the regulated community and for completeness. The enforcement of the 40 CFR part 262, subpart E requirements remains EPA's responsibility even though Wisconsin has adopted these requirements into its rules. The 40 CFR part 262, subpart E requirements apply to only those wastes identified or listed under the federal program that are subject to federal manifesting requirements.

NR 662.050 Applicability. This subchapter establishes requirements applicable to exports of hazardous waste. Except to the extent s. NR 662.058 provides otherwise, a primary exporter of hazardous waste shall comply with the special requirements of this subchapter and a transporter transporting hazardous waste for export shall comply with applicable requirements of ch. NR 663. Section NR 662.058 sets forth the requirements of international agreements between the United States and receiving countries which establish different notice, export and enforcement procedures for the transportation, treatment, storage and disposal of

hazardous waste for shipments between the United States and those countries.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.051 Definitions. The following definitions apply to this subchapter:

(1) "Consignee" means the ultimate treatment, storage or disposal facility in a receiving country to which the hazardous waste will be sent.

(2) "EPA acknowledgment of consent" means the cable sent to EPA from the U.S. embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.

(3) "Primary exporter" means any person who is required to originate the manifest for a shipment of hazardous waste in accordance with 40 CFR part 262, subpart B, or equivalent provision in subch. B, which specifies a treatment, storage or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.

(4) "Receiving country" means a foreign country to which a hazardous waste is sent for the purpose of treatment, storage or disposal (except short-term storage incidental to transportation).

(5) "Transit country" means any foreign country, other than a receiving country, through which a hazardous waste is transported.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.052 General requirements. Exports of hazardous waste are prohibited except in compliance with the applicable requirements of this subchapter and 40 CFR part 263. Exports of hazardous waste are prohibited unless all of the following conditions have been met:

(1) Notification in accordance with s. NR 662.053 has been provided.

(2) The receiving country has consented to accept the hazardous waste.

(3) A copy of the EPA acknowledgment of consent to the shipment accompanies the hazardous waste shipment and, unless exported by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).

(4) The hazardous waste shipment conforms to the terms of the receiving country's written consent as reflected in the EPA acknowledgment of consent.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.053 Notification of intent to export. (1) A primary exporter of hazardous waste shall notify EPA of an intended export before the waste is scheduled to leave the United States. A complete notification may be submitted 60 days before the initial shipment is intended to be shipped off site. This notification may cover export activities extending over a 12-month or lesser period. The notification shall be in writing, signed by the primary exporter, and include all of the following information:

(a) Name, mailing address, telephone number and EPA ID number of the primary exporter.

(b) By consignee, for each hazardous waste type, all of the following:

1. A description of the hazardous waste and the EPA hazardous waste number (from 40 CFR part 261, subparts C and D), U.S. DOT proper shipping name, hazard class and ID number (UN or NA) for each hazardous waste as identified in 49 CFR parts 171 to 177.

2. The estimated frequency or rate at which the waste is to be exported and the period of time over which the waste is to be exported.

3. The estimated total quantity of the hazardous waste in units as specified in Table II of the appendix to 40 CFR part 262.

4. All points of entry to and departure from each foreign country through which the hazardous waste will pass.

5. A description of the means by which each shipment of the hazardous waste will be transported (e.g., mode of transportation vehicle (including air, highway, rail or water), type of container (such as drums, boxes and tanks)).

6. A description of the manner in which the hazardous waste will be treated, stored or disposed of in the receiving country (e.g., land or ocean incineration, other land disposal, ocean dumping, recycling).

7. The name and site address of the consignee and any alternate consignee.

8. The name of any transit countries through which the hazardous waste will be sent and a description of the approximate length of time the hazardous waste will remain in the country and the nature of its handling while there.

(2) Notifications submitted by mail may be sent to:

Office of Enforcement and Compliance Assurance
Office of Compliance; Enforcement Planning, Targeting and
Data Division (2222A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Hand-delivered notifications may be sent to:

Office of Enforcement and Compliance Assurance
Office of Compliance; Enforcement Planning, Targeting and
Data Division (2222A)
U.S. Environmental Protection Agency
Ariel Rios Bldg., 12th St. and Pennsylvania Ave., NW
Washington, DC

In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export."

(3) Except for changes to the telephone number in sub. (1) (a), changes to sub. (1) (b) 5. and decreases in the quantity indicated pursuant to sub. (1) (b) 3. when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification), the primary exporter shall provide EPA with a written renotification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to sub. (1) (b) 8. and in the ports of entry to and departure from transit countries pursuant to sub. (1) (b) 4.) has been obtained and the primary exporter receives an EPA acknowledgment of consent reflecting the receiving country's consent to the changes.

(4) Upon request by EPA, a primary exporter shall furnish to EPA any additional information which a receiving country requests in order to respond to a notification.

(5) In conjunction with the U.S. department of state, EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of sub. (1). Where a claim of confidentiality is asserted with respect to any notification information required by sub. (1), EPA may find the notification not complete until any claim is resolved in accordance with 40 CFR 260.2.

(6) Where the receiving country consents to the receipt of the hazardous waste, EPA will forward an EPA acknowledgment of consent to the primary exporter for purposes of 40 CFR 262.54(h). Where the receiving country objects to receipt of the hazardous waste or withdraws a prior consent, EPA will notify the primary exporter in writing. EPA will also notify the primary exporter of any responses from transit countries.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.054 Special manifest requirements. A primary exporter shall comply with the manifest requirements of 40 CFR 262.20 to 262.23 except for all of the following:

(1) In lieu of the name, site address and EPA ID number of the designated permitted facility, the primary exporter shall enter the name and site address of the consignee.

(2) In lieu of the name, site address and EPA ID number of a permitted alternate facility, the primary exporter may enter the name and site address of any alternate consignee.

(3) In the international shipments block, the primary exporter shall check the export box and enter the point of exit (city and state) from the United States.

(4) The following statement shall be added to the end of the first sentence of the certification set forth in item 16 of the uniform hazardous waste manifest form: "and conforms to the terms of the attached EPA acknowledgment of consent".

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

(6) The primary exporter shall require the consignee to confirm in writing the delivery of the hazardous waste to that facility and to describe any significant discrepancies (as defined in 40 CFR 264.72(a)) between the manifest and the shipment. A copy of the manifest signed by the facility may be used to confirm delivery of the hazardous waste.

(7) In lieu of the requirements of 40 CFR 262.20(d), where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter shall take the action required by pars. (a) or (b) and (c):

(a) Renotify EPA of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with s. NR 662.053 (3) and obtain an EPA acknowledgment of consent prior to delivery.

(b) Instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States.

(c) Instruct the transporter to revise the manifest in accordance with the primary exporter's instructions.

(8) The primary exporter shall attach a copy of the EPA acknowledgment of consent to the shipment to the manifest which shall accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter shall provide the transporter with an EPA acknowledgment 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 copy of the EPA acknowledgment of consent to the shipping paper.

(9) The primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the U.S. customs official at the point the hazardous waste leaves the United States in accordance with 40 CFR 263.20(g)(4).

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; CR 06-102: am. (3) and (5) Register March 2007 No. 615, eff. 4-1-07.

NR 662.055 Exception reports. In lieu of the requirements of 40 CFR 262.42, a primary exporter shall file an exception report with the EPA administrator if any of the following occurs:

(1) The primary exporter has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within 45 days from the date it was accepted by the initial transporter.

(2) Within 90 days from the date the waste was accepted by the initial transporter, the primary exporter has not received written confirmation from the consignee that the hazardous waste was received.

(3) The waste is returned to the United States.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.056 Annual reports. (1) Primary exporters of hazardous waste shall file with the EPA administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency and ultimate destination of all hazardous waste exported during the previous calendar year. The reports shall include the following:

(a) The EPA identification number, name and mailing and site address of the exporter.

(b) The calendar year covered by the report.

(c) The name and site address of each consignee.

(d) By consignee, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from 40 CFR part 261, subpart C or D), U.S. DOT hazard class, the name and U.S. EPA ID number (where applicable) for each transporter used, the total amount of waste shipped and number of shipments pursuant to each notification.

(e) Except for hazardous waste produced by exporters of greater than 100 kg (220 pounds) but less than 1,000 kg (2,205 pounds) in a calendar month, unless provided pursuant to 40 CFR 262.41, in even numbered years, all of the following:

1. A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.

2. A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent the information is available for years prior to 1984.

(f) A certification signed by the primary exporter which 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.

(2) Annual reports submitted by mail may be sent to:

Office of Enforcement and Compliance Assurance
Office of Compliance; Enforcement Planning, Targeting and Data Division (2222A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Hand-delivered reports may be sent to:

Office of Enforcement and Compliance Assurance
Office of Compliance; Enforcement Planning, Targeting and Data Division (2222A)
U.S. Environmental Protection Agency
Ariel Rios Bldg., 12th St. and Pennsylvania Ave., NW
Washington, DC

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.057 Recordkeeping. (1) For all exports a primary exporter shall do all of the following:

(a) Keep a copy of each notification of intent to export for a period of at least 3 years from the date the hazardous waste was accepted by the initial transporter.

(b) Keep a copy of each EPA acknowledgment of consent for a period of at least 3 years from the date the hazardous waste was accepted by the initial transporter.

(c) Keep a copy of each confirmation of delivery of the hazardous waste from the consignee for at least 3 years from the date the hazardous waste was accepted by the initial transporter.

(d) Keep a copy of each annual report for a period of at least 3 years from the due date of the report.

(2) 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 EPA administrator.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.058 International agreements. (1) Any person who exports or imports hazardous waste subject to the manifest requirements of subchs. A to S or the universal waste management standards of ch. NR 673, to or from designated member countries of the Organization for Economic Cooperation and Development (OECD) as defined in par. (a) for purposes of recovery is subject to subch. H. The requirements of this subchapter and subch. F do not apply.

(a) For the purposes of this subchapter, the designated OECD countries consist of Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom and the United States.

(b) For the purposes of this subchapter, Canada and Mexico are considered OECD member countries only for the purpose of transit.

(2) Any person who exports hazardous waste to or imports hazardous waste from a designated OECD member country for purposes other than recovery (e.g., incineration, disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of this subchapter and subch. F.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

Subchapter F — Imports

Note: The import requirements on which this subchapter is based (40 CFR part 262, subpart F) are administered by EPA and not the department because the exercise of foreign relations and international commerce powers is reserved to the federal government under the U.S. Constitution. Wisconsin has adopted these requirements into its rules for the convenience of the regulated community and for completeness. The enforcement of the 40 CFR part 262, subpart F requirements remains EPA's responsibility even though Wisconsin has adopted these requirements into its rules. Wisconsin plays a key role in providing EPA with information on whether Wisconsin facilities designated to receive hazardous waste imports are authorized to manage specific wastes and in ensuring facility compliance with all applicable environmental laws and rules. The 40 CFR part 262, subpart F requirements apply to only those wastes identified or listed under the federal program that are subject to federal manifest requirements.

NR 662.060 Imports. (1) Any person who imports hazardous waste from a foreign country into the United States shall comply with the requirements of subchs. A to E and G to S and the special requirements of this subchapter.

(2) When importing hazardous waste, a person shall meet all the requirements of s. NR 662.020 (1) for the manifest except for all of the following:

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

(b) In place of the generator's signature on the certification statement, the U.S. importer or an agent shall sign and date the certification and obtain the signature of the initial transporter.

(3) A person who imports hazardous waste may obtain the manifest form v from any source that is registered with EPA as a supplier of manifests (states, waste handlers or commercial forms printers).

(4) 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.

(5) The importer shall provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to EPA in accordance with 40 CFR 264.71 (a) (3) and 40 CFR 265.71 (a) (3).

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; CR 06-102: am. (3), cr. (4) and (5) Register March 2007 No. 615, eff. 4-1-07.

Subchapter G — Farmers

NR 662.070 Farmers. A farmer disposing of waste pesticides from the farmer's own use which are hazardous wastes is not required to comply with the standards in subchs. A to V or other standards in ch. NR 664, 665, 668 or 670 for those wastes provided the farmer triple rinses each emptied pesticide container in accordance with s. NR 661.07 (2) (c) and disposes of the pesticide residues on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

Subchapter H — Transfrontier Shipments for Recovery within the OECD

Note: The requirements on which this subchapter is based (40 CFR part 262, subpart H) are administered by EPA and not the department because the exercise of foreign relations and international commerce powers is reserved to the federal government under the U.S. Constitution. Wisconsin has adopted these requirements into its rules for the convenience of the regulated community and for completeness. The enforcement of the 40 CFR part 262, subpart H requirements remains EPA's responsibility even though Wisconsin has adopted these requirements into its rules. Wisconsin plays a key role in providing EPA with information on whether Wisconsin facilities designated to receive hazardous waste imports are authorized to manage specific wastes and in ensuring facility compliance with all applicable environmental laws and rules. The 40 CFR part 262, subpart H requirements apply to only those wastes identified or listed under the federal program that are subject to federal manifesting requirements.

NR 662.080 Applicability. (1) The requirements of this subchapter apply to imports and exports of wastes that are considered hazardous under U.S. national procedures and are destined for recovery operations in the countries listed in s. NR 662.058 (1) (a). A waste is considered hazardous under U.S. national procedures if it meets the federal definition of hazardous waste in 40 CFR 261.3 and it is subject to either the manifesting requirements of subpart B, except as required by s. NR 662.220 (5) (f) and (6) (f), and s. NR 662.191 or the universal waste management standards of ch. NR 673.

(2) Any person (notifier, consignee or recovery facility operator) who mixes 2 or more wastes (including hazardous and non-hazardous wastes) or otherwise subjects 2 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 notifier duties, if applicable, under this subchapter.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.081 Definitions. The following definitions apply to this subchapter:

(1) "Competent authorities" means the regulatory authorities of concerned countries having jurisdiction over transfrontier movements of wastes destined for recovery operations.

(2) "Concerned countries" means the exporting and importing OECD member countries and any OECD member countries of transit.

(3) "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.

(4) "Country of transit" means any designated OECD country in s. NR 662.058 (1) (a) and (b) other than the exporting or importing country across which a transfrontier movement of wastes is planned or takes place.

(5) "Exporting country" means any designated OECD member country in s. NR 662.058 (1) (a) from which a transfrontier movement of wastes is planned or has commenced.

(6) "Importing country" means any designated OECD country in s. NR 662.058 (1) (a) to which a transfrontier movement of wastes is planned or takes place for the purpose of submitting the wastes to recovery operations there.

(7) "Notifier" means the person under the jurisdiction of the exporting country who has, or will have at the time the planned

transfrontier movement commences, possession or other forms of legal control of the wastes and who proposes their transfrontier 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.

(8) "OECD area" means all land or marine areas under the national jurisdiction of any designated OECD member country in s. NR 662.058. When the rules refer to shipments to or from an OECD country, this means OECD area.

(9) "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 the wastes from time of purchase to time of sale. Such a person may act to arrange and facilitate transfrontier movements of wastes destined for recovery operations.

(10) "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.

(11) "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 27 May 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:

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

R2 Solvent reclamation or regeneration

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

R4 Recycling or reclamation of metals and metal compounds

R5 Recycling or reclamation of other inorganic materials

R6 Regeneration of acids or bases

R7 Recovery of components used for pollution control

R8 Recovery of components from catalysts

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

R10 Land treatment resulting in benefit to agriculture or ecological improvement

R11 Uses of residual materials obtained from any of the operations numbered R1-R10

R12 Exchange of wastes for submission to any of the operations numbered R1-R11

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

(12) "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.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.082 General conditions. (1) 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 s. NR 662.080 (1). The green, amber and red lists are incorporated by reference in s. NR 662.089 (5).

(a) Wastes on the green list are subject to existing controls normally applied to commercial transactions, except as follows:

1. Green-list wastes that are considered hazardous under U.S. national procedures are subject to amber-list controls.

2. Green-list wastes that are sufficiently contaminated or mixed with amber-list wastes, such that the waste or waste mix-

ture is considered hazardous under U.S. national procedures, are subject to amber-list controls.

3. 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.

(b) Wastes on the amber list that are considered hazardous under U.S. national procedures as defined in s. NR 662.080 (1) are subject to the amber-list controls of this subchapter. 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.

(c) Wastes on the red list that are considered hazardous under U.S. national procedures as defined in s. NR 662.080 (1) are subject to the red-list controls of this subchapter.

Note: 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 this subchapter. Regardless of the status of the waste under RCRA, however, other federal environmental statutes (e.g., the toxics substances control act) may restrict certain waste imports or exports. The restrictions continue to apply without regard to this subchapter.

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

1. If the wastes are considered hazardous under U.S. national procedures as defined in s. NR 662.080 (1), the wastes are subject to the red-list controls.

2. If the wastes are not considered hazardous under U.S. national procedures as defined in s. NR 662.080 (1), the wastes may move as though they appeared on the green list.

(2) GENERAL CONDITIONS APPLICABLE TO TRANSFRONTIER MOVEMENTS OF HAZARDOUS WASTE. (a) 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.

(b) The transfrontier movement shall be in compliance with applicable international transport agreements.

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

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

(3) PROVISIONS RELATING TO RE-EXPORT FOR RECOVERY TO A THIRD COUNTRY. (a) 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 s. NR 662.058 (1) (a) may 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 s. NR 662.083 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.

1. The 30-day period begins once the competent authorities of both the initial exporting country and new importing country issue acknowledgments of receipt of the notification.

2. The transfrontier movement may 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.

(b) Re-export of waste subject to the red-list control system from the original importing country to a third country listed in s. NR 662.058 (1) (a) may 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 s. NR 662.083. The transfrontier movement may 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.

(c) In the case of re-export of amber or red-list wastes to a country other than those in s. NR 662.058 (1) (a), 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 pars. (a) and (b) 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.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.083 Notification and consent. (1) APPLICATION. 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 this subchapter. Hazardous wastes subject to amber-list controls are subject to the requirements of sub. (2), hazardous wastes subject to red-list controls are subject to the requirements of sub. (3) and wastes not identified on any list are subject to the requirements of sub. (4).

(2) AMBER-LIST WASTES. The export from the U.S. of hazardous wastes as described in s. NR 662.080 (1) that appear on the amber list is prohibited unless the notification and consent requirements of par. (a) or (b) are met.

(a) Transactions requiring specific consent shall meet the following requirements:

1. 'Notification.' At least 45 days prior to commencement of the transfrontier movement, the notifier shall provide written notification in English of the proposed transfrontier movement to:

Office of Enforcement and Compliance Assurance
 Office of Compliance; Enforcement Planning, Targeting and Data Division (2222A)
 U.S. Environmental Protection Agency
 1200 Pennsylvania Ave., NW
 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 sub. (5). 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 may submit one notification of intent to export these wastes in multiple shipments during a period of up to one year.

2. 'Tacit consent.' If no concerned country (i.e., exporting, importing or transit countries) lodges an objection to a notification provided pursuant to subd. 1. 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 may 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.

3. '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 may 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.

(b) Shipments to facilities pre-approved by the competent authorities of the importing countries to accept specific wastes for recovery shall meet the following requirements:

1. 'Notification.' The notifier shall provide EPA the information identified in sub. (5) in English, at least 10 days in advance of commencing shipment to a pre-approved facility. The notification may indicate that the recovery facility is pre-approved, and may apply to a single specific shipment or to multiple shipments as described in par. (a) 1. This information shall be sent to:

Office of Enforcement and Compliance Assurance
Office of Compliance; Enforcement Planning, Targeting and Data Division (2222A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

with the words "OECD Export Notification—Pre-approved Facility" prominently displayed on the envelope.

2. 'Tacit consent' Shipments may commence after the notification required in par. (a) 1. 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 country objects to the shipment.

(3) RED-LIST WASTES. The export from the U.S. of hazardous wastes as described in s. NR 662.080 (1) that appear on the red list is prohibited unless notice is given pursuant to sub. (2) (a) 1. and the notifier receives written consent from the importing country and any transit countries prior to commencement of the transfrontier movement.

(4) UNLISTED WASTES. Wastes not assigned to the green, amber or red list that are considered hazardous under U.S. national procedures as defined in s. NR 662.080 (1) are subject to the notification and consent requirements established for red-list wastes in accordance with sub. (3). Unlisted wastes that are not considered hazardous under U.S. national procedures as defined in s. NR 662.080 (1) are not subject to amber or red controls when exported or imported.

(5) NOTIFICATION INFORMATION. Notifications submitted under this section shall include all of the following:

- (a) Serial number or other accepted identifier of the notification form.
- (b) Notifier name, EPA identification number (if applicable), address and telephone and telefax numbers.
- (c) Importing recovery facility name, address, telephone and telefax numbers and technologies employed.
- (d) 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.
- (e) Intended transporters or their agents.
- (f) Country of export and relevant competent authority, and point of departure.
- (g) Countries of transit and relevant competent authorities, and points of entry and departure.
- (h) Country of import and relevant competent authority, and point of entry.
- (i) Statement of whether the notification is a single notification or a general notification. If general, include period of validity requested.
- (j) Date foreseen for commencement of transfrontier movement.
- (k) Designation of waste type 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.

(L) Certification and 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: _____

Note: The U.S. does not currently require financial assurance. However, U.S. exporters may be asked by other governments to provide and certify to the assurance as a condition of obtaining consent to a proposed movement.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.084 Tracking document. (1) All U.S. parties subject to the contract provisions of s. NR 662.085 shall ensure that a tracking document meeting the conditions of sub. (2) 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 or exchanged by the consignee prior to shipment to the final recovery facility, except as provided in pars. (a) and (b).

(a) 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 at s. NR 662.023 (3)).

(b) 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 s. NR 662.023 (4)) 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.

(2) The tracking document shall include all information required under s. NR 662.083 (for notification), and the following:

- (a) Date shipment commenced.
- (b) Name (if not notifier), address and telephone and telefax numbers of primary exporter.
- (c) Company name and EPA ID number of all transporters.
- (d) Identification (license, registered name or registration number) of means of transport, including types of packaging.
- (e) Any special precautions to be taken by transporters.
- (f) Certification and 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.

(delete sentences that are not applicable)

Name: _____
Signature: _____
Date: _____

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

(3) Notifiers also shall comply with the special manifest requirements of s. NR 662.054 (1), (2), (3), (5) and (9) and consignees shall comply with the import requirements of subch. F.

(4) 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).

(5) Within 3 working days of the receipt of imports subject to this subchapter, 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)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

and to the competent authorities of the exporting and transit countries.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.085 Contracts. (1) Transfrontier movements of hazardous wastes subject to amber or red control procedures are prohibited unless they occur under the terms of a valid written contract, chain of contracts or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). The contracts or equivalent arrangements shall be executed by the notifier and the owner or operator of the recovery 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 arrangement.

(2) Contracts or equivalent arrangements shall specify the name and EPA ID number, where available, of all of the following:

- (a) The generator of each type of waste.
- (b) Each person who will have physical custody of the wastes.
- (c) Each person who will have legal control of the wastes.
- (d) The recovery facility.

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

(a) The person having actual possession or physical control over the wastes will immediately inform the notifier and the competent authorities of the exporting and importing countries and, if the wastes are located in a country of transit, the competent authorities of that country.

(b) The person specified in the contract will assume responsibility for the adequate management of the wastes in compliance with applicable laws and regulations including, if necessary, arranging their return to the original country of export.

(4) Contracts shall specify that the consignee will provide the notification required in s. NR 662.082 (3) prior to re-export of controlled wastes to a third country.

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

Note: 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 U.S. does not require financial guarantees at this time; however, some OECD countries do. It is the responsibility of the notifier to ascertain and comply with

those requirements. In some cases, transporters or consignees may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

(6) Contracts or equivalent arrangements shall contain provisions requiring each contracting party to comply with all applicable requirements of this subchapter.

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

Note: Although the U.S. does not require routine submission of contracts at this time, OECD Council Decision C(92)39/FINAL allows members to impose those requirements. When other OECD countries require submission of partial or complete copies of the contract as a condition to granting consent to proposed movements, EPA will request the required information. Absent submission of the information, some OECD countries may deny consent for the proposed movement.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.086 Provisions relating to recognized traders. (1) A recognized trader who takes physical custody of a waste and conducts recovery operations (including storage prior to recovery) is acting as the owner or operator of a recovery facility and shall be so authorized in accordance with all applicable federal laws.

(2) A recognized trader acting as a notifier or consignee for transfrontier shipments of waste shall comply with all the requirements of this subchapter associated with being a notifier or consignee.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.087 Reporting and recordkeeping. (1) **ANNUAL REPORTS.** For all waste movements subject to this subchapter, persons (e.g., notifiers, recognized traders) who meet the definition of primary exporter in s. NR 662.051 shall file an annual report with the:

Office of Enforcement and Compliance Assurance
Office of Compliance; Enforcement Planning, Targeting and
Data Division (2222A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

no later than March 1 of each year summarizing the types, quantities, frequency and ultimate destination of all of the hazardous waste exported during the previous calendar year. (If the primary exporter is required to file an annual report for waste exports that are not covered under this subchapter, the primary exporter may include all export information in one report provided the following information on exports of waste destined for recovery within the designated OECD member countries is contained in a separate section.) The reports shall include all of the following:

(a) The EPA identification number, name and mailing and site address of the notifier filing the report.

(b) The calendar year covered by the report.

(c) The name and site address of each final recovery facility.

(d) By final recovery facility, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from 40 CFR part 261, subpart C or D), designation of waste type from OECD waste list and applicable waste code from the OECD lists, U.S. DOT hazard class, the name and U.S. EPA identification number (where applicable) for each transporter used, the total amount of hazardous waste shipped pursuant to this subchapter and number of shipments pursuant to each notification.

(e) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than 100 kg (220 pounds) but less than 1,000 kg (2,205 pounds) in a calendar month, and except for hazardous waste for

which information was already provided pursuant to s. NR 662.041, all of the following:

1. A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.

2. 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 the information is available for years prior to 1984.

(f) A certification signed by the person acting as primary 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.

(2) **EXCEPTION REPORTS.** Any person who meets the definition of primary exporter in s. NR 662.051 shall file an exception report in lieu of the requirements of ss. NR 662.042 and 662.193 (2) with the EPA administrator if any of the following occurs:

(a) The primary exporter has not received a copy of the tracking documentation signed by the transporter stating point of departure of the waste from the United States, within 45 days from the date it was accepted by the initial transporter.

(b) Within 90 days from the date the waste was accepted by the initial transporter, the notifier has not received written confirmation from the recovery facility that the hazardous waste was received.

(c) The waste is returned to the United States.

(3) **RECORDKEEPING.** (a) Persons who meet the definition of primary exporter in s. NR 662.051 shall keep all of the following records:

1. A copy of each notification of intent to export and all written consents obtained from the competent authorities of concerned countries for a period of at least 3 years from the date the hazardous waste was accepted by the initial transporter.

2. A copy of each annual report for a period of at least 3 years from the due date of the report.

3. A copy of any exception reports and a copy of each confirmation of delivery (i.e., tracking documentation) sent by the recovery facility to the notifier for at least 3 years from the date the hazardous waste was accepted by the initial transporter or received by the recovery facility, whichever is applicable.

(b) 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 EPA administrator.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.089 OECD waste lists. (1) For the purposes of this subchapter, a waste is considered hazardous under U.S. national procedures, and hence subject to this subchapter, if all of the following are true:

(a) The waste meets the federal definition of hazardous waste in 40 CFR 261.3.

(b) The waste is subject to the manifesting requirements of subch. B, except as required by s. NR 662.220 (5) (f) and (6) (f), 662.191 or the universal waste management standards of ch. NR 673.

(2) If a waste is hazardous under sub. (1) and it appears on the amber or red list, it is subject to amber- or red-list requirements respectively.

(3) If a waste is hazardous under sub. (1) and it does not appear on either amber or red lists, it is subject to red-list requirements.

(4) The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in s. NR 662.082.

(5) The 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) are incorporated by reference. On July 11, 1996, the director of the federal register approved these incorporations by reference in accordance with 5 USC 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the federal register.

Note: The materials are available for inspection at: the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC; the U.S. Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, first floor, Arlington, VA 22203 (Docket # F-94-IEHF-FFFF) and may be obtained from the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

Subchapter S — Small Quantity Generators

NR 662.190 Applicability. (1) A generator is a small quantity generator in a calendar month if the generator generates greater than 100 kilograms (220 pounds) but less than 1,000 kilograms (2,205 pounds) of non-acutely hazardous waste in that month.

(2) The requirements in subchs. A to H apply to small quantity generators, except for all of the following:

(a) The manifest requirements of s. NR 662.191 may apply instead of subch. B.

(b) The accumulation requirements of s. NR 662.192 shall apply instead of s. NR 662.034.

(c) The recordkeeping and reporting requirements of s. NR 662.193 shall apply instead of subch. D.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.191 Conditional manifest exemption. The manifest requirements of subch. B do not apply to hazardous waste produced by small quantity generators where all of the following conditions are met:

(1) The waste is reclaimed under a contractual agreement pursuant to which all of the following conditions are met:

(a) The type of waste and frequency of shipments are specified in the agreement.

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

(2) The generator maintains a copy of the reclamation agreement in the generator's files for a period of at least 3 years after termination or expiration of the agreement.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.192 Special accumulation requirements.

(1) **ONE HUNDRED AND EIGHTY-DAY ACCUMULATION TIME.** A small quantity generator may accumulate hazardous waste on-site for 180 days or less without an operating license or interim license provided that all of the following conditions are met:

(a) *Accumulation limit.* The quantity of waste accumulated on-site never exceeds 6,000 kilograms (13,230 pounds).

(b) *Accumulation in containers.* The generator complies with the requirements of subch. I of ch. NR 665, except for ss. NR 665.0176 and 665.0178.

(c) *Accumulation in tanks.* The generator complies with the requirements of s. NR 662.194.

(d) *Preparedness and prevention, land disposal restrictions and marking and labeling.* The generator complies with the requirements of subch. C of ch. NR 665, s. NR 668.07 (1) (e) and all of the following conditions:

1. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

2. While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste".

(e) *Emergency procedures and personnel training.* The generator complies with all of the following requirements:

1. At all times there shall be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in subd. 4. This employee is the emergency coordinator.

2. The generator shall post all of the following information next to the telephone:

a. The name and telephone number of the emergency coordinator.

b. Location of fire extinguishers and spill control material, and, if present, fire alarm.

c. The telephone number of the fire department, unless the facility has a direct alarm.

3. The generator shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

4. The emergency coordinator or a designee shall respond to any emergencies that arise. The applicable responses are as follows:

a. In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher.

b. In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil.

c. In the event of a fire, explosion or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator shall immediately notify the national response center (using their 24-hour toll free number 800/424-8802). The report shall include all of the following information:

1) The name, address and U.S. EPA identification number of the generator.

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

3) Quantity and type of hazardous waste involved in the incident.

4) Extent of injuries, if any.

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

d. In the event of a release or discharge, the generator shall give notice to the division of emergency management at (800) 943-0003 and comply with the requirements of s. 292.11, Stats., and ch. NR 706.

(2) TWO HUNDRED AND SEVENTY-DAY ACCUMULATION TIME. Small quantity generators who must transport their own hazardous waste, or offer their own hazardous waste for transportation, over a distance of 200 miles or more for off-site treatment, storage or disposal may accumulate hazardous waste on-site for 270 days or less without an operating license or interim license provided that the generators comply with the requirements of sub. (1).

(3) STORAGE FACILITY LICENSING AND ACCUMULATION TIME EXTENSION. A small quantity generator who accumulates hazardous waste in quantities exceeding 6,000 kg (13,230 pounds) or accumulates hazardous waste for more than 180 days (or for more than 270 days if the generator must transport the waste, or offer the waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of chs. NR 664 and 665 and the license requirements of ch. NR 670 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period. An extension may be

granted by the department if hazardous wastes must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the department on a case-by-case basis.

(4) SATELLITE ACCUMULATION. (a) A small quantity generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in s. NR 661.33 (5) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without an operating license or interim license and without complying with subs. (1) and (2) provided the generator does all of the following:

1. Complies with ss. NR 665.0171, 665.0172 and 665.0173 (1).

2. Marks the containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

(b) A generator who accumulates either hazardous waste or acutely hazardous waste listed in s. NR 661.33 (5) in excess of the amounts listed in par. (a) at or near any point of generation shall, with respect to that amount of excess waste, comply within 3 days with subs. (1) and (2) or other applicable provisions of chs. NR 660 to 670. During the 3-day period the generator shall continue to comply with par. (a) 1. and 2. The generator shall mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(5) REJECTED WASTE SHIPMENTS. A small quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of s. NR 664.0072 or 665.0072 may accumulate the returned waste on-site in accordance with subs. (1), (2) and (3), depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator shall do one of the following:

(a) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest.

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

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; CR 06-102: cr. (5) Register March 2007 No. 615, eff. 4-1-07.

NR 662.193 Special recordkeeping and reporting requirements. A small quantity generator is subject only to all of the following recordkeeping and reporting requirements:

(1) RECORDKEEPING. (a) A generator shall keep a copy of each manifest signed in accordance with s. NR 662.023 (1) for 3 years or until the generator receives a signed copy from the designated facility which received the waste. This signed copy shall be retained as a record for at least 3 years from the date the waste was accepted by the initial transporter.

(b) A generator shall keep records of any test results, waste analyses or other determinations made in accordance with s. NR 662.011 for at least 3 years from the date that the waste was last sent to on-site or off-site treatment, storage or disposal.

(c) The generator shall keep a copy of each annual report for a period of at least 3 years from the due date of the report.

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

(2) EXCEPTION REPORTING. A small quantity generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter shall submit a legible copy of the manifest, with some indication

that the generator has not received confirmation of delivery, to the department.

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

(3) ANNUAL REPORTING. A small quantity generator is subject to the annual reporting requirements in s. NR 662.041 (1) and (2).

(4) ADDITIONAL REPORTING. The department may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in ch. NR 661.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 662.194 Special requirements for accumulating in tanks. (1) APPLICABILITY. The requirements of this section apply to small quantity generators who accumulate hazardous waste in tanks for less than 180 days (or 270 days if the generator must ship the waste greater than 200 miles) and do not accumulate over 6,000 kg (13,230 pounds) on-site at any time.

(2) GENERAL OPERATING REQUIREMENTS. Generators shall comply with all of the following requirements:

(a) Treatment or storage of hazardous waste in tanks shall comply with s. NR 665.0017 (2).

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

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

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

Note: These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.).

(3) INSPECTIONS. Generators shall inspect all of the following, where present:

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

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

(c) The level of waste in the tank at least once each operating day to ensure compliance with sub. (2) (c).

(d) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams.

(e) The construction materials of, and the area immediately surrounding, tank discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

Note: As required by s. NR 665.0015(3), the owner or operator shall remedy any deterioration or malfunction found.

(4) CLOSURE. Generators shall, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment and discharge confinement structures.

Note: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with s. NR 661.03(3) or (4), that any solid waste removed from the tank is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and shall manage it in accordance with all applicable requirements of chs. NR 662, 663 and 665.

(5) SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTES. Generators shall comply with all of the following requirements:

(a) Ignitable or reactive waste may not be placed in a tank, unless subd. 1., 2., or 3. applies:

1. The waste is treated, rendered or mixed before or immediately after placement in a tank so that all of the following apply:

a. The resulting waste, mixture or dissolution of material no longer meets the definition of ignitable or reactive waste under s. NR 661.21 or 661.23.

b. Section NR 665.0017 (2) is complied with.

2. The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react.

3. The tank is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks shall comply with the buffer zone requirements for tanks contained in Tables 2-1 to 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981), incorporated by reference in s. NR 660.11.

(6) SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES. Generators shall comply with all of the following requirements:

(a) Incompatible wastes, or incompatible wastes and materials, (see appendix V of ch. NR 665 for examples) may not be placed in the same tank, unless s. NR 665.0017 (2) is complied with.

(b) Hazardous waste may not be placed in an unwashed tank which previously held an incompatible waste or material, unless s. NR 665.0017 (2) is complied with.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

Subchapter V — Very Small Quantity Generators

Note: This subchapter is similar to federal regulations contained in 40 CFR 261.5, as revised on July 30, 2003.

NR 662.220 Special requirements for very small quantity generators. (1) CONDITIONAL EXEMPTION FROM SMALL AND LARGE QUANTITY GENERATOR STANDARDS. Except for generators identified in subs. (4), (5) (b), (6) (b) or (8), a very small quantity generator is not subject to regulation under subchs. A to S, provided the generator complies with the other requirements of this section.

(2) QUANTITY DETERMINATIONS. When making the quantity determinations of this chapter, the generator shall include all hazardous waste that the generator generates, except hazardous waste that is any of the following:

(a) Exempt from regulation under s. NR 661.04 (3) to (6), 661.06 (1) (c), 661.07 (1) (a) or 661.08.

(b) Managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units or totally enclosed treatment facilities as defined in s. NR 660.10.

(c) Recycled, without prior storage or accumulation, only in an on-site process subject to regulation under s. NR 661.06 (3) (b).

(d) Used oil managed under the requirements of s. NR 661.06 (1) (d) and ch. NR 679.

(e) Spent lead-acid batteries managed under the requirements of subch. G (spent lead-acid batteries being reclaimed) of ch. NR 666.

(f) Universal waste managed under s. NR 661.09 and ch. NR 673.

(3) QUANTITY OF HAZARDOUS WASTE GENERATED. In determining the quantity of hazardous waste generated, a generator need not include any of the following:

(a) Hazardous waste when it is removed from on-site storage.

(b) Hazardous waste produced by on-site treatment (including reclamation) of the generator's hazardous waste, so long as the hazardous waste that is treated was counted once.

(c) Spent materials that are generated, reclaimed and subsequently reused on-site, so long as the spent materials have been counted once.

(4) ACUTE HAZARDOUS WASTE GENERATION RATE LIMITS. If a generator generates acute hazardous waste in a calendar month in greater than any of the following quantities, the generator is sub-

ject to full regulation as a large quantity generator under this chapter:

(a) A total of one kilogram (2.2 pounds) of acute hazardous wastes listed in s. NR 661.31, 661.32 or 661.33 (5).

(b) A total of 100 kilograms (220 pounds) of any residue or contaminated soil, waste or other debris resulting from the clean-up of a spill, into or on any land or water, of any acute hazardous wastes listed in s. NR 661.31, 661.32 or 661.33 (5).

Note: "Full regulation" means those regulations applicable to generators of greater than 1,000 kg of non-acutely hazardous waste in a calendar month.

(5) STANDARDS FOR GENERATORS OF ACUTE HAZARDOUS WASTE. In order for a generator who generates acute hazardous wastes in quantities equal to or less than those set forth in sub. (4) (a) or (b) to be exempted from full regulation as a large quantity generator, the generator shall comply with all of the following requirements:

(a) Section NR 662.011.

(b) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities greater than those set forth in sub. (4) (a) or (b), the generator is subject to full regulation as a large quantity generator under this chapter. The time period of s. NR 662.034 (1), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exemption limit.

(c) If waste is placed in containers the very small quantity generator shall:

1. Comply with the requirements in ss. NR 665.0171, 665.0172, 665.0173 (1) and 665.0177 (1).

2. Mark the containers with the words "Hazardous Waste".

(d) If waste is placed in tanks the very small quantity generator shall meet all of the following requirements:

1. All tanks shall be leak proof and in good overall condition.

2. All tanks shall be made or lined with materials which will not react with or be incompatible with the hazardous waste being stored.

3. Incompatible wastes and materials may not be placed in the same tank.

4. While being accumulated on-site, each tank shall be labeled or marked clearly with the words, "Hazardous Waste".

5. If the tank begins to leak, the contents shall be removed and placed in leak proof containers or tanks immediately. All spilled material shall be cleaned up and properly managed.

(e) A very small quantity generator shall either treat or dispose of the generator's hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or disposal facility, either of which, if located in the U.S., is any of the following:

1. If located in Wisconsin:

a. Has an interim or final operating license issued under ch. NR 670, or is exempt from the licensing requirements under ch. NR 670.

b. Is a licensed solid waste disposal facility which has been approved by the department to accept hazardous waste from very small quantity generators.

c. Is a universal waste handler or destination facility subject to the requirements of ch. NR 673.

d. Is a facility which does any of the following:

1) Beneficially uses or reuses, or legitimately recycles or reclaims the waste.

2) Treats the waste prior to beneficial use or reuse, or legitimate recycling or reclamation.

2. If located outside of Wisconsin is:

a. Permitted under 40 CFR part 270 or is in interim status under 40 CFR parts 270 and 265.

b. Authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR part 271.

c. Permitted, licensed or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to 40 CFR part 258.

d. Permitted, licensed or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 to 257.30.

e. A universal waste handler or destination facility subject to the requirements of 40 CFR part 273.

3. A facility which does any of the following:

a. Beneficially uses or reuses, or legitimately recycles or reclaims the waste.

b. Treats the waste prior to beneficial use or reuse, or legitimate recycling or reclamation.

(f) A very small quantity generator is not required to use a manifest. The very small quantity generator who chooses to use a manifest shall comply with all of the following:

1. The notification requirements of s. NR 660.07.

2. The manifest requirements of ss. NR 662.020 to 662.023.

3. The exception reporting requirement in s. NR 662.193 (2).

4. The manifest recordkeeping requirement in s. NR 662.040 (1).

(6) STANDARDS FOR GENERATORS OF NON-ACUTELY HAZARDOUS WASTE. In order for a generator who generates 100 kilograms or less of non-acutely hazardous waste during a calendar month to be exempted from subchs. A to S under this section, the generator shall comply with all of the following requirements:

(a) Section NR 662.011.

(b) The very small quantity generator may accumulate hazardous waste on-site. If the generator accumulates at any time more than a total of 1,000 kilograms (2,205 pounds) of hazardous waste, the generator is subject to regulation under subch. S. The time periods of s. NR 662.192 (1) and (2) for accumulation of waste on-site begin for a very small quantity generator when the accumulated waste exceeds 1,000 kilograms (2,205 pounds).

(c) If waste is placed in containers the very small quantity generator shall:

1. Comply with the requirements in ss. NR 665.0171, 665.0172, 665.0173 (1) and 665.0177 (1).

2. Mark the containers with the words "Hazardous Waste".

(d) If waste is placed in tanks the very small quantity generator shall meet all of the following requirements:

1. All tanks shall be leak proof and in good overall condition.

2. All tanks shall be made or lined with materials that will not react with or be incompatible with the hazardous waste being stored.

3. Incompatible wastes and materials may not be placed in the same tank.

4. While being accumulated on-site, each tank shall be labeled or marked clearly with the words, "Hazardous Waste".

5. If the tank begins to leak, the contents shall be removed and placed in leak proof containers or tanks immediately. All spilled material shall be cleaned up and properly managed.

(e) A very small quantity generator shall either treat or dispose of the generator's hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or disposal facility, either of which, if located in the U.S., is any of the following:

1. If located in Wisconsin:

a. Has an interim or final operating license issued under ch. NR 670, or is exempt from the licensing requirements under ch. NR 670.

b. Is a licensed solid waste disposal facility which has been approved by the department to accept hazardous waste from very small quantity generators.

c. Is a universal waste handler or destination facility subject to the requirements of ch. NR 673.

d. Is a facility which does any of the following:

1) Beneficially uses or reuses, or legitimately recycles or reclaims the waste.

2) Treats the waste prior to beneficial use or reuse, or legitimate recycling or reclamation.

2. If located outside of Wisconsin is:

a. Permitted under 40 CFR part 270 or is in interim status under 40 CFR parts 270 and 265.

b. Authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR part 271.

c. Permitted, licensed or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to 40 CFR part 258.

d. Permitted, licensed or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 to 257.30.

e. Is a universal waste handler or destination facility subject to the requirements of ch. NR 673.

3. A facility which does any of the following:

a. Beneficially uses or reuses, or legitimately recycles or reclaims the waste.

b. Treats the waste prior to beneficial use or reuse, or legitimate recycling or reclamation.

(f) A very small quantity generator is not required to use a manifest. A very small quantity generator who chooses to use a manifest shall comply with all of the following:

1. The notification requirements of s. NR 660.07.

2. The manifest requirements of ss. NR 662.020 to 662.023.

3. The exception reporting requirement in s. NR 662.193 (2).

4. The manifest recordkeeping requirement in s. NR 662.040 (1).

(7) CONTINUED REDUCED REGULATION OF GENERATORS WITH CERTAIN MIXTURES OF HAZARDOUS WASTE AND NON-HAZARDOUS WASTE. A very small quantity generator subject to the reduced requirements of this section may mix the generator's hazardous waste and non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this section, unless the mixture meets any of the characteristics of hazardous waste identified in subch. C of ch. NR 661.

(8) FULL REGULATION OF GENERATORS WITH CERTAIN MIXTURES OF SOLID WASTE AND HAZARDOUS WASTE. If a generator mixes the generator's solid waste and hazardous waste that exceeds a quantity exemption level of this section, the generator is subject to full regulation as a large quantity generator under this chapter.

(9) USED OIL REGULATION OF CERTAIN MIXTURES OF HAZARDOUS WASTE AND USED OIL. If a very small quantity generator subject to the reduced requirements of this section mixes the generator's hazardous waste and used oil, the mixture is subject to ch. NR 679. Any material produced from such a mixture by processing, blending or other treatment is also subject to ch. NR 679.

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