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Title 22@ Social Security

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Division 4.5@ Environmental Health Standards for the Management of Hazardous Waste

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Chapter 12@ Standards Applicable to Generators of Hazardous Waste

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Article 8@ Transboundary Movements of Hazardous Waste for Recovery or Disposal

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Section 66262.82@ General Conditions

66262.82 General Conditions

(a)

Scope. The level of control for exports and imports of waste is indicated by assignment of the waste to either a list of wastes subject to the Green control procedures or a list of wastes subject to the Amber control procedures and whether the waste is or is not hazardous waste. The OECD Green and Amber lists are incorporated by reference in 40 Code of Federal Regulations section 260.11.

(1) Green list wastes. (A) Green wastes that are not hazardous wastes are subject to existing controls normally applied to commercial transactions, and are not subject to the requirements of 40 Code of Federal Regulations section 262.82. (B) Green wastes that are hazardous wastes are subject to the requirements of 40 Code of Federal Regulations section 262.82. (2) Amber list wastes. (A) Amber wastes that are hazardous wastes are subject to the requirements of 40 Code of Federal Regulations section 262.82, even if they are imported to or exported from a country that does not consider the waste to be hazardous or control the transboundary shipment as a hazardous waste import or export. (1) For exports, the exporter shall comply with 40 Code of Federal Regulations section 262.83. (2) For imports, the recovery or disposal facility and the importer shall comply with 40 Code of Federal Regulations section 262.84. (B) Amber wastes that are not hazardous wastes, but are considered hazardous by the other country are subject to the Amber control procedures in the country that considers the waste

hazardous, and are not subject to the requirements of 40 Code of Federal Regulations section 262.82. All responsibilities of the importer or exporter shift to the foreign importer or foreign exporter in the other country that considers the waste hazardous unless the parties make other arrangements through contracts.

(C) Some Amber list wastes are not listed or otherwise identified as hazardous under RCRA, and therefore are not subject to the requirements of 40 Code of Federal Regulations section 262.82. Regardless of the status of the waste under RCRA, however, other federal environmental statutes (e.g., the Toxic Substances Control Act) restrict certain waste imports or exports. Such restrictions continue to apply with regard to 40 Code of Federal Regulations section 262.82.

(3) Mixtures of wastes.

(A) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not hazardous waste is not subject to the requirements of 40 Code of Federal Regulations section 262.82.

1. The regulated community should note that some countries may require, by domestic law, that mixtures of different Green wastes be subject to the Amber control procedures.

(B) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is hazardous waste is subject to the requirements of 40 Code of Federal Regulations section 262.82.

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

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

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

(B) If such wastes are not hazardous wastes, such wastes are not subject to the requirements of 40

Code of Federal Regulations section 262.82.

(1)

Green list wastes. (A) Green wastes that are not hazardous wastes are subject to existing controls normally applied to commercial transactions, and are not subject to the requirements of 40 Code of Federal Regulations section 262.82. (B) Green wastes that are hazardous wastes are subject to the requirements of 40 Code of Federal Regulations section 262.82.

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(2)

Amber list wastes. (A) Amber wastes that are hazardous wastes are subject to the requirements of 40 Code of Federal Regulations section 262.82, even if they are imported to or exported from a country that does not consider the waste to be hazardous or control the transboundary shipment as a hazardous waste import or export. (1) For exports, the exporter shall comply with 40 Code of Federal Regulations section 262.83. (2) For imports, the recovery or disposal facility and the importer shall comply with 40 Code of Federal Regulations section 262.84. (B) Amber wastes that are not hazardous wastes, but are considered hazardous by the other country are subject to the Amber control procedures in the country that considers the waste hazardous, and are not subject to the requirements of 40 Code of Federal Regulations section 262.82. All responsibilities of the importer or exporter shift to the

foreign importer or foreign exporter in the other country that considers the waste hazardous unless the parties make other arrangements through contracts. (C) Some Amber list wastes are not listed or otherwise identified as hazardous under RCRA, and therefore are not subject to the requirements of 40 Code of Federal Regulations section 262.82. Regardless of the status of the waste under RCRA, however, other federal environmental statutes (e.g., the Toxic Substances Control Act) restrict certain waste imports or exports. Such restrictions continue to apply with regard to 40 Code of Federal Regulations section 262.82.

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Amber wastes that are not hazardous wastes, but are considered hazardous by the other country are subject to the Amber control procedures in the country that considers the waste hazardous, and are not subject to the requirements of 40 Code of Federal Regulations section 262.82. All responsibilities of the importer or exporter shift to the foreign importer or foreign exporter in the other country that considers the waste hazardous unless the parties make

other arrangements through contracts.

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Some Amber list wastes are not listed or otherwise identified as hazardous under RCRA, and therefore are not subject to the requirements of 40 Code of Federal Regulations section 262.82. Regardless of the status of the waste under RCRA, however, other federal environmental statutes (e.g., the Toxic Substances Control Act) restrict certain waste imports or exports. Such restrictions continue to apply with regard to 40 Code of Federal Regulations section 262.82.

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Mixtures of wastes. (A) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not hazardous waste is not subject to the requirements of 40 Code of Federal Regulations section 262.82. 1. The regulated community should note that some countries may require, by domestic law, that mixtures of different Green wastes be subject to the Amber control procedures. (B) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is hazardous waste is subject to the requirements of 40 Code of Federal Regulations section 262.82. 1. The regulated community should note that some countries may require, by domestic law, that a mixture of a Green waste and more than a de minimis amount of an Amber waste or a mixture of two or more Amber wastes be subject to the Amber control procedures.

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(4)

Wastes not yet assigned to an OECD waste list are eligible for transboundary movements, as follows: (A) If such wastes are hazardous wastes, such wastes are subject to the requirements of 40 Code of Federal Regulations section 262.82. (B) If such wastes are not hazardous wastes, such wastes are not subject to the requirements of 40 Code of Federal Regulations section 262.82.

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(B)

If such wastes are not hazardous wastes, such wastes are not subject to the requirements of

40 Code of Federal Regulations section 262.82.

(b)

General conditions applicable to transboundary movements of hazardous waste.

(1) The hazardous waste shall be destined for recovery or disposal operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the country of import; (2) The transboundary movement shall be in compliance with applicable international transport agreements. These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADN (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985); and (3) Any transit of hazardous waste through one or more countries shall be conducted in compliance with all applicable international and national laws and regulations.

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(3)

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

(c)

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

(d)

Laboratory analysis exemption. Export or import of a hazardous waste sample is exempt from the requirements of 40 Code of Federal Regulations section 262.82 if the sample is destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery or disposal operations, does not exceed twenty-five kilograms (25 kg) in quantity, is appropriately packaged and labeled, and complies with the conditions of 40 Code of Federal Regulations section 261.4(d) or (e).

(e)

U.S. EPA Address for submittals by postal mail or hand delivery. Submittals required in 40 Code of Federal Regulations section 262.82 to be made by postal

mail or hand delivery should be sent to the following addresses: (1) For postal mail delivery, the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460. (2) For hand-delivery, the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, William Jefferson Clinton South Bldg., Room 6144, 12th St. and Pennsylvania Ave NW., Washington, DC 20004.

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