

US EPA ARCHIVE DOCUMENT

RCRA REVISION CHECKLIST 222

OECD Requirements; Export Shipments of Spent Lead-Acid Batteries

75 FR 1236-1262

January 8, 2010

(RCRA Cluster XX, Non-HSWA)

Name of State: LouisianaState Statutory Authority: La Revised Statutes Title 30:2001 et. seq. with specific cites of 2174, 2175 & 2180Title of Regulations: Title 33 Part V. Hazardous Waste Subpart 1 Effective Date: _____Date Checklist Completed: January 25, 2012

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
1 PART 262 STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE						
SUBPART A-GENERAL						
Any person who exports or imports wastes that are considered hazardous under U.S. national procedures to or from the countries listed in §262.58(a)(1) for recovery must comply with subpart H of this part. A waste is considered hazardous under U.S. national procedures if the waste meets the Federal definition of hazardous waste in 40 CFR 261.3 and is subject to either the Federal RCRA manifesting requirements at 40 CFR part 262, subpart B, the universal waste management standards of 40 CFR part 273, State requirements analogous to 40 CFR part 273, the export requirements in the spent lead-acid battery management standards of 40 CFR part 266, subpart G, or State requirements analogous to the export requirements in 40 CFR part 266, subpart G.	262.10(d)	1101.B	✓			
SUBPART E –EXPORTS OF HAZARDOUS WASTE						
In lieu of the requirements of § 262.42, a primary exporter must file an exception report with the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460, if any of the following occurs:	262.55 introductory paragraph	1113.F	✓			

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Any person who exports or imports wastes that are considered hazardous under U.S. national procedures to or from designated Member countries of the Organization for Economic Cooperation and Development (OECD) as defined in paragraph (a)(1) of this section for purposes of recovery is subject to subpart H of this part. The requirements of subparts E and F of this part do not apply to such exports and imports. A waste is considered hazardous under U.S. national procedures if the waste meets the Federal definition of hazardous waste in 40 CFR 261.3 and is subject to either the Federal RCRA manifesting requirements at 40 CFR part 262, subpart B, the universal waste management standards of 40 CFR part 273, State requirements analogous to 40 CFR part 273, the export requirements in the spent lead-acid battery management standards of 40 CFR part 266, subpart G, or State requirements analogous to the export requirements in 40 CFR part 266, subpart G.	262.58(a)	1113.I.1	✓			
Replace "South Korea" with "Republic of Korea"	262.58(a)(1)	1113.I.1.a	✓			
For the purposes of subpart H of this part, Canada and Mexico are considered OECD Member countries only for the purpose of transit.	262.58(a)(2)	1113.I.1.b	✓			
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 subparts E and F of this part, and is not subject to the requirements of subpart H of this part.	262.58(b)	1113.I.2	✓			

SUBPART H-TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTE FOR RECOVERY WITHIN THE
OECD²

The requirements of this subpart 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 § 262.58(a)(1). A waste is considered hazardous under U.S. national procedures if the waste:	262.80(a)	1127.A.1	✓			
Meets the Federal definition of hazardous waste in 40 CFR 261.3; and	262.80(a)(1)	1127.A.1.a	✓			

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
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Is subject to either the Federal RCRA manifesting requirements at 40 CFR part 262, subpart B, the universal waste management standards of 40 CFR part 273, State requirements analogous to 40 CFR part 273, the export requirements in the spent lead-acid battery management standards of 40 CFR part 266, subpart G, or State requirements analogous to the export requirements in 40 CFR part 266, subpart G.	262.80(a)(2)	1127.A.1.b	✓			
Any person (exporter, importer, or recovery facility operator) who mixes two or more wastes (including hazardous and non-hazardous wastes) or otherwise subjects two or more wastes (including hazardous and non-hazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under RCRA and any exporter duties, if applicable, under this subpart.	262.80(b)	1127.A.2	✓			
Competent authority means the regulatory authority or authorities of concerned countries having jurisdiction over transboundary movements of wastes destined for recovery operations.	262.81 "Competent authority"	109	✓			
Countries concerned means the OECD Member countries of export or import and any OECD Member countries of transit.	262.81 "Countries concerned"	109 (See Concerned countries)	✓			
Country of export means any designated OECD Member country listed in § 262.58(a)(1) from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated.	262.81 "Country of export"	109	✓			
Country of import means any designated OECD Member country listed in § 262.58(a)(1) to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.	262.81 "Country of import"	109	✓			
Country of transit means any designated OECD Member country listed in § 262.58(a)(1) and (a)(2) other than the country of export or country of import across which a transboundary movement of hazardous wastes is planned or takes place	262.81" Country of transit"	109	✓			

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Exporter means the person under the jurisdiction of the country of export who has, or will have at the time the planned transboundary movement commences, possession or other forms of legal control of the wastes and who proposes transboundary movement of the hazardous wastes for the ultimate purpose of submitting them to recovery operations. When the United States (U.S.) is the country of export, exporter is interpreted to mean a person domiciled in the United States	262.81 "Exporter"	109	✓			
Importer 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 country of import.	262.81 "Importer"	109	✓			
OECD area means all land or marine areas under the national jurisdiction of any OECD Member country listed in § 262.58. When the regulations refer to shipments to or from an OECD Member country, this means OECD area.	262.81 "OECD area"	109	✓			
OECD means the Organization for Economic Cooperation and Development.	262.81 "OECD"	109	✓			
Recognized trader means a person who, with appropriate authorization of countries concerned, acts in the role of principal to purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person may act to arrange and facilitate transboundary movements of wastes destined for recovery operations	262.81 "Recognized trader"	109	✓			
Recovery facility means a facility which, under applicable domestic law, is operating or is authorized to operate in the country of import to receive wastes and to perform recovery operations on them.	262.81 "Recovery facility"	109	✓			
Recovery operations means activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses, which include: Retain existing internal definitions, except amend R8: "Recovery of components used from catalysts" and R13: Accumulation of material intended for any operation numbered R1-R12	262.81 "Recovery operations"	109	✓			

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Transboundary movement means any movement of wastes from an area under the national jurisdiction of one OECD Member country to an area under the national jurisdiction of another OECD Member country.	262.81 “Transboundary movement”	109	✓			
<u>Scope.</u> 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 by the national procedures of the United States, as defined in § 262.80(a). The OECD Green and Amber lists are incorporated by reference in § 262.89(d).	262.82(a)	1127.B.1	✓			
Listed wastes subject to the Green control procedures.	262.82(a)(1)	1127.B.1.a	✓			
Green wastes that are not considered hazardous under U.S. national procedures as defined in § 262.80(a) are subject to existing controls normally applied to commercial transactions.	262.82(a)(1)(i)	1127.B.1.a.i	✓			
Green wastes that are considered hazardous under U.S. national procedures as defined in § 262.80(a) are subject to the Amber control procedures set forth in this subpart.	262.82(a)(1)(ii)	1127.B.1.a.ii	✓			
Listed wastes subject to the Amber control procedures.	262.82(a)(2)	1127.B.1.b	✓			
Amber wastes that are considered hazardous under U.S. national procedures as defined in § 262.80(a) are subject to the Amber control procedures set forth in this subpart.	262.82(a)(2)(i)	1127.B.1.b.i	✓			
Amber wastes that are considered hazardous under U.S. national procedures as defined in § 262.80(a), are subject to the Amber control procedures in the United States, even if they are imported to or exported from a designated OECD Member country listed in § 262.58(a)(1) that does not consider the waste to be hazardous. In such an event, the responsibilities of the Amber control procedures shift as provided:	262.82(a)(2)(ii)	1127.B.1.b.ii	✓			
For U.S. exports, the United States shall issue an acknowledgement of receipt and assume other responsibilities of the competent authority of the country of import.	262.82(a)(2)(ii)(A)	1127.B.1.b.ii.(a)	✓			

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For U.S. imports, the U.S. recovery facility/importer and the United States shall assume the obligations associated with the Amber control procedures that normally apply to the exporter and country of export, respectively.	262.82(a)(2)(ii)(B)	1127.B.1.b.ii.(b)	✓			
Amber wastes that are not considered hazardous under U.S. national procedures as defined in § 262.80(a), but are considered hazardous by an OECD Member country are subject to the Amber control procedures in the OECD Member country that considers the waste hazardous. All responsibilities of the U.S. importer/exporter shift to the importer/exporter of the OECD Member country that considers the waste hazardous unless the parties make other arrangements through contracts.	262.82(a)(2)(iii)	1127.B.1.b.iii	✓			
Some wastes subject to the Amber control procedures are not listed or otherwise identified as hazardous under RCRA, and therefore are not subject to the Amber control procedures of this subpart. Regardless of the status of the waste under RCRA, however, other Federal environmental statutes (<i>e.g.</i> , the Toxic Substances Control Act) restrict certain waste imports or exports. Such restrictions continue to apply with regard to this subpart.	Note to Paragraph (a)(2)	Note to Paragraph 1127.B.1.b.iii	✓			
Procedures for mixtures of wastes.	262.82(a)(3)	1127.B.1.c	✓			
A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not considered hazardous under U.S. national procedures as defined in § 262.80(a) shall be subject to the Green control procedures, provided the composition of this mixture does not impair its environmentally sound recovery.	262.82(a)(3)(i)	1127.B.1.c.i	✓			
The regulated community should note that some OECD Member countries may require, by domestic law, that mixtures of different Green wastes be subject to the Amber control procedures.	Note to Paragraph (a)(3)(i)	Note to Paragraph 1127.B.1.c.i	✓			
A Green waste that is mixed with one or more Amber wastes, in any amount, <u>de minimis</u> or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is considered hazardous under U.S. national procedures as defined in § 262.80(a) are subject to the Amber control procedures, provided the composition of this mixture does not impair its environmentally sound recovery.	262.82(a)(3)(ii)	1127.B.1.c.ii	✓			

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The regulated community should note that some OECD Member 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 <u>Amber control procedures</u>	Note to Paragraph (a)(3)(ii)	Note to Paragraph 1127.B.1.c.ii	✓			
Wastes not yet assigned to an OECD waste list are eligible for transboundary movements, as follows:	262.82(a)(4)	1127.B.1.d	✓			
If such wastes are considered hazardous under U.S. national procedures as defined in § 262.80(a), such wastes are subject to the <u>Amber control procedures</u> .	262.82(a)(4)(i)	1127.B.1.d.i	✓			
If such wastes are not considered hazardous under U.S. national procedures as defined in § 262.80(a), such wastes are subject to the <u>Green control procedures</u> .	262.82(a)(4)(ii)	1127.B.1.d.ii	✓			
General conditions applicable to transboundary movements of hazardous waste:	262.82(b)	1127.B.2	✓			
The waste must be destined for recovery operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the importing country;	262.82(b)(1)	1127.B.2.a	✓			
The transboundary movement must be in compliance with applicable international transport agreements; and The transboundary movement must be in compliance with applicable international transport agreements; and	262.82(b)(2)	1127.B.2.b	✓			
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).	Note to Paragraph (b)(2)	Note to Paragraph 1127.B.2.b	✓			
Any transit of waste through a non-OECD Member country must be conducted in compliance with all applicable international and national laws and regulations.	262.82(b)(3)	1127.B.2.c	✓			
<u>Provisions relating to re-export for recovery to a third country:</u>	262.82(c)	1127.B.3	✓			

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Re-export of wastes subject to the Amber control procedures from the United States, as the country of import, to a third country listed in § 262.58(a)(1) may occur only after an exporter in the United States provides notification to and obtains consent from the competent authorities in the third country, the original country of export, and any transit countries. The notification must comply with the notice and consent procedures in § 262.83 for all countries concerned and the original country of export. The competent authorities of the original country of export, as well as the competent authorities of all other countries concerned have thirty (30) days to object to the proposed movement.	262.82(c)(1)	1127.B.3.a	✓			
The thirty (30) day period begins once the competent authorities of both the initial country of export and new country of import issue Acknowledgements of Receipt of the notification.	262.82(c)(1)(i)	1127.B.3.a.i	✓			
The transboundary movement may commence if no objection has been lodged after the thirty (30) day period has passed or immediately after written consent is received from all relevant OECD importing and transit countries.	262.82(c)(1)(ii)	1127.B.3.a.ii	✓			
In the case of re-export of Amber wastes to a country other than those listed in § 262.58(a)(1), notification to and consent of the competent authorities of the original OECD Member country of export and any OECD Member countries of transit is required as specified in paragraph (c)(1) of this section, in addition to compliance with all international agreements and arrangements to which the first importing OECD Member country is a party and all applicable regulatory requirements for exports from the first country of import.	262.82(c)(2)	1127.B.3.c	✓			
<u>Duty to return or re-export wastes subject to the Amber control procedures.</u> When a transboundary movement of wastes subject to the Amber control procedures cannot be completed in accordance with the terms of the contract or the consent(s) and alternative arrangements cannot be made to recover the waste in an environmentally sound manner in the country of import, the waste must be returned to the country of export or re-exported to a third country. The provisions of paragraph (c) of this section apply to any shipments to be re-exported to a third country. The following provisions apply to shipments to be returned to the country of export as appropriate:	262.82(d)	1127.B.4	✓			

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Return from the United States to the country of export: The U.S. importer must inform EPA at the specified address in § 262.83(b)(1)(i) of the need to return the shipment. EPA will then inform the competent authorities of the countries of export and transit, citing the reason(s) for returning the waste. The U.S. importer must complete the return within ninety (90) days from the time EPA informs the country of export of the need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the concerned Member countries. If the return shipment will cross any transit country, the return shipment may only occur after EPA provides notification to and obtains consent from the competent authority of the country of transit, and provides a copy of that consent to the U.S. importer.	262.82(d)(1)	1127.B.4.a	✓			
Return from the country of import to the United States: The U.S. exporter must provide for the return of the hazardous waste shipment within ninety (90) days from the time the country of import informs EPA of the need to return the waste or such other period of time as the concerned Member countries agree. The U.S. exporter must submit an exception report to EPA in accordance with § 262.87(b).	262.82(d)(2)	1127.B.4.b	✓			
<u>Duty to return wastes subject to the Amber control procedures from a country of transit.</u> When a transboundary movement of wastes 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 these wastes in an environmentally sound manner, the waste must be returned to the country of export. The following provisions apply as appropriate:	262.82(e)	1127.B.5	✓			
Return from the United States (as country of transit) to the country of export: The U.S. transporter must inform EPA at the specified address in § 262.83(b)(1)(i) of the need to return the shipment. EPA will then inform the competent authority of the country of export, citing the reason(s) for returning the waste. The U.S. transporter must complete the return within ninety (90) days from the time EPA informs the country of export of the need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the concerned Member countries.	262.82(e)(1)	1127.B.5.a	✓			

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Return from the country of transit to the United States (as country of export): The U.S. exporter must provide for the return of the hazardous waste shipment within ninety (90) days from the time the competent authority of the country of transit informs EPA of the need to return the waste or such other period of time as the concerned Member countries agree. The U.S. exporter must submit an exception report to EPA in accordance with § 262.87(b).	262.82(e)(2)	1127.B.5.b	✓			
<u>Requirements for wastes destined for and received by R12 and R13 facilities.</u> The transboundary movement of wastes destined for R12 and R13 operations must comply with all Amber control procedures for notification and consent as set forth in § 262.83 and for the movement document as set forth in § 262.84. Additional responsibilities of R12/R13 facilities include:	262.82(f)	1127.B.6	✓			
Indicating in the notification document the foreseen recovery facility or facilities where the subsequent R1-R11 recovery operation takes place or may take place.	262.82(f)(1)	1127.B.6.a	✓			
Within three (3) days of the receipt of the wastes by the R12/R13 recovery facility or facilities, the facility(ies) shall return a signed copy of the movement document to the exporter and to the competent authorities of the countries of export and import. The facility(ies) shall retain the original of the movement document for three (3) years	262.82(f)(2)	1127.B.6.b	✓			
As soon as possible, but no later than thirty (30) days after the completion of the R12/R13 recovery operation and no later than one (1) calendar year following the receipt of the waste, the R12 or R13 facility(ies) shall send a certificate of recovery to the foreign exporter and to the competent authority of the country of export and to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue., N.W. Washington, D.C. 20460, by mail, e-mail without digital signature followed by mail, or fax followed by mail.	262.82(f)(3)	1127.B.6.c	✓			

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When an R12/R13 recovery facility delivers wastes for recovery to an R1-R11 recovery facility located in the country of import, it shall obtain as soon as possible, but no later than one (1) calendar year following delivery of the waste, a certification from the R1-R11 facility that recovery of the wastes at that facility has been completed. The R12/R13 facility must promptly transmit the applicable certification to the competent authorities of the countries of import and export, identifying the transboundary movements to which the certification pertain.	262.82(f)(4)	1127.B.6.d	✓			
When an R12/R13 recovery facility delivers wastes for recovery to an R1-R11 recovery facility located:	262.82(f)(5)	1127.B.6.e	✓			
in the initial country of export, Amber control procedures apply, including a new notification;	262.82(f)(5)(i)	1127.B.6.e	✓			
in a third country other than the initial country of export, Amber control procedures apply, with the additional provision that the competent authority of the initial country of export shall also be notified of the transboundary movement.	262.82(f)(5)(ii)	1127.B.6.e	✓			
<u>Laboratory analysis exemption.</u> The transboundary movement of an Amber waste is exempt from the Amber control procedures if it is in certain quantities and destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery operations. The quantity of such waste shall be determined by the minimum quantity reasonably needed to perform the analysis in each particular case adequately, but in no case exceed twenty-five kilograms (25 kg). Waste destined for laboratory analysis must still be appropriately packaged and labeled.	262.82(g)	1127.B.7	✓			
<u>Applicability.</u> Consent must be obtained from the competent authorities of the relevant OECD countries of import and transit prior to exporting hazardous waste destined for recovery operations subject to this subpart. Hazardous wastes subject to the Amber control procedures are subject to the requirements of paragraph (b) of this section; and wastes not identified on any list are subject to the requirements of paragraph (c) of this section.	262.83(a)	1127.C.1	✓			

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<u>Amber wastes.</u> Exports of hazardous wastes from the United States as described in § 262.80(a) that are subject to the Amber control procedures are prohibited unless the notification and consent requirements of paragraph (b)(1) or paragraph (b)(2) of this section are met.	262.83(b)	1127.C.2	✓			
Transactions requiring specific consent:	262.83(b)(1)	1127.C.2.a	✓			
<u>Notification.</u> At least forty-five (45) days prior to commencement of each transboundary movement, the exporter must provide written notification in English of the proposed transboundary movement to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue., N.W. Washington, D.C. 20460, with the words "Attention: OECD Export Notification" prominently displayed on the envelope. This notification must include all of the information identified in paragraph (d) of this section. In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes, and are to be sent periodically to the same recovery facility by the same exporter, the exporter may submit one general notification of intent to export these wastes in multiple shipments during a period of up to one (1) year. Even when a general notification is used for multiple shipments, each shipment still must be accompanied by its own movement document pursuant to § 262.84.	262.83(b)(1)(i)	1127.C.2.a.i	✓			
<u>Tacit consent.</u> If no objection has been lodged by any countries concerned (i.e., exporting, importing, or transit) to a notification provided pursuant to paragraph (b)(1)(i) of this section within thirty (30) days after the date of issuance of the Acknowledgement of Receipt of notification by the competent authority of the country of import, the transboundary movement may commence. Tacit consent expires one (1) calendar year after the close of the thirty (30) day period; renotification and renewal of all consents is required for exports after that date.	262.83(b)(1)(ii)	1127.C.2.a.ii	✓			

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<u>Written consent.</u> If the competent authorities of all the relevant OECD importing and transit countries provide written consent in a period less than thirty (30) days, the transboundary movement may commence immediately after all necessary consents are received. Written consent expires for each relevant OECD importing and transit country one (1) 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.	262.83(b)(1)(iii)	1127.C.2.a.iii	✓			
Transboundary movements to facilities pre-approved by the competent authorities of the importing countries to accept specific wastes for recovery:	262.83(b)(2)	1127.C.2.b	✓			
<u>Notification.</u> The exporter must provide EPA a notification that contains all the information identified in paragraph (d) of this section in English, at least ten (10) days in advance of commencing shipment to a pre-approved facility. The notification must indicate that the recovery facility is pre-approved, and may apply to a single specific shipment or to multiple shipments as described in paragraph (b)(1)(i) of this section. This information must be sent to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460, with the words "OECD Export Notification - Pre-approved Facility" prominently displayed on the envelope. General notifications that cover multiple shipments as described in paragraph (b)(1)(i) of this section may cover a period of up to three (3) years. Even when a general notification is used for multiple shipments, each shipment still must be accompanied by its own movement document pursuant to § 262.84.	262.83(b)(2)(i)	1127.C.2.b.i	✓			
Exports to pre-approved facilities may take place after the elapse of seven (7) working days from the issuance of an Acknowledgement of Receipt of the notification by the competent authority of the country of import unless the exporter has received information indicating that the competent authority of any countries concerned objects to the shipment.	262.83(b)(2)(ii)	1127.C.2.b.ii	✓			

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			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
<u>Wastes not covered in the OECD Green and Amber lists.</u> Wastes destined for recovery operations, that have not been assigned to the OECD Green and Amber lists, incorporated by reference in § 262.89(d), but which are considered hazardous under U.S. national procedures as defined in § 262.80(a), are subject to the notification and consent requirements established for the Amber control procedures in accordance with paragraph (b) of this section. Wastes destined for recovery operations, that have not been assigned to the OECD Green and Amber lists incorporated by reference in § 262.89(d), and are not considered hazardous under U.S. national procedures as defined by § 262.80(a) are subject to the Green control procedures.	262.83(c)	1127.C.3	✓			
<u>Notifications submitted under this section must include the information specified in paragraphs (d)(1) through (d)(14) of this section:</u>	262.83(d)	1127.C.4	✓			
Serial number or other accepted identifier of the notification document;	262.83(d)(1)	1127.C.4.a	✓			
Exporter name and EPA identification number (if applicable), address, telephone, fax numbers, and e-mail address;	262.83(d)(2)	1127.C.4.b	✓			
Importing recovery facility name, address, telephone, fax numbers, e-mail address, and technologies employed;	262.83(d)(3)	1127.C.4.c	✓			
Importer name (if not the owner or operator of the recovery facility), address, telephone, fax numbers, and email address; whether the importer will engage in waste exchange recovery operation R12 or waste accumulation recovery operation R13 prior to delivering the waste to the final recovery facility and identification of recovery operations to be employed at the final recovery facility;	262.83(d)(4)	1127.C.4.d	✓			
Intended transporter(s) and/or their agent(s); address, telephone, fax, and e-mail address;	262.83(d)(5)	1127.C.4.e	✓			
Country of export and relevant competent authority, and point of departure;	262.83(d)(6)	1127.C.4.f	✓			
Countries of transit and relevant competent authorities and points of entry and departure;	262.83(d)(7)	1127.C.4.g	✓			
Country of import and relevant competent authority, and point of entry;	262.83(d)(8)	1127.C.4.h	✓			
Statement of whether the notification is a single notification or a general notification. If general, include period of validity requested;	262.83(d)(9)	1127.C.4.i	✓			
Date(s) foreseen for commencement of transboundary movement(s);	262.83(d)(10)	1127.C.4.j	✓			

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Means of transport envisaged;	262.83(d)(11)	1127.C.4.l	✓			
Designation of waste type(s) from the appropriate OECD list incorporated by reference in § 262.89(d), description(s) of each waste type, estimated total quantity of each, RCRA waste code, and the United Nations number for each waste type;	262.83(d)(12)	1127.C.4.k	✓			
Specification of the recovery operation(s) as defined in § 262.81.	262.83(d)(13)	1127.C.4.m	✓			
Certification/Declaration signed by the exporter that states: I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally-enforceable written contractual obligations have been entered into, and that any applicable insurance or other financial guarantees are or shall be in force covering the transboundary movement. Name: _____ Signature: _____ Date: _____	262.83(d)(14)	1127.C.4.n	✓			
The United States does not currently require financial assurance for these waste shipments. However, U.S. exporters may be asked by other governments to provide and certify to such assurance as a condition of obtaining consent to a proposed movement.	Note to Paragraph (d)(14)	Note to Paragraph 1127.C.4.n	✓			
<u>Certificate of Recovery.</u> As soon as possible, but no later than thirty (30) days after the completion of recovery and no later than one (1) calendar year following receipt of the waste, the U.S. recovery facility shall send a certificate of recovery to the exporter and to the competent authorities of the countries of export and import by mail, e-mail without a digital signature followed by mail, or fax followed by mail. The certificate of recovery shall include a signed, written and dated statement that affirms that the waste materials were recovered in the manner agreed to by the parties to the contract required under § 262.85.	262.83(e)	1127.C.5	✓			

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
All U.S. parties subject to the contract provisions of § 262.85 must ensure that a movement document meeting the conditions of paragraph (b) of this section accompanies each transboundary movement of wastes subject to the Amber control procedures from the initiation of the shipment until it reaches the final recovery facility, including cases in which the waste is stored and/or sorted by the importer prior to shipment to the final recovery facility, except as provided in paragraphs (a)(1) and (2) of this section.	262.84(a)	1127.D.1	✓			
For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must forward the movement document with the manifest to the last water (bulk shipment) transporter to handle the waste in the United States if exported by water, (in accordance with the manifest routing procedures at § 262.23(c)).	262.84(a)(1)	1127.D.1.a	✓			
For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must forward the movement document with the manifest (in accordance with the routing procedures for the manifest in § 262.23(d)) to the next non-rail transporter, if any, or the last rail transporter to handle the waste in the United States if exported by rail.	262.84(a)(2)	1127.D.1.b	✓			
The movement document must include all information required under § 262.83 (for notification), as well as the following paragraphs (b)(1) through (b)(7) of this section:	262.84(b)	1127.D.2	✓			
Date movement commenced;	262.84(b)(1)	1127.D.2.a	✓			
Name (if not exporter), address, telephone, fax numbers, and e-mail of primary exporter;	262.84(b)(2)	1127.D.2.b	✓			
Company name and EPA ID number of all transporters;	262.84(b)(3)	1127.D.2.c	✓			
Identification (license, registered name or registration number) of means of transport, including types of packaging envisaged;	262.84(b)(4)	1127.D.2.d	✓			
Any special precautions to be taken by transporter(s);	262.84(b)(5)	1127.D.2.e	✓			

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Certification/declaration signed by the exporter 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 transboundary movement, and that: 1. All necessary consents have been received; OR 2. The shipment is directed to a recovery facility within the OECD area and no objection has been received from any of the countries concerned within the thirty (30) day tacit consent period; OR 3. The shipment is directed to a recovery facility pre-approved 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 countries concerned. (Delete sentences that are not applicable) Name: _____ Signature: _____ Date: _____	262.84(b)(6)	1127.D.2.f	✓			
Appropriate signatures for each custody transfer (e.g., transporter, importer, and owner or operator of the recovery facility).	262.84(b)(7)	1127.D.2.g	✓			
Exporters also must comply with the special manifest requirements of 40 CFR 262.54(a), (b), (c), (e), and (i) and importers must comply with the import requirements of 40 CFR part 262, subpart F.	262.84(c)	1127.D.3	✓			
Each U.S. person that has physical custody of the waste from the time the movement commences until it arrives at the recovery facility must sign the movement document (e.g., transporter, importer, and owner or operator of the recovery facility).	262.84(d)	1127.D.4	✓			

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Within three (3) working days of the receipt of imports subject to this subpart, the owner or operator of the U.S. recovery facility must send signed copies of the movement document to the exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460, and to the competent authorities of the countries of export and transit. If the concerned U.S. recovery facility is a R12/R13 recovery facility as defined under § 262.81, the facility shall retain the original of the movement document for three (3) years.	262.84(e)	1127.D.5	✓			
Transboundary movements of hazardous wastes subject to the Amber 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). Such contracts or equivalent arrangements must be executed by the exporter and the owner or operator of the recovery facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this section only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.	262.85(a)	1127.E.1	✓			
Contracts or equivalent arrangements must specify the name and EPA ID number, where available, of paragraph (b)(1) through (b)(4) of this section:	262.85(b)	1127.E.2	✓			
The generator of each type of waste;	262.85(b)(1)	1127.E.2.a	✓			
Each person who will have physical custody of the wastes;	262.85(b)(2)	1127.E.2.b	✓			
Each person who will have legal control of the wastes; and	262.85(b)(3)	1127.E.2.c	✓			
The recovery facility. The recovery facility.	262.85(b)(4)	1127.E.2.d	✓			
Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the wastes if their disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts must specify that:	262.85(c)	1127.E.3	✓			

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
The person having actual possession or physical control over the wastes will immediately inform the exporter and the competent authorities of the countries of export and import and, if the wastes are located in a country of transit, the competent authorities of that country; and	262.85(c)(1)	1127.E.3.a	✓			
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 the return of wastes and, as the case may be, shall provide the notification for re-export.	262.85(c)(2)	1127.E.3.b	✓			
Contracts must specify that the importer will provide the notification required in § 262.82(c) prior to the re-export of controlled wastes to a third country.	262.85(d)	1127.E.4	✓			
Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any countries concerned, in accordance with applicable national or international law requirements. Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any countries concerned, in accordance with applicable national or international law requirements.	262.85(e)	1127.E.5	✓			
Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD Member countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, transporters or importers may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.	Note to Paragraph (e)	Note to Paragraph 1127.E.5	✓			
Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this subpart.	262.85(f)	1127.E.6	✓			

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Upon request by EPA, U.S. exporters, importers, or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted in accordance with 40 CFR 2.203(b) will be treated as confidential and will be disclosed by EPA only as provided in 40 CFR 260.2.	262.85(g)	1127.E.7	✓			
Although the United States does not require routine submission of contracts at this time, the OECD Decision allows Member countries to impose such requirements. When other OECD Member 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 such information, some OECD Member countries may deny consent for the proposed movement.	Note to Paragraph (g)	Note to Paragraph 1127.E.7	✓			
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 must be so authorized in accordance with all applicable Federal laws.	262.86(a)	1127.F.1	✓			
A recognized trader acting as an exporter or importer for transboundary shipments of waste must comply with all the requirements of this subpart associated with being an exporter or importer.	262.86(b)	1127.F.2	✓			

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
<u>Annual reports.</u> For all waste movements subject to this subpart, persons (<i>e.g.</i> , exporters, recognized traders) who meet the definition of primary exporter in § 262.51 or who initiate the movement documentation under § 262.84 shall file an annual report with the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460, no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter or the person who initiates the movement document under § 262.84 is required to file an annual report for waste exports that are not covered under this subpart, he 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.) Such reports shall include all of the following paragraphs (a)(1) through (a)(6) of this section specified as follows:	262.87(a)	1127.G.1	✓			
The EPA identification number, name, and mailing and site address of the exporter filing the report;	262.87(a)(1)	1127.G.1.a	✓			
The calendar year covered by the report;	262.87(a)(2)	1127.G.1.b	✓			
The name and site address of each final recovery facility;	262.87(a)(3)	1127.G.1.c	✓			
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(s) and applicable waste code(s) from the appropriate OECD waste list incorporated by reference in § 262.89(d), 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 subpart, and number of shipments pursuant to each notification;	262.87(a)(4)	1127.G.1.d	✓			
In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than 100kg but less than 1000kg in a calendar month, and except for hazardous waste for which information was already provided pursuant to § 262.41:	262.87(a)(5)	1127.G.1.e	✓			

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
A description of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated; and	262.87(a)(5)(i)	1127.G.1.e.i	✓			
A description of the changes in volume and toxicity of the waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984; and	262.87(a)(5)(ii)	1127.G.1.e.ii	✓			
A certification signed by the person acting as primary exporter or initiator of the movement document under § 262.84 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.	262.87(a)(6)	1127.G.1.f	✓			
<u>Exception reports.</u> Any person who meets the definition of primary exporter in § 262.51 or who initiates the movement document under § 262.84 must file an exception report in lieu of the requirements of § 262.42 (if applicable) with the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460, if any of the following occurs:	262.87(b)	1127.G.2	✓			
He has not received a copy of the RCRA hazardous waste manifest (if applicable) signed by the transporter identifying the point of departure of the waste from the United States, within forty-five (45) days from the date it was accepted by the initial transporter;	262.87(b)(1)	1127.G.2.a	✓			
Within ninety (90) days from the date the waste was accepted by the initial transporter, the exporter has not received written confirmation from the recovery facility that the hazardous waste was received;	262.87(b)(2)	1127.G.2.b	✓			
The waste is returned to the United States.	262.87(b)(3)	1127.G.2.c	✓			
<u>Recordkeeping.</u>	262.87(c)	1127.G.3	✓			

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Persons who meet the definition of primary exporter in § 262.51 or who initiate the movement document under § 262.84 shall keep the following records in paragraphs (c)(1)(i) through (c)(1)(iv) of this section:	262.87(c)(1)	1127.G.3.a	✓			
A copy of each notification of intent to export and all written consents obtained from the competent authorities of countries concerned for a period of at least three (3) years from the date the hazardous waste was accepted by the initial transporter;	262.87(c)(1)(i)	1127.G.3.a.i	✓			
A copy of each annual report for a period of at least three (3) years from the due date of the report;	262.87(c)(1)(ii)	1127.G.3.a.ii	✓			
A copy of any exception reports and a copy of each confirmation of delivery (i.e., movement document) sent by the recovery facility to the exporter for at least three (3) years from the date the hazardous waste was accepted by the initial transporter or received by the recovery facility, whichever is applicable; and	262.87(c)(1)(iii)	1127.G.3.a.iii	✓			
A copy of each certificate of recovery sent by the recovery facility to the exporter for at least three (3) years from the date that the recovery facility completed processing the waste shipment.	262.87(c)(1)(iv)	1127.G.3.a.iv	✓			
The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator. The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.	262.87(c)(2)	1127.G.3.b	✓			
[Reserved]	262.88	1127.H	✓			
General. For the purposes of this subpart, a waste is considered hazardous under U.S. national procedures, and hence subject to this subpart, if the waste:	262.89(a)	1127.I.1	✓			
Meets the Federal definition of hazardous waste in 40 CFR 261.3; and	262.89(a)(1)	1127.I.1.a	✓			

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Is subject to either the Federal RCRA manifesting requirements at 40 CFR part 262, subpart B, the universal waste management standards of 40 CFR part 273, State requirements analogous to 40 CFR part 273, the export requirements in the spent lead-acid battery management standards of 40 CFR part 266, subpart G, or State requirements analogous to the export requirements in 40 CFR part 266, subpart G.	262.89(a)(2)	1127.I.1.b	✓			
If a waste is hazardous under paragraph (a) of this section, it is subject to the Amber control procedures, regardless of whether it appears in Appendix 4 of the OECD Decision, as defined in § 262.81.	262.89(b)	1127.I.2	✓			
The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in § 262.82.	262.89(c)	1127.I.3	✓			
The OECD waste lists, as set forth in Annex B ("Green List") and Annex C ("Amber List")(collectively "OECD waste lists") of the 2009 "Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations," are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is incorporated as it exists on the date of the approval and a notice of any change in these materials will be published in the FEDERAL REGISTER. The materials are available for inspection at: the U.S. Environmental Protection Agency, Docket Center Public Reading Room, EPA West, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004 (Docket # EPA-HQ-RCRA-2005-0018) or at the National Archives and Records Administration (NARA), and may be obtained from the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue André Pascal, F-75775 Paris Cedex 16, France. For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal-register/cfr/ibr-locations.html . To contact the EPA Docket Center Public Reading Room, call (202) 566-1744. To contact the OECD, call +33 (0) 1 45 24 81 67.	262.89(d)	1127.I.4	✓			

PART 263--STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

SUBPART A-GENERAL

A transporter of hazardous waste subject to the Federal manifesting requirements of 40 CFR part 262, or subject to the waste management standards of 40 CFR part 273, or subject to State requirements analogous to 40 CFR part 273, that is being imported from or exported to any of the countries listed in 40 CFR 262.58(a)(1) for purposes of recovery is subject to this Subpart and to all other relevant requirements of subpart H of 40 CFR part 262, including, but not limited to, 40 CFR 262.84 for movement documents.	263.10(d)	1301.F	✓			
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PART 264--STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART B – GENERAL FACILITY STANDARDS

The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to 40 CFR part 262, subpart H must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue., N.W. Washington, D.C. 20460; and to the competent authorities of all other countries concerned within three (3) working days of receipt of the shipment. The original of the signed movement document must be maintained at the facility for at least three (3) years. In addition, such owner or operator shall, as soon as possible, but no later than thirty (30) days after the completion of recovery and no later than one (1) calendar year following the receipt of the hazardous waste, send a certificate of recovery to the foreign exporter and to the competent authority of the country of export and to EPA's Office of Enforcement and Compliance Assurance at the above address by mail, e-mail without a digital signature followed by mail, or fax followed by mail.	264.12(a)(2)	1531.B	✓			
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SUBPART E – MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming EPA's consent to the import of hazardous waste to the following address within thirty (30) days of delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460.	264.71(a)(3)	1516.B.5	✓			
Within three (3) working days of the receipt of a shipment subject to 40 CFR part 262, subpart H, the owner or operator of facility must provide a copy of the movement document bearing all required signatures to the exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature.	264.71(d)	1516.B.4	✓			

PART 265--INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART B – GENERAL FACILITY STANDARDS

The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to 40 CFR part 262, subpart H must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue., N.W. Washington, D.C. 20460; and to the competent authorities of all other countries concerned within three (3) working days of receipt of the shipment. The original of the signed movement document must be maintained at the facility for at least three (3) years. In addition, such owner or operator shall, as soon as possible, but no later than thirty (30) days after the completion of recovery and no later than one (1) calendar year following the receipt of the hazardous waste, send a certificate of recovery to the foreign exporter and to the competent authority of the country of export and to EPA's Office of Enforcement and Compliance Assurance at the above address by mail, e-mail without a digital signature followed by mail, or fax followed by mail.	265.12(a)(2)	4311 (1531)	✓			
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SUBPART E – MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming EPA's consent to the import of hazardous waste to the following address within thirty (30) days of delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460.	265.71(a)(3)	4353.A (1516)	✓			
Within three (3) working days of the receipt of a shipment subject to 40 CFR part 262, subpart H, the owner or operator of facility must provide a copy of the movement document bearing all required signatures to the exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460, and to competent authorities of all other countries concerned. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature.	265.71(d)	4353 (1516)	✓			

PART 266 – STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC
TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

Amend table by adding sections (6) and (7). Sections (1) through (5) are unchanged.	266.80(a) table	4145.A Table	✓			

¹ States are required to adopt this rule and may not changes to the provisions, except to promulgate additional state requirements, such as notifications, reports, etc.

² The title of Subpart H has changed.

RCRA REVISION CHECKLIST 223

Hazardous Waste Technical Corrections and Clarifications

75 FR 12989-13009

March 18, 2010

(RCRA Cluster XX, HSWA/Non-HSWA)

Name of State: LouisianaState Statutory Authority: La Revised Statutes Title 30:2001 et. seq. with specific cites of 2174, 2175 & 2180Title of Regulations: Title 33 Part V. Hazardous Waste Subpart 1 Effective Date: _____Date Checklist Completed: January 24, 2012

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
PART 260— HAZARDOUS WASTE MANAGEMENT SYSTEM						
Amend the definition of “ <i>New hazardous waste management facility or new facility</i> ” by removing the date “October 21, 1976” and adding in its place the date “November 19, 1980”	260.10	109	✓			
Remove Appendix I	Part 260 Appendix I	Not in LAC 33:V	✓			
PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE						
Remove the citation “§ 261.4(a)(13)” and adding in its place the citation “§ 261.4(a)(14)”.	261.1(c)(10)	NO CHANGE – already correct (109. <i>Processed Scrap Metal</i>)	✓			
Remove the entry for “Scrap metal other than excluded scrap metal (see 261.1(c)(9))” and add in its place the entry “Scrap metal that is not excluded under § 261.4(a)(13)”.	261.2(c), Table 1	109, Table 1	✓			
Remove the citation “(a)(7)” and add in its place the citation “(b)(7)”.	261.4(a)(17)(vi)	NO CHANGE – already correct (105.D.1.p.vi)	✓			
Revise by changing “parts 262 through 266, 268” to “parts 262 through 268”	261.5(b)	NO CHANGE – already correct (108.B)	✓			
Revise by changing “parts 262 through 266, 268” to “parts 262 through 268”	261.5(e)intro	NO CHANGE – already correct (108.E)	✓			
Remove reference to 261.32	261.5(e)(1)	108.E.1	✓			
Remove reference to 261.32	261.5(e)(2)	108.E.2	✓			

RCRA REVISION CHECKLIST 223: Hazardous Waste Technical Corrections and Clarifications
(cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
Revise to read: "Full regulation" means those regulations applicable to generators of 1,000 kg or greater of hazardous waste in a calendar month.	261.5(e)(2) Comment	108.E.2 Comment	✓			
Paragraph should read: "set forth in paragraphs (e)(1) or (e)(2) of this section..."	261.5(f)intro	NO CHANGE – already correct (108.F intro)	✓			
Revise by changing "parts 262 through 266, 268" to "parts 262 through 268"	261.5(f)(2)	NO CHANGE – already correct (108.F.2)	✓			
Replace "less than 100 kilograms" with "100 kilograms or less".	261.5(g)intro	108.G intro	✓			
Replace "between 100 kg and 1000 kg of hazardous waste" with "greater than 100 kg and less than 1000 kg of hazardous waste"; Change "parts 262 through 266, 268" to "parts 262 through 268"	261.5(g)(2)	108.G.2	✓			
Revise "subparts C through O" to "subparts C through N"; and add 268 to "parts 270 and 124 of this chapter"	261.6(a)(2)	4105.A.2	✓			
Replace "for energy recovery" with "(as defined in section 266.100 (a))"	261.6(a)(2)(ii)	4105.A.2.b	✓			
Replace "parts 262 through parts 266, 268, 270 or 124" with "parts 262 through parts 268, 270 or 124"	261.6(a)(3)	4105.A.1	✓			
Add 267 to list of parts.	261.6(c)(1)	NOT ADOPTED - Louisiana did not adopt Standardized Permit program	✓			
Add 267 to list of parts.	261.6(d)	NOT ADOPTED - Louisiana did not adopt Standardized Permit program	✓			
Replace "parts 261 through 265, 267, 268" with "parts 261 through 268"	261.7(a)(1)	109. <i>Empty Container</i> 1.a	✓			
Replace "parts 261 through 265, 267, 268" with "parts 261 through 268"	261.7(a)(2)	109. <i>Empty Container</i> 1.b	✓			
Remove 261.32	261.7(b)(1)	109. <i>Empty Container</i> 2.a	✓			
Remove 261.32	261.7(b)(3)	109. <i>Empty Container</i> 2.c	✓			

RCRA REVISION CHECKLIST 223: Hazardous Waste Technical Corrections and Clarifications (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Replace paragraph with: "It is a forbidden explosive as defined in 49 CFR 173.54, or is a Division 1.1, 1.2 or 1.3 explosive as defined in 49 CFR 173.50 and 173.53."	261.23(a)(8)	4903.D.8	✓			
Replace "parts 261 through 265, 267, 268" with "parts 261 through 268"	261.30(c)	4901.A.1	✓			
Remove "or §261.32"	261.30(d)	4901.A.2	✓			
In the listing for F037, change "oil cooling wastewaters" to "oily cooling wastewaters"	261.31(a)	NO CHANGE – already correct (4901.B.1.Table 1)	✓			
Change the listing for K107, by correcting the misspelled chemical name "...carboxylic acid hydrazines" to read "...carboxylic acid hydrazides."	261.32(a) table	NO CHANGE – already correct (4901.C.Table 2)	✓			
In the left column, within the Iron and Steel industry, remove the subheading after the description of K062 for the following section headings that have no waste codes included: "Primary Copper;" "Primary Lead;" "Primary Zinc;" and "Ferroalloys;"	261.32(a) table	NO CHANGE – already correct (4901.C.Table 2)	✓			
Revise the listing for U239, "Benzene, dimethyl- (I,T)" to read "Benzene, dimethyl- (I)."	261.33(f)	4901.F.Table 4	✓			
Remove the entries "K064," "K065," "K066," "K090," and "K091."	261, Appendix VII	Chapter 49.Table 6	✓			
PART 262 STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE						
Add 267 to list of parts	262.10(f)	NO CHANGE – already correct (1101.D)	✓			
Add 267 to list of parts	262.10(j)(1)	NOT ADOPTED - Louisiana did not adopt Standardized Permit program	✓			
Add 267 to list of parts	262.10(k)	NOT ADOPTED - Louisiana did not adopt Standardized Permit program	✓			
Add 267 to list of parts	262.11(d)	NO CHANGE – already correct (1103.C)	✓			

RCRA REVISION CHECKLIST 223: Hazardous Waste Technical Corrections and Clarifications (cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
2 For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility (following the procedures of 40 CFR 264.72(f) or 265.72(f)), the generator must:	262.23(f)	1107.D.7	✓			
Sign either:	262.23(f)(1)	1107.D.7.a	✓			
Item 20 of the new manifest if a new manifest is used for the returned shipment; or	262.23(f)(1)(i)	1107.D.7.a.i	✓			
Item 18c of the original manifest if the original manifest is used for the returned shipment;	262.23(f)(1)(ii)	1107.D.7.a.ii	✓			
Provide the transporter a copy of the manifest;	262.23(f)(2)	1107.D.7.b	✓			
Within 30 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and	262.23(f)(3)	1107.D.7.c	✓			
Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.	262.23(f)(4)	1107.D.7.d	✓			
1 Replace language with: "A generator who generates 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in §§261.31 or 261.33(e) in a calendar month, may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:"	262.34(a)	1109.E.1	✓			
1 Move the following language to new 262.34(a)(5): "Generators accumulating hazardous waste on-site for 90 days or less without a permit or without having interim status are exempt from all the requirements in subparts G and H of 40 CFR part 265, except for 40 CFR 265.111 and 265.114. "	262.34(a)(1)(iv)(B)	1109.E.1.a.iv.(b)	✓			
1 Amend to read "each container and tank" instead of "each container."	262.34(a)(2)	1109.E.1.c	✓			
Replace "40 CFR 268.7(a)(5)" with "all applicable requirements under 40 CFR part 268."	262.34(a)(4)	1109.E.1.e	✓			

RCRA REVISION CHECKLIST 223: Hazardous Waste Technical Corrections and Clarifications
(cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
1 Language moved from 262.34(a)(1)(iv)(B): “Generators accumulating hazardous waste on-site for 90 days or less without a permit or without having interim status are exempt from all the requirements in subparts G and H of 40 CFR part 265, except for 40 CFR 265.111 and 265.114.”	262.34(a)(5)	This language included in change to 1109.E.1.a.iv.(b); see above	✓			
Replace language with “A generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in §§261.31 or 261.33(e) in a calendar month, who accumulates hazardous waste or acute hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264 265, and 267 and the permit requirements of 40 CFR part 270 unless he has been granted an extension to the 90-day period. Such extension may be granted by EPA if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.”	262.34(b)	1109.E.2	✓			
Add “§261.31 or” before “§261.33(e)” and add “or (d)” after “(a)”	262.34(c)(1)	1109.E.4	✓			
Add “§261.31 or” before “§261.33(e)” and change “paragraphs (c)(1)(i) through (ii)” to read “paragraphs (c)(1)(i) and (ii)”	262.34(c)(2)	1109.E.5&6	✓			
Replace “40 CFR 268.7(a)(5)” with “all applicable requirements under 40 CFR part 268.”	262.34(d)(4)	1109.E.7.c	✓			
Add 267 to list of parts	262.34(f)	NO CHANGE – already correct (1109.E.9)	✓			
Add 267 to list of parts	262.34(i)	NO CHANGE – already correct (1109.E.12)	✓			
Add 267 to list of parts	262.41(b)	1111.B.2	✓			
Replace “greater than 1,000 kilograms” with “1,000 kilograms or greater”	262.42(a)(1)	1111.C.1	✓			
Replace “greater than 1,000 kilograms” with “1,000 kilograms or greater”	262.42(a)(2)	1111.C.2	✓			

RCRA REVISION CHECKLIST 223: Hazardous Waste Technical Corrections and Clarifications
(cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
3 For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of 40 CFR 264.72(e)(1) through (6) or 40 CFR 265.72(e)(1) through (6)), the generator must comply with the requirements of paragraph (a) or (b) of this section, as applicable, for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of paragraph (a) or (b) of this section for a shipment forwarding such waste to an alternate facility by a designated facility:	262.42(c)	1111.C.4	✓			
The copy of the manifest received by the generator must have the hand written signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility, and	262.42(c)(1)	1111.C.4.a	✓			
The 35/45/60-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.	262.42(c)(2)	1111.C.4.b	✓			
Note to paragraph (c): The submission to EPA need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.	262.42(c) Note	NO CHANGE – already correct (1111.C.3 Note)	✓			
Amend §262.60(b) introductory text by removing the citation “§262.20(a)” and adding in its place “§262.20”.	262.60(b)	NO CHANGE – already correct (1123.B)	✓			
PART 263 --- STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE						
Add 267 to list of parts	263.12	NO CHANGE – already correct (1305.C)	✓			
PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES						
Remove “or part 1510 of chapter V”.	264.52(b)	1513.B.2	✓			
Remove the parenthetical phrase “(in the applicable regional contingency plan under part 1510 of this title)”.	264.56(d)(2) introductory text	NO CHANGE – already correct (1513.F.4.b)	✓			

RCRA REVISION CHECKLIST 223: Hazardous Waste Technical Corrections and Clarifications
(cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
Add, at the end of the provision: “and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.”	264.72(e)(6)	1516.C.5.a.vi	✓			
Amend as follows: “Write the facility’s U.S. EPA ID number in Item 1 of the new manifest. Write the <u>facility’s</u> name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility’s site address, then write the facility’s site address in the designated space for Item 5 of the new manifest.”	264.72(f)(1)	1516.C.6.a.i	✓			
Add reference to subparagraph (8) at the end of this provision.	264.72(f)(7)	1516.C.6.b	✓			
Add new provision: For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in §262.42(a).	264.72(f)(8)	1516.C.6.c	✓			
Change cross-references from “(e)(1)” to “(d)(1)” and “(e)(2)” to “(d)(2)”	264.314(d)	NO CHANGE – already correct (2515.E)	✓			
Change cross-references from “§264.314(e)” to “§264.314(d)”	264.316(b)	NO CHANGE – already correct (2519.A.2)	✓			
H Revise the citation “§264.314(d)” to read “§264.314(c)”;	264.552(a)(3)(ii)	2603.A.3.b	✓			
H Revise the citation “§264.314(f)” to read “§ 264.314(e)”	264.552(a)(3)(iii)	NO CHANGE – already correct (2603.A.3.c)	✓			
H Revise the citation “§264.314(c)” to read “§ 264.314(b)” and “§264.314(e)” to read “§264.314(d)”	264.552(a)(3)(iv)	2603.A.3.d	✓			
H Revise the citation from “260.11(a)(11)” to read “260.11(c)(3)(v).”	264.552(e)(4)(iv)(F)	NO CHANGE – already correct (2603.E.4.d.vi)	✓			
PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES						
Remove “or part 1510 of chapter V”.	265.52	NO CHANGE – already correct (4341 (1513.B))	✓			
Remove the parenthetical phrase “(in the applicable regional contingency plan under part 1510 of this title)”.	265.56(d)(2) introductory text	NO CHANGE – already correct (4349 (1513.F))	✓			

RCRA REVISION CHECKLIST 223: Hazardous Waste Technical Corrections and Clarifications
(cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Add, at the end of the provision: “and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.”	265.72(e)(6)	1516.C.5.a.vi	✓			
Amend as follows: “Write the facility’s U.S. EPA ID number in Item 1 of the new manifest. Write the <u>facility’s</u> name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility’s site address, then write the facility’s site address in the designated space for Item 5 of the new manifest.”	265.72(f)(1)	1516.C.6.a.i	✓			
Add reference to subparagraph (8) at the end of this provision.	265.72(f)(7)	1516.C.6.b	✓			
Add new provision: For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in §262.42(a).	265.72(f)(8)	1516.C.6.c	✓			
Change cross-references from “(f)(1)” to “(e)(1)” and “(f)(2)” to “(e)(2)”	265.314(d)	4507.E	✓			
Change cross-references from “§264.314(f)” to “§264.314(e)”	265.316(b)	4511.A.2	✓			
PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES						
1 Add at the end of this paragraph the phrase, “and the recycler complies with §268.7(b)(6).”	266.20(b)	NO CHANGE – already correct (4139.B-B.2)	✓			
Add 267 to list of parts	266.22	NO CHANGE – already correct (4141.B)	✓			
Add 267 to list of parts	266.70(d)	NO CHANGE – already correct (4143.D)	✓			
Add 267 to list of parts	266.80(b)	NO CHANGE – already correct (4145.B)	✓			
H Add 267 to list of parts	266.101(c)(1)	NO CHANGE – already correct (3003.C.1)	✓			
H Add 267 to list of parts	266.101(c)(2)	NO CHANGE – already correct (3003.C.2)	✓			
PART 268—LAND DISPOSAL RESTRICTIONS						

RCRA REVISION CHECKLIST 223: Hazardous Waste Technical Corrections and Clarifications
(cont'd)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
H Revise the wastewater concentration associated with the regulated hazardous constituent, vinyl chloride, for F025 to read "0.27," and by revising the wastewater concentration associated with the regulated hazardous constituent, arsenic, for K031 to read "1.4."	268.40 table "Treatment Standards for Hazardous Wastes"	NO CHANGE – already correct (2299.Appendix. Table 2)	✓			
H For the waste codes K156, K157 and K158, reinsert the parenthetical sentence, "(This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)"	268.40 table "Treatment Standards for Hazardous Wastes"	2299.Appendix. Table 2	✓			
H Restore treatment standard entries for "bis(2-Ethylhexyl)phthalate" and for "Hexachloropropylene."	268.48 Universal Treatment Standards table	NO CHANGE – already correct (2299.Appendix. Table 7)	✓			
PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM						
Redesignate paragraph (a) as (a)(1)	270.4(a)	NO CHANGE – already correct (307.A)	✓			
Redesignate paragraph (a)(1) as paragraph (a)(1)(i).	270.4(a)	NO CHANGE – already correct (307.A)	✓			
Redesignate paragraph (a)(2) as paragraph (a)(1)(ii).	270.4(a)	NO CHANGE – already correct (307.A)	✓			
Redesignate paragraph (a)(3) as paragraph (a)(1)(iii).	270.4(a)	NO CHANGE – already correct (307.A)	✓			
Redesignate paragraph (a)(4) as paragraph (a)(1)(iv).	270.4(a)	NO CHANGE – already correct (307.A)	✓			
Add paragraph (a)(2) to read as follows: 'A permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in §§270.41 and 270.43, or the permit may be modified upon the request of the permittee as set forth in §270.42.	270.4(a)	307.B	✓			

¹ This provision was withdrawn on June 4, 2010 (75 FR 31716)

² 40 CFR 262.23(f) is a new paragraph.

³ 40 CFR 262.42(c) is a new paragraph.

RCRA REVISION CHECKLIST 224

Withdrawal of the Emission Comparable Fuel Exclusion
 75 FR 33712-33724
 June 15, 2010
 (RCRA Cluster XX, Non-HSWA)

Name of State: Louisiana

State Statutory Authority: La. R. S. Title 30:2001 et. seq. with specific cites of 2174, 2175 & 2180

Title of Regulations: Title 33 Part V. Hazardous Waste Subpart 1 Effective Date: _____

Date Checklist Completed: 1/26/2012

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
PART 261 IDENTIFICATION AND LISTING OF HAZARDOUS WASTE						
Revise to read as follows: Comparable fuels or comparable syngas fuels that meet the requirements of § 261.38.	261.4(a)(16)	105.D.1.q	✓			
Revise section and title as follows: Exclusion of comparable fuel and syngas fuel.	261.38 title	4909 Title	✓			
<i>Specifications for excluded fuels.</i> Wastes that meet the specifications for comparable fuel or syngas fuel under paragraphs (a)(1) or(a)(2) of this section, respectively, and the other requirements of this section, are not solid wastes.	261.38(a)	4909.A	✓			
<i>Comparable fuel specifications</i>	261.38(a)(1)	NO CHANGE – already correct (4909.B)	✓			
<i>Physical specifications</i>	261.38(a)(1)(i)	NO CHANGE – already correct (4909.B.1)	✓			
<i>Heating value.</i> The heating value must exceed 5,000 BTU/lbs. (11,500 J/g).	261.38(a)(1)(i)(A)	NO CHANGE – already correct (4909.B.1.a)	✓			
<i>Viscosity.</i> The viscosity must not exceed: 50 cs, as-fired.	261.38(a)(1)(i)(B)	NO CHANGE – already correct (4909.B.1.b)	✓			

DRAFT RCRA REVISION CHECKLIST 224: Withdrawal of the Emission Comparable Fuel
Exclusion

SPA 31

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
<i>Constituent specifications.</i> For compounds listed in Table 1 to this section, the specification levels and, where non-detect is the specification, minimum required detection limits are: (see Table 1 of this section).	261.38(a)(1)(ii)	NO CHANGE – already correct (4909.B.2)	✓			
<i>Synthesis gas fuel specifications.</i> — Synthesis gas fuel (i.e., syngas fuel) that is generated from hazardous waste must:	261.38(a)(2)	NO CHANGE – already correct (4909.C)	✓			
Have a minimum Btu value of 100 Btu/Scf;	261.38(a)(2)(i)	NO CHANGE – already correct (4909.C.1)	✓			
Contain less than 1 ppmv of total halogen;	261.38(a)(2)(ii)	NO CHANGE – already correct (4909.C.2)	✓			
Contain less than 300 ppmv of total nitrogen other than diatomic nitrogen (N ₂);	261.38(a)(2)(iii)	NO CHANGE – already correct (4909.C.3)	✓			
Contain less than 200 ppmv of hydrogen sulfide; and	261.38(a)(2)(iv)	NO CHANGE – already correct (4909.C.4)	✓			
Contain less than 1 ppmv of each hazardous constituent in the target list of appendix VIII constituents of this part.	261.38(a)(2)(v)	NO CHANGE – already correct (4909.C.5)	✓			
<i>Blending to meet the specifications</i>	261.38(a)(3)	4909.D.3	✓			
Hazardous waste shall not be blended to meet the comparable fuel specification under paragraph (a)(1) of this section, except as provided by paragraph (a)(3)(i)(B) of this section:	261.38(a)(3)(i)	4909.D.3	✓			
<i>Blending to meet the viscosity specification.</i> A hazardous waste blended to meet the viscosity specification for comparable fuel shall:	261.38(a)(3)(i)	4909.D.3.a	✓			
As generated and prior to any blending, manipulation, or processing, meet the constituent and heating value specifications of paragraphs (a)(1)(i)(A) and (a)(1)(ii) of this section;	261.38(a)(3)(i)(A)	4909.D.3.a.i	✓			

DRAFT RCRA REVISION CHECKLIST 224: Withdrawal of the Emission Comparable Fuel
Exclusion

SPA 31

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
Be blended at a facility that is subject to the applicable requirements of parts 264, 265, or 267 or §262.34 of this chapter; and	261.38(a)(3)(i)(B)	4909.D.3.a.ii	✓			
Not violate the dilution prohibition of paragraph (a)(6) of this section.	261.38(a)(3)(i)(C)	4909.D.3.a.iii	✓			
Residuals resulting from the treatment of a hazardous waste listed in subpart D of this part to generate a comparable fuel remain a hazardous waste.	261.38(a)(3)(ii)	4909.D.3.b	✓			
<i>Generation of a syngas fuel.</i>	261.38(a)(5)	NO CHANGE – already correct (4909.D.5)	✓			
A syngas fuel can be generated from the processing of hazardous wastes to meet the exclusion specifications of paragraph (a)(2) of this section provided the processing:	261.38(a)(5)(i)	NO CHANGE – already correct (4909.D.5.a)	✓			
Destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying constituents or materials;	261.38(a)(5)(i)(A)	NO CHANGE – already correct (4909.D.5.a.i)	✓			
Is performed at a facility that is subject to the applicable requirements of parts 264 and 265, or 267, or §262.34 of this chapter or is an exempt recycling unit pursuant to §261.6(c); and	261.38(a)(5)(i)(B)	4909.D.5.a.ii	✓			
Does not violate the dilution prohibition of paragraph (a)(6) of this section.	261.38(a)(5)(i)(C)	NO CHANGE – already correct (4909.D.5.a.iii)	✓			
Residuals resulting from the treatment of a hazardous waste listed in subpart D of this part to generate a syngas fuel remain a hazardous waste.	261.38(a)(5)(ii)	NO CHANGE – already correct (4909.D.5.b)	✓			

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			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
<i>Dilution prohibition.</i> No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a hazardous waste to meet the specifications of paragraphs (a)(1)(i)(A) or (a)(1)(ii) of this section for comparable fuel or paragraph (a)(2) of this section for syngas.	261.38(a)(6)	4909.D.6	✓			
<i>Implementation</i>	261.38(b)	4909.D	✓			
<i>General.</i>	261.38(b)(1)	NOT ADOPTED	✓			
Wastes that meet the specifications provided by paragraph (a) of this section for comparable fuel or syngas fuel are excluded from the definition of solid waste provided that the conditions under this section are met. For purposes of this section, such materials are called excluded fuel; the person claiming and qualifying for the exclusion is called the excluded fuel generator and the person burning the excluded fuel is called the excluded fuel burner.	261.38(b)(1)(i)	4909.D	✓			
The person who generates the excluded fuel must claim the exclusion by complying with the conditions of this section and keeping records necessary to document compliance with those conditions.	261.38(b)(1)(ii)	4909.D	✓			
<i>Notices</i>	261.38(b)(2)	4909.D.1	✓			
<i>Notices to State RCRA and CAA Directors in authorized states or regional RCRA and CAA Directors in unauthorized States.</i>	261.38(b)(2)(i)	4909.D.1	✓			

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				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
1	The generator must submit a one-time notice, except as provided by paragraph (b)(2)(i)(C) of this section, to the Regional or State RCRA and CAA Directors, in whose jurisdiction the exclusion is being claimed and where the excluded fuel will be burned, certifying compliance with the conditions of the exclusion and providing the following documentation:	261.38(b)(2)(i)(A)	4909.D.1.a.i	✓			
	The name, address, and RCRA ID number of the person/facility claiming the exclusion;	261.38(b)(2)(i)(A)(1)	4909.D.1.a.i.(a)	✓			
	The applicable EPA Hazardous Waste Codes that would otherwise apply to the excluded fuel;	261.38(b)(2)(i)(A)(2)	4909.D.1.a.i.(b)	✓			
	The name and address of the units meeting the requirements of paragraphs (b)(3) and (c) of this section, that will burn the excluded fuel;	261.38(b)(2)(i)(A)(3)	4909.D.1.a.i.(c)	✓			
	An estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed, except as provided by paragraph (b)(2)(i)(C) of this section; and	261.38(b)(2)(i)(A)(4)	4909.D.1.a.i.(d)	✓			
	The following statement, which shall be signed and submitted by the person claiming the exclusion or his authorized representative: STATEMENT	261.38(b)(2)(i)(A)(5)	4909.D.1.a.i.(e)	✓			
	If there is a substantive change in the information provided in the notice required under this paragraph, the generator must submit a revised notification.	261.38(b)(2)(i)(B)	4909.D.1.a.ii	✓			

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Excluded fuel generators must include an estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed only in notices submitted after December 19, 2008 for newly excluded fuel or for revised notices as required by paragraph (b)(2)(i)(B) of this section.	261.38(b)(2)(i)(C)	4909.D.1.a.iii	✓			
<i>Public notice.</i> Prior to burning an excluded fuel, the burner must publish in a major newspaper of general circulation local to the site where the fuel will be burned, a notice entitled "Notification of Burning a Fuel Excluded Under the Resource Conservation and Recovery Act" and containing the following information:	261.38(b)(2)(ii)	4909.D.1.b	✓			
Name, address, and RCRA ID number of the generating facility(ies);	261.38(b)(2)(ii)(A)	4909.D.1.b.i	✓			
Name and address of the burner and identification of the unit(s) that will burn the excluded fuel;	261.38(b)(2)(ii)(B)	4909.D.1.b.ii	✓			
A brief, general description of the manufacturing, treatment, or other process generating the excluded fuel;	261.38(b)(2)(ii)(C)	4909.D.1.b.iii	✓			
An estimate of the average and maximum monthly and annual quantity of the excluded fuel to be burned; and	261.38(b)(2)(ii)(D)	4909.D.1.b.iv	✓			
Name and mailing address of the Regional or State Directors to whom the generator submitted a claim for the exclusion.	261.38(b)(2)(ii)(E)	NO CHANGE – already correct (4909.D.1.b.v)	✓			
<i>Burning.</i> The exclusion applies only if the fuel is burned in the following units that also shall be subject to Federal/State/local air emission requirements, including all applicable requirements implementing section 112 of the Clean Air Act:	261.38(b)(3)	4909.D.2	✓			

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Industrial furnaces as defined in §260.10 of this chapter;	261.38(b)(3)(i)	NO CHANGE – already correct (4909.D.2.a)	✓			
Boilers, as defined in §260.10 of this chapter, that are further defined as follows:	261.38(b)(3)(ii)	NO CHANGE – already correct (4909.D.2.b)	✓			
Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or	261.38(b)(3)(ii)(A)	NO CHANGE – already correct (4909.D.2.b.i)	✓			
Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale;	261.38(b)(3)(ii)(B)	NO CHANGE – already correct (4909.D.2.b.ii)	✓			
Hazardous waste incinerators subject to regulation under subpart O of parts 264 or 265 of this chapter or applicable CAA MACT standards.	261.38(b)(3)(iii)	NO CHANGE – already correct (4909.D.2.c)	✓			
Gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.	261.38(b)(3)(iv)	NO CHANGE – already correct (4909.D.2.d)	✓			
<i>Fuel analysis plan for generators.</i> The generator of an excluded fuel shall develop and follow a written fuel analysis plan which describes the procedures for sampling and analysis of the material to be excluded. The plan shall be followed and retained at the site of the generator claiming the exclusion.	261.38(b)(4)	4909.D.7	✓			
At a minimum, the plan must specify:	261.38(b)(4)(i)	NO CHANGE – already correct (4909.D.7.a)	✓			
The parameters for which each excluded fuel will be analyzed and the rationale for the selection of those parameters;	261.38(b)(4)(i)(A)	4909.D.7.a.i	✓			

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			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
The test methods which will be used to test for these parameters;	261.38(b)(4)(i)(B)	NO CHANGE – already correct (4909.D.7.a.ii)	✓			
The sampling method which will be used to obtain a representative sample of the excluded fuel to be analyzed;	261.38(b)(4)(i)(C)	4909.D.7.a.iii	✓			
The frequency with which the initial analysis of the excluded fuel will be reviewed or repeated to ensure that the analysis is accurate and up to date; and	261.38(b)(4)(i)(D)	4909.D.7.a.iv	✓			
If process knowledge is used in the determination, any information prepared by the generator in making such determination.	261.38(b)(4)(i)(E)	4909.D.7.a.v	✓			
For each analysis, the generator shall document the following:	261.38(b)(4)(ii)	4909.D.7.b	✓			
The dates and times that samples were obtained, and the dates the samples were analyzed;	261.38(b)(4)(ii)(A)	NO CHANGE – already correct (4909.D.7.b.i)	✓			
The names and qualifications of the person(s) who obtained the samples;	261.38(b)(4)(ii)(B)	NO CHANGE – already correct (4909.D.7.b.ii)	✓			
A description of the temporal and spatial locations of the samples;	261.38(b)(4)(ii)(C)	NO CHANGE – already correct (4909.D.7.b.iii)	✓			
The name and address of the laboratory facility at which analyses of the samples were performed;	261.38(b)(4)(ii)(D)	NO CHANGE – already correct (4909.D.7.b.iv)	✓			
A description of the analytical methods used, including any clean-up and sample preparation methods;	261.38(b)(4)(ii)(E)	NO CHANGE – already correct (4909.D.7.b.v)	✓			
All quantitation limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and the description of any deviations from analytical methods written in the plan or from any other activity written in the plan which occurred;	261.38(b)(4)(ii)(F)	NO CHANGE – already correct (4909.D.7.b.vi)	✓			

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			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
All laboratory results demonstrating whether the exclusion specifications have been met; and	261.38(b)(4)(ii)(G)	NO CHANGE – already correct (4909.D.7.b.vii)	✓			
All laboratory documentation that support the analytical results, unless a contract between the claimant and the laboratory provides for the documentation to be maintained by the laboratory for the period specified in paragraph (b)(9) of this section and also provides for the availability of the documentation to the claimant upon request.	261.38(b)(4)(ii)(H)	NO CHANGE – already correct (4909.D.7.b.viii)	✓			
Syngas fuel generators shall submit for approval, prior to performing sampling, analysis, or any management of an excluded syngas fuel, a fuel analysis plan containing the elements of paragraph (b)(4)(i) of this section to the appropriate regulatory authority. The approval of fuel analysis plans must be stated in writing and received by the facility prior to sampling and analysis to demonstrate the exclusion of a syngas. The approval of the fuel analysis plan may contain such provisions and conditions as the regulatory authority deems appropriate.	261.38(b)(4)(iii)	4909.D.7.c	✓			
<i>Excluded fuel sampling and analysis.</i>	261.38(b)(5)	4909.D.8	✓			

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			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
<i>General.</i> For wastes for which an exclusion is claimed under the specifications provided by paragraphs (a)(1) or (a)(2) of this section, the generator of the material must test for all the constituents in appendix VIII to this part, except those that the generator determines, based on testing or knowledge, should not be present in the fuel. The generator is required to document the basis of each determination that a constituent with an applicable specification should not be present. The generator may not determine that any of the following categories of constituents with a specification in Table 1 to this section should not be present:	261.38(b)(5)(i)	4909.D.8.a	✓			
A constituent that triggered the toxicity characteristic for the constituents that were the basis for listing the hazardous secondary material as a hazardous waste, or constituents for which there is a treatment standard for the waste code in 40 CFR 268.40;	261.38(b)(5)(i)(A)	4909.D.8.a.i	✓			
A constituent detected in previous analysis of the waste;	261.38(b)(5)(i)(B)	NO CHANGE – already correct (4909.D.8.a.ii)	✓			
Constituents introduced into the process that generates the waste; or	261.38(b)(5)(i)(C)	NO CHANGE – already correct (4909.D.8.a.iii)	✓			
Constituents that are byproducts or side reactions to the process that generates the waste.	261.38(b)(5)(i)(D)	NO CHANGE – already correct (4909.D.8.a.iv)	✓			
Any claim under this section must be valid and accurate for all hazardous constituents; a determination not to test for a hazardous constituent will not shield a generator from liability should that constituent later be found in the excluded fuel above the exclusion specifications.	Note to paragraph (b)(5)	NO CHANGE – already correct (Note to paragraph 4909.D.8.a.iv)	✓			

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			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
<i>Use of process knowledge.</i> For each waste for which the comparable fuel or syngas exclusion is claimed where the generator of the excluded fuel is not the original generator of the hazardous waste, the generator of the excluded fuel may not use process knowledge pursuant to paragraph (b)(5)(i) of this section and must test to determine that all of the constituent specifications of paragraphs (a)(1) and (a)(2) of this section, as applicable, have been met.	261.38(b)(5)(ii)	4909.D.8.b	✓			
The excluded fuel generator may use any reliable analytical method to demonstrate that no constituent of concern is present at concentrations above the specification levels. It is the responsibility of the generator to ensure that the sampling and analysis are unbiased, precise, and representative of the excluded fuel. For the fuel to be eligible for exclusion, a generator must demonstrate that:	261.38(b)(5)(iii)	4909.D.8.c	✓			
The 95% upper confidence limit of the mean concentration for each constituent of concern is not above the specification level; and	261.38(b)(5)(iii)(A)	4909.D.8.c.i	✓			
The analyses could have detected the presence of the constituent at or below the specification level.	261.38(b)(5)(iii)(B)	4909.D.8.c.ii	✓			
Nothing in this paragraph preempts, overrides or otherwise negates the provision in §262.11 of this chapter, which requires any person who generates a solid waste to determine if that waste is a hazardous waste.	261.38(b)(5)(iv)	NO CHANGE – already correct (4909.D.8.d)	✓			
In an enforcement action, the burden of proof to establish conformance with the exclusion specification shall be on the generator claiming the exclusion.	261.38(b)(5)(v)	NO CHANGE – already correct (4909.D.8.e)	✓			

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			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
The generator must conduct sampling and analysis in accordance with the fuel analysis plan developed under paragraph (b)(4) of this section.	261.38(b)(5)(vi)	4909.D.8.f	✓			
<u>Viscosity condition for comparable fuel.</u>	261.38(b)(5)(vii)	4909.D.8.g	✓			
Excluded comparable fuel that has not been blended to meet the kinematic viscosity specification shall be analyzed as-generated.	261.38(b)(5)(vii)(A)	4909.D.8.g	✓			
If hazardous waste is blended to meet the kinematic viscosity specification for comparable fuel, the generator shall:	261.38(b)(5)(vii)(B)	4909.D.8.h	✓			
Analyze the hazardous waste as-generated to ensure that it meets the constituent and heating value specifications of paragraph (a)(1) of this section; and	261.38(b)(5)(vii)(B)(1)	4909.D.8.h.i	✓			
After blending, analyze the fuel again to ensure that the blended fuel meets all comparable fuel specifications.	261.38(b)(5)(vii)(B)(2)	NO CHANGE – already correct (4909.D.8.h.ii)	✓			
Excluded fuel must be re-tested, at a minimum, annually and must be retested after a process change that could change its chemical or physical properties in a manner than may affect conformance with the specifications.	261.38(b)(5)(viii)	4909.D.8.i	✓			
Reserved	261.38(b)(6)	NO EQUIVALENT	N/A			
<i>Speculative accumulation.</i> Excluded fuel must not be accumulated speculatively, as defined in §261.1(c)(8).	261.38(b)(7)	4909.D.9	✓			
<i>Operating record.</i> The generator must maintain an operating record on site containing the following information:	261.38(b)(8)	4909.D.10	✓			
All information required to be submitted to the implementing authority as part of the notification of the claim:	261.38(b)(8)(i)	NO CHANGE – already correct (4909.D.10.a)	✓			

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The owner/operator name, address, and RCRA ID number of the person claiming the exclusion;	261.38(b)(8)(i)(A)	NO CHANGE – already correct (4909.D.10.a.i)	✓			
For each excluded fuel, the EPA Hazardous Waste Codes that would be applicable if the material were discarded; and	261.38(b)(8)(i)(B)	NO CHANGE – already correct (4909.D.10.a.ii)	✓			
The certification signed by the person claiming the exclusion or his authorized representative.	261.38(b)(8)(i)(C)	NO CHANGE – already correct (4909.D.10.a.iii)	✓			
A brief description of the process that generated the excluded fuel. If the comparable fuel generator is not the generator of the original hazardous waste, provide a brief description of the process that generated the hazardous waste;	261.38(b)(8)(ii)	4909.D.10.b	✓			
The monthly and annual quantities of each fuel claimed to be excluded;	261.38(b)(8)(iii)	4909.D.10.c	✓			
Documentation for any claim that a constituent is not present in the excluded fuel as required under paragraph (b)(5)(i) of this section;	261.38(b)(8)(iv)	4909.D.10.d	✓			
The results of all analyses and all detection limits achieved as required under paragraph (b)(4) of this section;	261.38(b)(8)(v)	4909.D.10.e	✓			
If the comparable fuel was generated through treatment or blending, documentation of compliance with the applicable provisions of paragraphs (a)(3) and (a)(4) of this section;	261.38(b)(8)(vi)	4909.D.10.f	✓			
If the excluded fuel is to be shipped off-site, a certification from the burner as required under paragraph (b)(10) of this section;	261.38(b)(8)(vii)	4909.D.10.g	✓			
The fuel analysis plan and documentation of all sampling and analysis results as required by paragraph (b)(4) of this section; and	261.38(b)(8)(viii)	4909.D.10.h	✓			
If the generator ships excluded fuel off-site for burning, the generator must retain for each shipment the following information on-site:	261.38(b)(8)(ix)	NO CHANGE – already correct (4909.D.10.i)	✓			

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The name and address of the facility receiving the excluded fuel for burning;	261.38(b)(8)(ix)(A)	NO CHANGE – already correct (4909.D.10.i.i)	✓			
The quantity of excluded fuel shipped and delivered;	261.38(b)(8)(ix)(B)	NO CHANGE – already correct (4909.D.10.i.ii)	✓			
The date of shipment or delivery;	261.38(b)(8)(ix)(C)	NO CHANGE – already correct (4909.D.10.i.iii)	✓			
A cross-reference to the record of excluded fuel analysis or other information used to make the determination that the excluded fuel meets the specifications as required under paragraph (b)(4) of this section; and	261.38(b)(8)(ix)(D)	NO CHANGE – already correct (4909.D.10.i.iv)	✓			
A one-time certification by the burner as required under paragraph (b)(10) of this section.	261.38(b)(8)(ix)(E)	NO CHANGE – already correct (4909.D.10.i.v)	✓			
<i>Records retention.</i> Records must be maintained for a period of three years.	261.38(b)(9)	NO CHANGE – already correct (4909.D.11)	✓			
<i>Burner certification to the generator.</i> Prior to submitting a notification to the State and Regional Directors, a generator of excluded fuel who intends to ship the excluded fuel off-site for burning must obtain a one-time written, signed statement from the burner:	261.38(b)(10)	4909.D.12	✓			
Certifying that the excluded fuel will only be burned in an industrial furnace, industrial boiler, utility boiler, or hazardous waste incinerator, as required under paragraph (b)(3) of this section;	261.38(b)(10)(i)	4909.D.12.a	✓			
Identifying the name and address of the facility that will burn the excluded fuel; and	261.38(b)(10)(ii)	4909.D.12.b	✓			
Certifying that the State in which the burner is located is authorized to exclude wastes as excluded fuel under the provisions of this section.	261.38(b)(10)(iii)	4909.D.12.c	✓			

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<i>Ineligible waste codes.</i> Wastes that are listed as hazardous waste because of the presence of dioxins or furans, as set out in appendix VII of this part, are not eligible for these exclusions, and any fuel produced from or otherwise containing these wastes remains a hazardous waste subject to full RCRA hazardous waste management requirements.	261.38(b)(11)	4909.D.13	✓			
² <i>Regulatory status of boiler residues.</i> Burning excluded fuel that was otherwise a hazardous waste listed under §§261.31 through 261.33 does not subject boiler residues, including bottom ash and emission control residues, to regulation as derived-from hazardous wastes.	261.38(b)(12)	4909.D.14	✓			
² <i>Residues in containers and tank systems upon cessation of operations.</i>	261.38(b)(13)	4909.D.15	✓			
² Liquid and accumulated solid residues that remain in a container or tank system for more than 90 days after the container or tank system ceases to be operated for storage or transport of excluded fuel product are subject to regulation under parts 262 through 265, 267, 268, 270, 271, and 124 of this chapter.	261.38(b)(13)(i)	4909.D.15.a	✓			

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2 Liquid and accumulated solid residues that are removed from a container or tank system after the container or tank system ceases to be operated for storage or transport of excluded fuel product are solid wastes subject to regulation as hazardous waste if the waste exhibits a characteristic of hazardous waste under §§261.21 through 261.24 or if the fuel were otherwise a hazardous waste listed under §§261.31 through 261.33 when the exclusion was claimed.	261.38(b)(13)(ii)	4909.D.15.b	✓			
2 Liquid and accumulated solid residues that are removed from a container or tank system and which do not meet the specifications for exclusion under paragraphs (a)(1) or (a)(2) of this section are solid wastes subject to regulation as hazardous waste if:	261.38(b)(13)(iii)	4909.D.15.c	✓			
2 The waste exhibits a characteristic of hazardous waste under §§261.21 through 261.24; or	261.38(b)(13)(iii)(A)	4909.D.15.c.i	✓			
2 The fuel were otherwise a hazardous waste listed under §§261.31 through 261.33. The hazardous waste code for the listed waste applies to these liquid and accumulated solid residues.	261.38(b)(13)(iii)(B)	4909.D.15.c.ii	✓			

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<i>Waiver of RCRA Closure Requirements.</i> Interim status and permitted storage and combustion units, and generator storage units exempt from the permit requirements under §262.34 of this chapter, are not subject to the closure requirements of 40 CFR Parts 264, 265, and 267 provided that the storage and combustion unit has been used to manage only hazardous waste that is subsequently excluded under the conditions of this section, and that afterward will be used only to manage fuel excluded under this section.	261.38(b)(14)	4909.D.16	✓			
2 <i>Spills and leaks.</i> Excluded fuel that is spilled or leaked and that therefore no longer meets the conditions of the exclusion is discarded and must be managed as a hazardous waste if it exhibits a characteristic of hazardous waste under §§261.21 through 261.24 or if the fuel were otherwise a hazardous waste listed in §§261.31 through 261.33.	261.38(b)(15) 261.38(b)(15)(i)	4909.D.17 4909.D.17.a	✓ ✓			
2 For excluded fuel that would have otherwise been a hazardous waste listed in §§261.31 through 261.33 and which is spilled or leaked, the hazardous waste code for the listed waste applies to the spilled or leaked material.	261.38(b)(15)(ii)	4909.D.17.b	✓			
Nothing in this section preempts, overrides, or otherwise negates the provisions in CERCLA Section 103, which establish reporting obligations for releases of hazardous substances, or the Department of Transportation requirements for hazardous materials in 49 CFR parts 171 through 180.	261.38(b)(16)	4909.D.18	✓			

DRAFT RCRA REVISION CHECKLIST 224: Withdrawal of the Emission Comparable Fuel
Exclusion

SPA 31

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
<i>Failure to comply with the conditions of the exclusion.</i> An excluded fuel loses its exclusion if any person managing the fuel fails to comply with the conditions of the exclusion under this section, and the material must be managed as hazardous waste from the point of generation. In such situations, EPA or an authorized state agency may take enforcement action under RCRA section 3008(a).	261.38(c)	4909.E	✓			

¹ All five subprovisions of 261.38(b)(2)(i)(A) should have an italicized end citation, which does not appear in the FRN. Also, 261.38(b)(2)(i)(A) is considered to be more stringent than the June 19, 1998 rule.