Department of State
Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number:	02-15-21
Rule ID(s):	9464
File Date:	2/12/2021
Effective Date:	5/13/2021

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Underground Storage Tanks and Solid Waste Disposal Control Board
Division:	Solid Waste Management
Contact Person:	Jackie Okoreeh-Baah
Address:	William R. Snodgrass TN Tower 312 Rosa L. Parks Avenue, 14th Floor Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-0825
Email:	Jackie.Okoreeh-Baah@tn.gov

Revision Type (check all that apply):

X Amendment
____ New
____ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0400-12-01	Hazardous Waste Management
Rule Number	**Rule Title**
0400-12-01-.01	Hazardous Waste Management System: General
0400-12-01-.02	Identification and Listing of Hazardous Waste
0400-12-01-.03	Notification Requirements and Standards Applicable to Generators of Hazardous Waste
0400-12-01-.04	Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste
0400-12-01-.05	Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities
0400-12-01-.06	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
0400-12-01-.07	Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities
0400-12-01-.08	Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters
0400-12-01-.09	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

0400-12-01-.10	Land Disposal Restrictions
0400-12-01-.11	Standards for the Management of Used Oil
0400-12-01-.12	Standards for Universal Waste Management

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to https://sos.tn.gov/products/division-publications/rulemaking-guidelines.

Chapter 0400-12-01
Hazardous Waste Management

Amendments

Paragraph (1) of Rule 0400-12-01-.01 Hazardous Waste Management System: General is amended by adding four new subparagraphs following subparagraph (c) so the new subparagraphs (d) through (g) shall read as follows:

(d) Manifest copy submission requirements for certain interstate waste shipments.

1. In any case in which the state in which waste is generated, or the state in which waste will be transported to a designated facility, requires that the waste be regulated as a hazardous waste or otherwise be tracked through a hazardous waste manifest, the designated facility that receives the waste shall, regardless of the state in which the facility is located:

(i) Complete the facility portion of the applicable manifest;

(ii) Sign and date the facility certification;

(iii) Submit to the e-Manifest system a final copy of the manifest for data processing purposes; and

(iv) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of 40 CFR part 264.

2. Reserved.

(e) Applicability of electronic manifest system and user fee requirements to facilities receiving state-only regulated waste shipments.

1. For purposes of this subparagraph, “state-only regulated waste” means:

(i) A non-RCRA waste that a state regulates more broadly under its state regulatory program, or

(ii) A RCRA hazardous waste that is federally exempt from manifest requirements, but not exempt from manifest requirements under state law.

2. In any case in which a state requires a RCRA manifest to be used under state law to track the shipment and transportation of a state-only regulated waste to a receiving facility, the facility receiving such a waste shipment for management shall:

(i) Comply with the provisions of subparagraph (5)(b) of Rule 0400-12-01-.06 (use of the manifest) and subparagraph (5)(c) of Rule 0400-12-01-.06 (manifest discrepancies); and

(ii) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified subpart FF of 40 CFR part 264.

(f) Electronic Reporting

This chapter requires the submission of forms developed by the Commissioner in order for a person to comply with certain requirements, including, but not limited to, notifying of hazardous waste generation, making reports, submitting monitoring results, and applying for permits. The Commissioner may make these forms available electronically and, if submitted electronically, then that electronic submission shall comply with the requirements of Chapter 0400-01-40.

(g) Additional Information

The Commissioner may require the submission of information as deemed necessary to determine compliance with the Act or these rules. The information required by the Commissioner shall be submitted by the date specified by the Commissioner and in accordance with the instructions accompanying the request.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (2) of Rule 0400-12-01-.01 Hazardous Waste Management System: General is amended by modifying the definitions for “Hazardous waste code”, "Installation identification number", “Small quantity generator”, “Treatability Study”, “Universal Waste”, Universal Waste Handler”, “Universal Waste Transfer Facility”, and “Universal Waste Transporter” to read as follows while remaining in alphabetical order:

"Hazardous waste code" or “Hazardous waste number” or “EPA hazardous waste number” means the code assigned by the Department or EPA to each hazardous waste listed in paragraph (4) of Rule 0400-12-01-.02 and to each characteristic identified in paragraph (3) of Rule 0400-12-01-.02~~(3)~~, and any derivation of such codes or number which may be assigned by the Department or EPA to an individual waste or class of wastes.

"Installation identification number" or “EPA identification number” means the number assigned to each generator, transporter, and treatment, storage, or disposal facility by the Department or EPA. For generators and facilities in Tennessee, and for transporters who pick up hazardous waste from, or deliver hazardous waste to, locations in Tennessee, references in these rules to their installation identification number or EPA identification number shall mean the number assigned by the Department. For other generators, transporters, and facilities, such references shall mean the number assigned by EPA or an authorized state program.

"Small Quantity Generator" is a generator who generates the following amounts in a calendar month:

1. Greater than 100 kilograms (220 lbs) but less than 1,000 kilograms (2200 lbs) of non-acute hazardous waste; and

2. Less than or equal to 1 kilogram (2.2 lbs) of acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or listed in part (4)(d)5 of Rule 0400-12-01-.02; and

3. Less than or equal to 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or listed in part (4)(d)5 of Rule 0400-12-01-.02.

"Treatability study" means a study in which a hazardous waste is subjected to a treatment process to determine: (1) Whether the waste is amenable to the treatment process, (2) what pretreatment (if any) is required, (3) the optimal process conditions needed to achieve the desired treatment, (4) the efficiency of a treatment process for a specific waste or wastes, or (5) the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of parts (1)(d)5 and 6 of Rule 0400-12-01-.02 exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of hazardous waste.

"Universal waste" means any of the hazardous wastes listed in subparagraph (1)(a) of Rule 0400-12-01-.12 that are managed under the universal waste requirements of Rule 0400-12-01-.12.

"Universal waste handler":

1. Means:

   (i) A generator (as defined in this subparagraph) of universal waste; or

   (ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

2. Does not mean:

   (i) A person who treats (except under the provisions of part (2)(d)1 or 3 of Rule 0400-12-01-.12, or part (3)(d)1 or 3 of Rule 0400-12-01-.12), disposes of, or recycles universal waste; or

   (ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for 10 days or less.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (2) of Rule 0400-12-01-.01 Hazardous Waste Management System: General is further amended by adding following definitions in alphabetical order to read as follows:

"Acute hazardous waste" means hazardous wastes that meet the listing criteria in subpart (2)(b)1(ii) of Rule 0400-12-01-.02 and therefore are either listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or are listed in part (4)(d)5 of Rule 0400-12-01-.02.

"AES filing compliance date" means December 31, 2017.

"Airbag waste" means any hazardous waste airbag modules or hazardous waste airbag inflators.

(Note for the definition of "airbag waste": Pursuant to paragraph (1) of Rule 0400-12-01-.02, certain airbag modules and airbag inflators being legitimately used, reused, or reclaimed may not be wastes and, therefore, not hazardous wastes. If unsure, a person is encouraged to contact the Department's Division of Solid Waste Management for guidance.)

"Airbag waste collection facility" means any facility that receives airbag waste from airbag handlers subject to regulation under part (1)(d)10 of Rule 0400-12-01-.02 and accumulates the waste for more than 10 days.

"Airbag waste handler" means any person, by site, who generates airbag waste that is subject to regulation under this chapter.

"Central accumulation area" means any on-site hazardous waste accumulation area with hazardous waste accumulating in units subject to either subparagraph (1)(g) of Rule 0400-12-01-.03 (for small quantity generators) or subparagraph (1)(h) of Rule 0400-12-01-.03 (for large

quantity generators). A central accumulation area at an eligible academic entity that chooses to operate under paragraph (10) of Rule 0400-12-01-.03 is also subject to subparagraph (10)(l) of Rule 0400-12-01-.03 when accumulating unwanted material and/or hazardous waste.

"Conditionally exempt small quantity generator" or "CESQG" means very small quantity generator as defined in this subparagraph.

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

"Large quantity generator" is a generator who generates any of the following amounts in a calendar month:

1. Greater than or equal to 1,000 kilograms (2200 lbs) of non-acute hazardous waste; or

2. Greater than 1 kilogram (2.2 lbs) of acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or listed in part (4)(d)5 of Rule 0400-12-01-.02; or

3. Greater than 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or listed in part (4)(d)5 of Rule 0400-12-01-.02.

"Non-acute hazardous waste" means all hazardous wastes that are not acute hazardous waste, as defined in this subparagraph.

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

"Very small quantity generator" is a generator who generates less than or equal to the following amounts in a calendar month:

1. 100 kilograms (220 lbs) of non-acute hazardous waste; and

2. 1 kilogram (2.2 lbs) of acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or listed in part (4)(d)5 of Rule 0400-12-01-.02; and

3. 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or listed in part (4)(d)5 of Rule 0400-12-01-.02.

"Weekly" means at least once every seven calendar days.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (b) of paragraph (2) of Rule 0400-12-01-.01 Hazardous Waste Management System: General is amended by deleting it in its entirety and substituting instead the following:

(b) References [40 CFR 260.11 and 40 CFR 270.6]

1. When used in this chapter, the publications or materials identified in 40 CFR 260.11 and 40 CFR 270.6 are incorporated by reference.

2. The publications or materials identified in 40 CFR 260.11 and 40 CFR 270.6 are incorporated as they exist on the effective date of these rules.

(Note: 40 CFR 260.11 is reprinted here as amended in the Federal Register (81 FR 85713 and 85806) on November 28, 2016:

(a) When used in parts 260 through 268 and 278 of this chapter, the following publications are incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW. (3403T), Washington, DC 20460, libraryhq@epa.gov; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The following materials are available for purchase from the American Society for Testing and Materials, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959.

(1) ASTM D–93–79 or D–93–80, "Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester," IBR approved for §261.21.

(2) ASTM D–1946–82, "Standard Method for Analysis of Reformed Gas by Gas Chromatography," IBR approved for §§264.1033, 265.1033.

(3) ASTM D 2267–88, "Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography," IBR approved for §264.1063.

(4) ASTM D 2382–83, "Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method)," IBR approved for §§264.1033, 265.1033.

(5) ASTM D 2879–92, "Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope," IBR approved for §265.1084.

(6) ASTM D–3278–78, "Standard Test Methods for Flash Point for Liquids by Setaflash Closed Tester," IBR approved for §261.21(a).

(7) ASTM E 168–88, "Standard Practices for General Techniques of Infrared Quantitative Analysis," IBR approved for §264.1063.

(8) ASTM E 169–87, "Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," IBR approved for §264.1063.

(9) ASTM E 260–85, "Standard Practice for Packed Column Gas Chromatography," IBR approved for §264.1063.

(10) ASTM E 926–88, "Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," Test Method C—Bomb, Acid Digestion Method.

(c) The following materials are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; or for

purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

(1) "APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA–450/2–81–005, December 1981, IBR approved for §§264.1035 and 265.1035.'

(2) Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material SGT–HEM; Non-polar Material) by Extraction and Gravimetry:

(i) Revision A, EPA-821-R-98-002, February 1999, IBR approved for Part 261, appendix IX.

(ii) Revision B, EPA-821-R-10-001, February 2010, IBR approved for Part 261, appendix IX.

(3) The following methods as published in the test methods compendium known as "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846, Third Edition. A suffix of "A" in the method number indicates revision one (the method has been revised once). A suffix of "B" in the method number indicates revision two (the method has been revised twice). A suffix of "C" in the method number indicates revision three (the method has been revised three times). A suffix of "D" in the method number indicates revision four (the method has been revised four times).

(i) Method 0010, dated September 1986 and in the Basic Manual, IBR approved for part 261, appendix IX.

(ii) Method 0020, dated September 1986 and in the Basic Manual, IBR approved for part 261, appendix IX.

(iii) Method 0030, dated September 1986 and in the Basic Manual, IBR approved for part 261, appendix IX.

(iv) Method 1320, dated September 1986 and in the Basic Manual, IBR approved for part 261, appendix IX.

(v) Method 1311, dated September 1992 and in Update I, IBR approved for part 261, appendix IX, and §§261.24, 268.7, 268.40.

(vi) Method 1330A, dated September 1992 and in Update I, IBR approved for part 261, appendix IX.

(vii) Method 1312 dated September 1994 and in Update III, IBR approved for part 261, appendix IX and § 278.3(b)(1).

(viii) Method 0011, dated December 1996 and in Update III, IBR approved for part 261, appendix IX, and part 266, appendix IX.

(ix) Method 0023A, dated December 1996 and in Update III, IBR approved for part 261, appendix IX, part 266, appendix IX, and §266.104.

(x) Method 0031, dated December 1996 and in Update III, IBR approved for part 261, appendix IX.

(xi) Method 0040, dated December 1996 and in Update III, IBR approved for part 261, appendix IX.

(xii) Method 0050, dated December 1996 and in Update III, IBR approved for part 261, appendix IX, part 266, appendix IX, and §266.107.

(xiii) Method 0051, dated December 1996 and in Update III, IBR approved for part 261, appendix IX, part 266, appendix IX, and §266.107.

(xiv) Method 0060, dated December 1996 and in Update III, IBR approved for part 261, appendix IX, §266.106, and part 266, appendix IX.

(xv) Method 0061, dated December 1996 and in Update III, IBR approved for part 261, appendix IX, §266.106, and part 266, appendix IX.

(xvi) Method 9071B, dated April 1998 and in Update IIIA, IBR approved for part 261, appendix IX.

(xvii) Method 1010A, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX.

(xviii) Method 1020B, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX.

(xix) Method 1110A, dated November 2004 and in Update IIIB, IBR approved for §261.22 and part 261, appendix IX.

(xx) Method 1310B, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX.

(xxi) Method 9010C, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX and §§268.40, 268.44, 268.48.

(xxii) Method 9012B, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX and §§268.40, 268.44, 268.48.

(xxiii) Method 9040C, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX and §261.22.

(xxiv) Method 9045D, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX.

(xxv) Method 9060A, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX, and §§264.1034, 264.1063, 265.1034, 265.1063.

(xxvi) Method 9070A, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX.

(xxvii) Method 9095B, dated November 2004 and in Update IIIB, IBR approved, part 261, appendix IX, and §§264.190, 264.314, 265.190, 265.314, 265.1081, 267.190(a), 268.32.

(d) The following materials are available for purchase from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269–9101.

(1) "Flammable and Combustible Liquids Code" (NFPA 30), 1977 or 1981, IBR approved for §§ 262.16(b), 264.198(b), 265.198(b), 267.202(b).

(2) [Reserved]

(e) The following materials are available for purchase from the American Petroleum Institute, 1220 L Street, Northwest, Washington, DC 20005.

(1) API Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks," IBR approved for §265.1084.

(2) [Reserved]

(f) The following materials are available for purchase from the Environmental Protection Agency, Research Triangle Park, NC.

(1) "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised", October 1992, EPA Publication No. EPA–450/R–92–019, IBR approved for part 266, appendix IX.

(2) [Reserved]

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

(1) Guidance Manual for the Control of Transboundary Movements of Recoverable Wastes, copyright 2009, Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure and Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure, IBR approved for §§ 262.82(a), 262.83(b),(d), and (g), and 262.84(b) and (d) of this chapter.

(2) [Reserved])

(Note: 40 CFR 270.6 is reprinted here as published in the Federal Register (70 FR 59576) on October 12, 2005:

(a) When used in part 270 of this chapter, the following publications are incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (3403T), Washington, DC 20460, libraryhq@epa.gov; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The following materials are available for purchase from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605–6000 or (800) 553–6847; or for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800:

(1) “APTI Course 415: Control of Gaseous Emissions,” EPA Publication EPA–450/2–81–005, December 1981, IBR approved for §§270.24 and 270.25.

(2) [Reserved])

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (a) of paragraph (7) of Rule 0400-12-01-.01 Hazardous Waste Management System: General is amended by deleting it in its entirety and substituting instead the following:

1. Purpose, Scope, and Applicability

Except as provided under subparts (i) and (ii) of this part, any information which is supplied to the Department by persons who are subject to these rules and which is designated as proprietary information (as defined in subpart 2(viii) of this subparagraph) shall be handled by the Department as specified in this paragraph to assure that its confidentiality is maintained. Unless it is claimed or designated as proprietary, any information supplied to the Department under or relating to these rules shall be available for public review at any time during the State’s normal business hours.

(i) (I) After the effective date of these rules, no claim of proprietary information or business confidentiality may be asserted by any person with respect to information entered on a Hazardous Waste Manifest (EPA Form 8700-22), a Hazardous Waste Manifest Continuation Sheet (EPA Form 8700-22A), or an electronic manifest format that may be prepared and used in accordance with subpart (3)(a)1(iii) of Rule 0400-12-01-.03.

(II) The Department will make any electronic manifest that is prepared and used in accordance with subpart (3)(a)1(iii) of Rule 0400-12-01-.03, or any paper manifest that is submitted to the system under item (5)(b)1(ii)(V) of Rule 0400-12-01-.05 or item (5)(b)1(ii)(V) of Rule 0400-12-01-.06 available to the public under this paragraph when the electronic or paper manifest is a complete and final document. Electronic manifests and paper manifests submitted to the system are considered by the Department to be complete and final documents and publicly available information after 90 days have passed since the delivery to the designated facility of the hazardous waste shipment identified in the manifest.

(ii) (I) After June 26, 2018, no claim of proprietary information or business confidentiality may be asserted by any person with respect to information contained in cathode ray tube export documents prepared, used and submitted under subpart (5)(b)1(v) of Rule 0400-12-01-.02 and part (5)(d)1 of Rule 0400-12-01-.02, and with respect to information contained in hazardous waste export, import, and transit documents prepared, used and submitted under subparagraphs (9)(c), (d), and (e) of Rule 0400-12-01-.03, subparagraph (3)(a) of Rule 0400-12-01-.04, subparagraphs (2)(c) and (5)(b) of Rule 0400-12-01-.05, and subparagraphs (2)(c) and (5)(b) of Rule 0400-12-01-.06, whether submitted electronically into EPA's Waste Import Export Tracking System or in paper format.

(II) EPA will make any cathode ray tube export documents prepared, used and submitted under subpart (5)(b)1(v) of Rule 0400-12-01-.02 and part (5)(d)1 of Rule 0400-12-01-.02, and any hazardous waste export, import, and transit documents prepared, used and submitted under subparagraphs (9)(c), (d), and (e) of Rule 0400-12-01-.03, subparagraph (3)(a) of Rule 0400-12-01-.04, subparagraphs (2)(c) and

(5)(b) of Rule 0400-12-01-.05, and subparagraphs (2)(c) and (5)(b) of Rule 0400-12-01-.06 available to the public under this paragraph when these electronic or paper documents are considered by EPA to be final documents. These submitted electronic and paper documents related to hazardous waste exports, imports and transits and cathode ray tube exports are considered by EPA to be final documents on March 1 of the calendar year after the related cathode ray tube exports or hazardous waste exports, imports, or transits occur.

(Note: See 40 CFR 260.2(b) for additional requirements.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (a) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

1. This rule identifies those solid wastes which are subject to regulation as hazardous wastes under Rules 0400-12-01-.03 through 0400-12-01-.07 and 0400-12-01-.10 and which are subject to the notification requirements of this chapter. In this rule:

   (i) Paragraph (1) defines the terms "solid waste" and "hazardous waste", identifies those wastes which are excluded from regulation under Rules 0400-12-01-.03 through 0400-12-01-.07, 0400-12-01-.09 and 0400-12-01-.10 and establishes special management requirements for hazardous waste produced by very small quantity generators and hazardous waste which is recycled.

   (ii) Paragraph (2) sets forth the criteria used by the Board to identify characteristics of hazardous waste and to list particular hazardous wastes.

   (iii) Paragraph (3) identifies characteristics of hazardous waste.

   (iv) Paragraph (4) lists particular hazardous wastes.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (II) of subpart (i) of part 5 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(II) Used or reused as effective substitutes for commercial products; or

(Note: This item only addresses hazardous secondary materials that are used or reused as effective substitutes for commercial products without first being reclaimed.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (vii) of part 1 of subparagraph (d) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(vii) Spent sulfuric acid used to produce virgin sulfuric acid, provided it is not accumulated speculatively as defined in subpart (a)3(viii) of this paragraph.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subitem V of item (III) of subpart (ix) of part 1 of subparagraph (d) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

V. Prior to operating pursuant to this exclusion, the plant owner or operator prepares and submits to the Commissioner a one-time

notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Commissioner for reinstatement. The Commissioner may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (vi) of part 2 of subparagraph (d) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(vi) (I) Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in paragraph (4) of this rule due to the presence of chromium, which do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators by petitioning the Commissioner for a general variance in accordance with subparagraph (4)(a) of Rule 0400-12-01-.01 that:

I. The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

II. The waste is generated from an industrial process ~~is~~ which uses trivalent chromium exclusively (or nearly exclusively), and the process does not generate hexavalent chromium; and

III. The waste is typically and frequently managed in non-oxidizing environments.

(II) Specific wastes which meet the standard in subitems (I)I through III of this subpart (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:

I. Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

II. Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; shearling.

III. Buffing dust generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

IV. Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

V. Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

VI. Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

VII. Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

VIII. Wastewater treatment sludges from the production of $Ti0_2$ pigment using chromium-bearing ores by the chloride process.

IX. Spent leather personal protective equipment (for example, used foot wear, gloves and aprons manufactured by the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries), provided these spent materials do not contain or are not mixed with a waste that meets a listing description in paragraph (4) of this rule.

X. Off-Gas residues, ventilation system pre-filters, enclosure pre-filters, ceramic filters, and HEPA filter enclosures generated at Nuclear Fuel Services, Inc., located in Erwin, Tennessee, from Highly Enriched Uranium (HEU) processing operations regulated by the Nuclear Regulatory Commission (NRC) that are contaminated with chromium that is exclusively (or nearly exclusively) trivalent chromium, which is not hazardous waste for any other characteristic, and provided the generator:

I. Disposes of the waste at a properly authorized radiological disposal facility;

II. Annually recertifies the accuracy of the information in a letter to the Commissioner that there has been no change in the waste streams or the process generating the wastes since the effective date of this exemption;

III. Submits all re-certifications as required by subitem II of this item by March 1 of each succeeding year following the effective date of this exemption; and

IV. Submits a new petition and fee to the Commissioner for review within 30 days of a change in the waste stream(s) or the process generating the waste(s) which may impact the waste(s) continuing to meet the criteria of item (i) of this subpart.

(III) A waste generator or waste generators submitting a petition in accordance with item (I) of this subpart must pay the fee required by

paragraph (11) of Rule 0400-12-01-.08.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Parts 4 and 5 of subparagraph (d) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

4. Samples

(i) Except as provided in subparts (ii) and (iv) of this part, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of these rules when:

(I) The sample is being transported to a laboratory for the purpose of testing; or

(II) The sample is being transported back to the sample collector after testing; or

(III) The sample is being stored by the sample collector before transport to a laboratory for testing; or

(IV) The sample is being stored in a laboratory before testing; or

(V) The sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

(VI) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until the conclusion of a court case or enforcement action where further testing of the sample may be necessary).

(ii) In order to qualify for the exemption in items (i)(I) and (II) of this part a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(I) Comply with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

(II) Comply with the following requirements if the sample collector determines that DOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

I. Assure that the following information accompanies the sample:

A. The sample collector's name, mailing address, and telephone number;

B. The laboratory's name, mailing address, and telephone number;

C. The quantity of the sample;

D. The date of shipment; and

E. A description of the sample.

II. Package the sample so that it does not leak, spill, or vaporize from its packaging.

(iii) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subpart (i) of this part.

(iv) In order to qualify for the exemption in items (i)(I) and (II) of the part, the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed 25 kg (55.12 lbs.).

5. Treatability Study Samples

(i) Except as provided in subparts (ii) and (iv) of this part, persons who generate or collect samples for the purpose of conducting treatability studies as defined in subparagraph (2)(a) of Rule 0400-12-01-.01 are not subject to any requirement of Rules 0400-12-01-.02, 0400-12-01-.03, and 0400-12-01-.04, or to the notification requirement of paragraph (2) of Rule 0400-12-01-.03, nor are such samples included in the quantity determinations of subparagraph (1)(d) of Rule 0400-12-01-.03 when:

(I) The sample is being collected and prepared for transportation by the generator or sample collector; or

(II) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(III) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

(ii) The exemption in subpart (i) of this part is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(I) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream; and

(II) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of hazardous waste, and 1 kg of acute hazardous waste; and

(III) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of subitem I or II of this part are met.

I. The transportation of each sample shipment complies with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

II. If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

A. The name, mailing address, and telephone number of the originator of the sample;

B. The name, address, and telephone number of the facility that will perform the treatability study;

C. The quantity of the sample;

D. The date of shipment; and

E. A description of the sample, including its Hazardous Waste Code.

(IV) The sample is shipped to a laboratory or testing facility which is exempt under part 6 of this subparagraph or has an appropriate permit or interim status.

(V) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

I. Copies of the shipping documents;

II. A copy of the contract with the facility conducting the treatability study;

III. Documentation showing:

A. The amount of waste shipped under this exemption;

B. The name, address, and Installation Identification Number of the laboratory or testing facility that received the waste;

C. The date the shipment was made; and

D. Whether or not unused samples and residues were returned to the generator.

(VI) The generator reports the information required under subitem (V)III of this subpart in its annual report.

(iii) The Commissioner may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Commissioner may grant requests on a case-by-case basis for quantity limits in excess of those specified in items (ii)(I) and (II) of this part and subpart 6(iv) of this subparagraph, for up to an additional 5000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste and 1 kg of acute hazardous waste:

(I) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(II) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when: There has been an equipment or

mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(III) The additional quantities and timeframes allowed in items (I) and (II) of this subpart are subject to all the provisions in subpart (i) and items (III) through (VI) of subpart (ii) of this part. The generator or sample collector must apply to the Commissioner and provide in writing the following information:

I. The reason why the generator or sample collector requires additional time or quantity of sample for treatability study evaluation and the additional time or quantity needed;

II. Documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results on each treatability study;

III. A description of the technical modifications or change in specifications which will be evaluated and the expected results;

IV. If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

V. Such other information that the Commissioner considers necessary.

(iv) In order to qualify for the exemption in item (i)(I) of this part, the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source, must additionally not exceed 25 kg (55.12 lbs.).

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (d) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by adding two new parts immediately following part 8 to read as follows:

9. Reserved.

10. Airbag waste.

(i) Airbag waste at the airbag waste handler or during transport to an airbag waste collection facility or designated facility is not subject to regulation under Rules 0400-12-01-.03, 0400-12-01-.04, 0400-12-01-.05, 0400-12-01-.06, 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10, including the notification requirements, provided that:

(I) The airbag waste is accumulated in a quantity of no more than 250 airbag modules or airbag inflators, for no longer than 180 days;

(II) The airbag waste is packaged in a container designed to address the risk posed by the airbag waste and labeled “Airbag Waste-Do Not Reuse”;

(III) The airbag waste is sent directly to either:

I. An airbag waste collection facility in the United States under the control of a vehicle manufacturer or their authorized representative, or under the control of an authorized party administering a remedy program in response to a recall under the National Highway Traffic Safety Administration, or

II. A designated facility as defined in subparagraph (2)(a) of Rule 0400-12-01-.01;

(IV) The transport of the airbag waste complies with all applicable U.S. Department of Transportation regulations in 49 CFR part 171 through 180 during transit;

(V) The airbag waste handler maintains at the handler facility for no less than three years records of all off-site shipments of airbag waste and all confirmations of receipt from the receiving facility. For each shipment, these records must, at a minimum, contain the name of the transporter and date of the shipment; name and address of receiving facility; and the type and quantity of airbag waste (i.e., airbag modules or airbag inflators) in the shipment. Confirmations of receipt must include the name and address of the receiving facility; the type and quantity of the airbag waste (i.e., airbag modules and airbag inflators) received; and the date which it was received. Shipping records and confirmations of receipt must be made available for inspection and may be satisfied by routine business records (e.g., electronic or paper financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt).

(ii) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it becomes subject to all applicable hazardous waste regulations, and the facility receiving airbag waste is considered the hazardous waste generator for the purposes of the hazardous waste regulations and must comply with the requirements of Rule 0400-12-01-.03.

(iii) Reuse in vehicles of defective airbag modules or defective airbag inflators subject to a recall under the National Highway Traffic Safety Administration is considered sham recycling and prohibited under part (1)(b)7 of Rule 0400-12-01-.02.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (e) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(e) [Reserved]

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 1 of subparagraph (f) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(ii) The following recyclable materials are not subject to the requirements of this subparagraph but are regulated under paragraphs (3), (6), (7), (8), (13) and (14) of Rule 0400-12-01-.09 and all applicable provisions in Rules 0400-12-01-.07 and 0400-12-01-.10:

(I) Recyclable materials used in a manner constituting disposal (See paragraph (3) of Rule 0400-12-01-.09;

(II) Hazardous wastes burned (as defined in part (8)(a)1 of Rule 0400-12-01-.09) in boilers and industrial furnaces that are not regulated under paragraph (15) of Rule 0400-12-01-.05 or paragraph (15) of Rule 0400-12-01-.06 (See paragraph (8) of Rule 0400-12-01-.09);

(III) Recyclable materials from which precious metals are reclaimed (See paragraph (6) of Rule 0400-12-01-.09); and

(IV) Spent lead-acid batteries that are being reclaimed (See paragraph (7) of Rule 0400-12-01-.09).

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (iii) of part 1 of subparagraph (f) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(I) Industrial ethyl alcohol that is reclaimed, except that exports and imports of such recyclable materials must comply with the requirements of paragraph (9) of Rule 0400-12-01-.03:

I. A person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, must comply with the requirements applicable to a primary exporter in subparagraph (6)(d), subparts (6)(g)1(i) through (iv) and (vi), part (6)(g)2 and subparagraph (6)(h) of Rule 0400-12-01-.03, export such materials only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in paragraph (6) of Rule 0400-12-01-.03, and provide a copy of the EPA Acknowledgment of Consent to the shipment to the transporter transporting the shipment for export;

II. Transporters transporting a shipment for export may not accept a shipment if he knows the shipment does not conform to the EPA Acknowledgment of Consent, must ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment and must ensure that it is delivered to the facility designated by the person initiating the shipment.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iv) of part 1 of subparagraph (f) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(iv) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to the requirements of Rule 0400-12-01-.01 through 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10, but is regulated under Rule 0400-12-01-.11. Used oil that is recycled includes any used oil which is reused, following its original use, for any purpose (including the purpose for which the oil was originally used). Such term includes, but is not limited to, oil which is re-refined, reclaimed, burned for energy recovery, or reprocessed.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (v) of part 1 of subparagraph (f) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(v) Hazardous waste that is exported or imported for purpose of recovery is subject to the requirements of paragraph (9) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (f) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

3. (i) Owners and operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of paragraphs (1) through (12), (27), (28), and (29) of Rule 0400-12-01-.05 and paragraphs (1) through (12), (30), (31), and (32) of Rule 0400-12-01-.06, and under Rules 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10, and the notification requirements under subparagraphs (2)(b) and (d) of Rule 0400-12-01-.07, except as provided in part 1 of this subparagraph. (The recycling process itself is exempt from regulation except as provided in part 4 of this subparagraph.)

(ii) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in part 1 of this subparagraph:

(I) Such owners or operators must notify the Commissioner of their activities using forms provided by the Commissioner and completed per accompanying instructions;

(II) Such owners or operators must comply with subparagraph (5)(b) and (c) of Rule 0400-12-01-.05 (dealing with the use of the manifest and manifest discrepancies);

(III) Part 4 of this subparagraph; and

(IV) Subparagraph (5)(f) of Rule 0400-12-01-.05 (annual reporting requirements).

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 1 of subparagraph (b) of paragraph (2) of Rule 0400-12-01-.02 Identification and Listing of Hazardous is amended by deleting it in its entirety and substituting instead the following:

(iii) It contains any of the toxic constituents listed in paragraph (30) Appendix VIII of this rule and, after considering the following factors, the Commissioner concludes that the waste is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed:

(I) The nature of the toxicity presented by the constituent;

(II) The concentration of the constituent in the waste;

(III) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in item (VII) of this subpart;

(IV) The persistence of the constituent or any toxic degradation product of the constituent;

(V) The potential for the constituent or any toxic degradation product of the constituent to degrade into non-harmful constituents and the rate of degradation;

(VI) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems;

(VII) The plausible types of improper management to which the waste could be subjected;

(VIII) The quantities of the waste generated at individual generation sites or on a regional or national basis;

(IX) The nature and severity of the human health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent;

(X) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent; and

(XI) Such other factors as may be appropriate.

(Note: Substances will be listed in paragraph (30) Appendix VIII of this rule only if they have been shown in scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms.)

(Note: Wastes listed in accordance with these criteria will be designated Toxic wastes.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.02 Identification and Listing of Hazardous is amended by deleting it in its entirety and substituting instead the following:

3. For purposes of this paragraph, the Commissioner will consider a sample obtained using any of the applicable sampling methods specified in paragraph (30) Appendix I of this rule to be a representative sample within the meaning of Rule 0400-12-01-.01.

(Comment: Since the paragraph (30) Appendix I of this rule sampling methods are not being formally adopted by the Board, a person who desires to employ an alternative sampling method is not required to demonstrate the equivalency of his method under the procedures set forth in paragraph (3) of Rule 0400-12-01-.01.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (a) of paragraph (4) of Rule 0400-12-01-.02 Identification and Listing of Hazardous is amended by deleting it in its entirety and substituting instead the following:

2. The Board will indicate its basis for listing the classes or types of wastes listed in this paragraph by employing one or more of the following Hazard Codes:

Ignitable Waste (I)

Corrosive Waste (C)

Reactive Waste (R)

Toxicity Characteristic Waste (E)

Acute Hazardous Waste (H)

Toxic Waste (T)

Paragraph (30) Appendix VII of this rule identifies the constituent which caused the Board to list the waste as a Toxicity Characteristic Waste (E) or Toxic Waste (T) in subparagraphs (b) and (c) of this paragraph.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (b) of paragraph (4) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

1. The following solid wastes are listed hazardous wastes from non-specific sources unless they are excluded under subparagraphs (3)(a) and (c) of Rule 0400-12-01-.01 and listed in Appendix IX to 40 CFR part 261.

Industry and Hazardous Waste Code	Hazardous Waste	Hazard Code
Generic:		
F001	The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(T)
F002	The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane, and 1,1,2-trichloroethane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(T)
F003	The following spent non-halogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(I)*
F004	The following spent non-halogenated solvents: Cresols and cresylic acid, and nitrobenzene; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(T)
F005	The following spent non-halogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(I, T)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.	(T)
F007	Spent cyanide plating bath solutions from electroplating operations.	(R, T)
F008	Plating bath residues from the bottom of plating baths from electroplating operations where	(R, T)

	cyanides are used in the process.	
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.	(R, T)
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process.	(R, T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.	(R, T)
F012	Quenching waste water treatment sludges from metal heat treating operations where cyanides are used in the process.	(T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in 40 CFR 258.40 or the state equivalent, Rule 1200-01-11-.06(14)(b) or Rule 1200-01-11-.05(14)(b). For the purposes of this listing, motor vehicle manufacturing is defined in item 2(iv)(I) of this subparagraph and item 2(iv)(II) of this subparagraph describes the recordkeeping requirements for motor vehicle manufacturing facilities.	(T)
F020	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol.).	(H)
F021	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives.	(H)
F022	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions.	(H)
F023	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (This listing does not include wastes from equipment used only for the production or use of Hexachlorophene from highly purified 2,4,5-trichlorophenol.).	(H)
F024	Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in subparagraph (b) or (c) of this paragraph.).	(T)
F025	Condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution.	(T)
F026	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions.	(H)

F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing Hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.).	(H)
F028	Residues resulting from the incineration or thermal treatment of soil contaminated with Hazardous Waste Codes F020, F021, F022, F023, F026, and F027.	(T)
F032	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with subparagraph (f) of this paragraph or potentially cross-contaminated wastes that are otherwise currently regulated as hazardous wastes (i.e., F034 or F035), and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol	(T)
F034	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol	(T)
F035	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol	(T)
F037	Petroleum refinery primary oil/water/solids separation sludge-Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in subpart 2(ii) of this subparagraph (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and K051 wastes are not included in this listing. This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under item (1)(d)1(xii)(I) of this rule, if those residuals are to be disposed of.	(T)
F038	Petroleum refinery secondary (emulsified) oil/water/solids separation sludge-Any sludge and/or float generated from the physical and/or chemical separation of oil/water/solids in process wastewaters and oily cooling wastewaters from petroleum refineries. Such wastes include, but are not limited to, all sludges and floats generated in: induced air flotation (IAF) units, tanks and impoundments, and all sludges generated in DAF units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges and floats generated in aggressive biological treatment units as defined in subpart 2(ii) of this paragraph (including sludges and floats generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and F037, K048, and K051 wastes are not included in this listing. This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under item (1)(d)1(xii)(I) of this rule, if those residuals are to be disposed of.	(T)
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under this paragraph. (Leachate resulting from the disposal of one or more of the following Hazardous Wastes and no other Hazardous Wastes retains its Hazardous Waste Code(s): F020, F021, F022, F026,	

	F027, and/or F028.).	

* (I, T,) should be used to specify mixtures that are ignitable and contain toxic constituents.
(R, T) should be used to specify mixtures that are reactive and contain toxic constituents.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

The first sentence (introductory text) of part 1 of subparagraph (c) of paragraph (4) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following, without changing the remainder of the part:

1. The following solid wastes are listed hazardous wastes from specific sources unless they are excluded under subparagraphs (3)(a) and (c) of Rule 0400-12-01-.01 and listed in Appendix IX of 40 CFR part 261.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

The introductory text of part 5 of subparagraph (d) of paragraph (4) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting the phrase “and are subject to the small quantity exclusion defined in part (1)(e)5 and 6 of this rule” at the end of the sentence, without changing the remainder of the part, so that, as amended, the introductory text shall read:

5. The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates referred to in parts 1 through 4 of this subparagraph, are identified as acute hazardous wastes (H).

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

The introductory text of part 6 of subparagraph (d) of paragraph (4) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting the phrase “and are subject to the small quantity exclusion defined in parts (1)(e) 1 and 7 of this rule” at the end of the sentence, without changing the remainder of the part, so that, as amended, the introductory text shall read:

6. The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in parts 1 through 4 of this subparagraph, are identified as toxic wastes (T), unless otherwise designated.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (II) of subpart (v) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(II) Notifications must be submitted electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Items (IV), (V) and (VI) of subpart (v) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste are amended by deleting them in their entirety and substituting instead the following:

(IV) EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of item (I) of this subpart.

(V) The export of CRTs is prohibited unless all of the following occur:

I. The receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, EPA will forward an Acknowledgment of Consent to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, EPA will notify the exporter in writing. EPA will also notify the exporter of any responses from transit countries.

II. On or after the AES filing compliance date, the exporter or a U.S. authorized agent must:

A. Submit Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b).

B. Include the following items in the EEI, along with the other information required under 15 CFR 30.6:

(A) EPA license code;

(B) Commodity classification code per 15 CFR 30.6(a)(12);

(C) EPA consent number;

(D) Country of ultimate destination per 15 CFR 30.6(a)(5);

(E) Date of export per 15 CFR 30.6(a)(2);

(F) Quantity of waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

(G) EPA net quantity reported in units of kilograms, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

(VI) When the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change using the allowable methods listed in item (II) of this subpart, except for changes to the telephone number in subitem (I)I of this subpart and decreases in the quantity indicated pursuant to subitem (I)III of this subpart. The shipment cannot take place until consent of the receiving country to the changes has been obtained (except for changes to information about points of entry and departure and transit countries pursuant to subitems (I)IV and VIII of this subpart) and the exporter of CRTs receives from EPA a copy of the Acknowledgment of Consent to Export CRTs reflecting the receiving country's consent to the changes.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (IX) of subpart (v) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(IX) Exporters must keep copies of notifications and Acknowledgments of Consent to Export CRTs for a period of three years following receipt of the Acknowledgment. Exporters may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in the CRT exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce a notification or Acknowledgement for inspection under this section if the CRT exporter can demonstrate that the inability to produce such copies is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the CRT exporter bears no responsibility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (XI) of subpart (v) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(XI) Prior to one year after the AES filing compliance date, annual reports must be sent to the following mailing address: Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Hand-delivered annual reports on used CRTs exported during 2016 should be sent to: Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, William Jefferson Clinton South Building, Room 6144, 1200 Pennsylvania Ave. NW., Washington, DC 20004. Subsequently, annual reports must be submitted to the office listed using the allowable methods specified in item (II) of this subpart. Exporters must keep copies of each annual report for a period of at least three years from the due date of the report. Exporters may satisfy this recordkeeping requirement by retaining electronically submitted annual reports in the CRT exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that a copy is readily available for viewing and production if requested by any EPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce an annual report for inspection under this subpart if the CRT exporter can demonstrate that the inability to produce the annual report is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the CRT exporter bears no responsibility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (d) of paragraph (13) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by adding part 7 so that the new part shall read as follows:

7. Personnel training. All employees must be thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Rule 0400-12-01-.03 Notification Requirements and Standards Applicable to Generators of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(1) General [40 CFR 262 Subpart A]

(a) 1. Terms used in this rule. [40 CFR 262.1]

As used in this rule:

(i) "Condition for exemption" means any requirement in subparagraphs (e), (f), (g), and (h) of this paragraph, subpart 2(vi) of this subparagraph, paragraph (10) of this rule, or paragraph (11) of this rule that states an event, action, or standard that must occur or be met in order to obtain an exemption from any applicable requirement in Rules 0400-12-01-.05 through 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10, or from any requirement for notification under this chapter.

(ii) "Independent requirement" means a requirement of this rule that states an event, action, or standard that must occur or be met; and that applies without relation to, or irrespective of, the purpose of obtaining a conditional exemption from a storage facility permit, interim status, and operating requirements under subparagraphs (e), (f), (g), and (h) of this paragraph, paragraph (10) of this rule, or paragraph (11) of this rule.

2. Purpose, Scope, and Applicability [40 CFR 262.10 and 262.70]

(i) The regulations in this rule establish standards for generators of hazardous waste as defined by subparagraph (2)(a) of Rule 0400-12-01-.01.

(I) A person who generates a hazardous waste as defined by Rule 0400-12-01-.02 is subject to all the applicable independent requirements listed below:

I. Independent requirements of a very small quantity generator.

A. Parts (b)1 through 4 of this paragraph (hazardous waste determination and recordkeeping);

B. Subparagraph (d) of this paragraph (generator category determination);

C. If the quantity limits of subpart (e)1(iii) of this paragraph are exceeded, the very small quantity generator must obtain an EPA identification number and comply with the manifesting, pre-transportation, recordkeeping, and transboundary shipment requirements outlined in sections III.D, III.E, III.F, and III.H of this item; and

D. If the quantity limits of subpart (e)1(iv) of this paragraph are exceeded, the very small quantity generator must obtain an EPA identification number and comply with the manifesting, pre-transportation, recordkeeping, and transboundary shipment requirements outlined in sections II.D, II.E, II.F, II.G, and II.I of this item.

II. Independent requirements of a small quantity generator.

A. Subparagraph (b) of this paragraph (hazardous waste determination and recordkeeping);

B. Subparagraph (d) of this paragraph (generator category determination);

C. Subparagraph (i) of this paragraph (EPA identification numbers) and paragraph (2) of this rule (notification requirements);

D. Paragraph (3) of this rule (manifest requirements applicable to small and large quantity generators);

E. Paragraph (4) of this rule (pre-transport requirements applicable to small and large quantity generators);

F. Subparagraph (5)(a) of this rule (recordkeeping);

G. Subparagraph (5)(e) of this rule (recordkeeping for small quantity generators);

H. Paragraph (6) of this rule (hazardous waste reduction plan); and

I. Paragraph (9) of this rule (transboundary movements of hazardous waste for recovery or disposal).

III. Independent requirements of a large quantity generator.

A. Subparagraph (b) of this paragraph (hazardous waste determination and recordkeeping);

B. Subparagraph (d) of this paragraph (generator category determination);

C. Subparagraph (i) of this paragraph (EPA identification numbers) and paragraph (2) of this rule (notification requirements);

D. Paragraph (3) of this rule (manifest requirements applicable to small and large quantity generators);

E. Paragraph (4) of this rule (pre-transport requirements applicable to small and large quantity generators);

F. Paragraph (5) of this rule (recordkeeping and reporting applicable to small and large quantity generators), except subparagraph (5)(e) of this rule;

G. Paragraph (6) of this rule (hazardous waste reduction plan); and

H. Paragraph (9) of this rule (transboundary movements of hazardous waste for recovery or disposal).

(II) A generator that accumulates hazardous waste on site is a person that stores hazardous waste; such generator is subject to the applicable requirements of Rules 0400-12-01-.05 through 0400-12-01-.09 and paragraph (2) of this rule, unless it is one of the following:

I. A very small quantity generator that meets the conditions for exemption in subparagraph (e) of this paragraph;

II. A small quantity generator that meets the conditions for exemption in subparagraphs (f) and (g) of this paragraph; or

III. A large quantity generator that meets the conditions for exemption in subparagraphs (f) and (h) of this paragraph.

(III) A generator, including a very small quantity generator, shall not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility, as defined in subparagraph (2)(a) of Rule 0400-12-01-.01, or not otherwise authorized to receive the generator's hazardous waste.

(ii) Determining generator category. A generator must use subparagraph (d) of this paragraph to determine which provisions of this rule are applicable to the generator based on the quantity of hazardous waste generated per calendar month.

(iii) [Reserved]

(iv) Any person who exports or imports hazardous wastes must comply with subparagraph (i) of this paragraph and paragraph (9) of this rule.

(v) Any person who imports hazardous waste into the state from a foreign country must comply with the standards applicable to generators established in this rule.

(vi) A farmer who generates waste pesticides which are hazardous wastes and who complies with all of the requirements of item (1)(d)2(ii)(II) of Rule 0400-12-01-.02 is not required to comply with other standards in this rule or Rules 0400-12-01-.05 through 0400-12-01-.07 or 0400-12-01-.10 with respect to such pesticides.

(vii) (I) A generator’s violation of an independent requirement is subject to penalty and injunctive relief under section 3008 of RCRA, and T.C.A. §§ 68-212-114 and 68-212-115 of the Act.

(II) A generator's noncompliance with a condition for exemption in this rule is not subject to penalty or injunctive relief under section 3008 of RCRA T.C.A. §§ 68-212-114 and 68-212-115 as a violation of a Rule 0400-12-01-.03 condition for exemption. Noncompliance by any generator with an applicable condition for exemption from storage permit and operations requirements means that the facility is a storage facility operating without an exemption from the permit, interim status, and operations requirements in Rules 0400-12-01-.05 through 0400-12-01-.09, including the notification requirements. Without an exemption, any violations of such storage requirements are subject to penalty and injunctive relief under section 3008 of RCRA and T.C.A. § 68-212-114 and T.C.A. § 68-212-115.

(viii) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in this rule.

(ix) Persons responding to an explosives or munitions emergency in accordance with subitem (1)(b)2(vii)(I)IV or item (1)(b)2(vii)(IV) of Rule 0400-12-01-.05 or subitem (1)(b)2(vii)(I)IV or item (1)(b)2(vii)(IV) of Rule 0400-12-01-.06 and item (1)(b)5(i)(IV) or subpart (1)(b)5(iii) of Rule 0400-12-01-.07 are not required to comply with the standards of this rule.

(x) Reserved.

(xi) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of paragraph (10) of this rule are not subject to (for purposes of this subpart, the terms “laboratory” and “eligible academic entity” shall have the meaning as defined in paragraph (10) of this rule):

(I) The independent requirements of subparagraph (b) of this paragraph or the regulations in subparagraph (f) of this paragraph for large quantity generators and small quantity generators, except as provided in paragraph (10) of this rule; and

(II) The conditions of subparagraph (e) of this paragraph, for very small quantity generators, except as provided in paragraph (10) of this rule.

(b) Hazardous Waste Determination and recordkeeping [40 CFR 262.11]

A person who generates a solid waste, as defined in subparagraph (1)(b) of Rule 0400-12-01-.02, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable hazardous waste management regulations. A hazardous waste determination is made using the following ~~method~~ steps:

1. The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the hazardous waste management regulatory classification of the waste may change.

2. A person must determine whether the solid waste is excluded from regulation under subparagraph (1)(d) of Rule 0400-12-01-.02.

3. If the waste is not excluded under subparagraph (1)(d) of Rule 0400-12-01-.02, the person must then use knowledge of the waste to determine whether the waste meets any of the listing descriptions under paragraph (4) of Rule 0400-12-01-.02. Acceptable knowledge that may be used in making an accurate determination as to whether the waste is listed may include waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information. If the waste is listed, the person may file a delisting petition under 40 CFR 260.20 and 260.22 to demonstrate to the EPA Administrator that the waste from this particular site or operation is not a hazardous waste.

4. The person then must determine whether the waste exhibits one or more hazardous characteristics as identified in paragraph (3) of Rule 0400-12-01-.02 by following the procedures in subpart (i) or (ii) of this part, or a combination of both.

(i) The person must apply knowledge of the hazard characteristic of the waste in light of the materials or the processes used to generate the waste. Acceptable knowledge may include process knowledge (e.g., information about chemical feedstocks and other inputs to the production process); knowledge of products, by-products, and intermediates produced by the manufacturing process; chemical or physical characterization of wastes; information on the chemical and physical properties of the chemicals used or produced by the process or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents. A test other than a test method set forth in paragraph (3) of Rule 0400-12-01-.02, or an equivalent test method approved by the EPA Administrator under 40 CFR 260.21, may be used as part of a person's knowledge to determine whether a solid waste exhibits a characteristic of hazardous waste. However, such tests do not, by themselves, provide definitive results. Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at subparagraph (2)(a) of Rule 0400-12-01-.01.

(ii) When available knowledge is inadequate to make an accurate determination, the person must test the waste according to the applicable methods set forth in paragraph (3) of Rule 0400-12-01-.02 or according to an equivalent method approved by the EPA Administrator under 40 CFR 260.21 and in accordance with the following:

(I) Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at subparagraph (2)(a) of Rule 0400-12-01-.01.

(II) Where a test method is specified in paragraph (3) of Rule 0400-12-01-.02, the results of the regulatory test, when properly performed, are definitive for determining the regulatory status of the waste.

5. If the waste is determined to be hazardous, the generator must refer to Rules 0400-12-01-.02, 0400-12-01-.05, 0400-12-01-.06, 0400-12-01-.09, 0400-12-01-.10, and 0400-12-01-.12 for possible exclusions or restrictions pertaining to management of the specific waste.

6. Recordkeeping for small and large quantity generators. A small or large quantity generator must maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, as defined by subparagraph (1)(c) of Rule 0400-12-01-.02. Records must be maintained for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal. These records must comprise the generator's knowledge of the waste and support the generator's determination, as described in parts 3 and 4 of this subparagraph. The records must include, but are not limited to, the following types of information: the results of any tests, sampling, waste analyses, or other determinations made in accordance with this subparagraph; records documenting the tests, sampling, and analytical methods used to demonstrate the validity and relevance of such tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and records which explain the knowledge basis for the generator's determination, as described at subpart (4)(i) of this subparagraph. The periods of record retention referred to in this part are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Commissioner.

7. Identifying hazardous waste numbers for small and large quantity generators. If the waste is determined to be hazardous, small quantity generators and large quantity generators must identify all applicable hazardous waste numbers (EPA hazardous waste codes) in paragraphs (3) and (4) of Rule 0400-12-01-.02. Prior to shipping the waste off site, the generator also must mark its containers with all applicable hazardous waste numbers (EPA hazardous waste codes) according to subparagraph (4)(c) of this rule.

(c) [Reserved] [40 CFR 262.12]

(d) Generator category determination. [40 CFR 262.13]

A generator must determine its generator category. A generator's category is based on the amount of hazardous waste generated each month and may change from month to month. This subparagraph sets forth procedures to determine whether a generator is a very small quantity generator, a small quantity generator, or a large quantity generator for a particular month, as defined in subparagraph (2)(a) of Rule 0400-12-01-.01.

1. Generators of either acute hazardous waste or non-acute hazardous waste. A generator who either generates acute hazardous waste or non-acute hazardous waste in a calendar month shall determine its generator category for that month by doing the following:

(i) Counting the total amount of hazardous waste generated in the calendar month;

(ii) Subtracting from the total any amounts of waste exempt from counting as described in parts 3 and 4 of this subparagraph; and

(iii) Determining the resulting generator category for the hazardous waste generated using Table 1 of part 2 of this subparagraph.

2. Generators of both acute and non-acute hazardous wastes. A generator who generates both acute hazardous waste and non-acute hazardous waste in the same calendar month shall determine its generator category for that month by doing the following:

(i) Counting separately the total amount of acute hazardous waste and the total amount of non-acute hazardous waste generated in the calendar month;

(ii) Subtracting from each total any amounts of waste exempt from counting as described in parts 3 and 4 of this subparagraph;

(iii) Determining separately the resulting generator categories for the quantities of acute and non-acute hazardous waste generated using Table 1 of this part; and

(iv) Comparing the resulting generator categories from subpart (iii) of this part and applying the more stringent generator category to the accumulation and management of both non-acute hazardous waste and acute hazardous waste generated for that month.

Table 1
Generator Categories Based on Quantity of Waste Generated in a Calendar Month

Quantity of acute hazardous waste generated in a calendar month	Quantity of non-acute hazardous waste generated in a calendar month	Quantity of residues from a cleanup of acute hazardous waste generated in a calendar month	Generator category
> 1 kg.....	Any amount.....	Any amount.....	Large quantity generator
Any amount.....	≥ 1,000 kg.....	Any amount.....	Large quantity generator
Any amount.....	Any amount.....	> 100 kg ……..	Large quantity generator
≤ 1 kg….....	> 100 kg and < 1,000 kg ….	≤ 100 kg ……..	Small quantity generator
≤ 1 kg….....	≤ 100 kg ……	≤ 100 kg ……..	Very Small quantity generator

3. When making the monthly quantity-based determinations required by this rule, the generator must include all hazardous waste that it generates, except hazardous waste that:

(i) Is exempt from regulation under parts (1)(d)3 through 6 of Rule 0400-12-01-.02, subpart (1)(f)1(iii) of Rule 0400-12-01-.02, subpart (1)(g)1(i) of Rule 0400-12-01-.02, or subparagraph (1)(h) of Rule 0400-12-01-.02;

(ii) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in subparagraph (2)(a) of Rule 0400-12-01-.01;

(iii) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under subpart (1)(f)3(ii) of Rule 0400-12-01-.02;

(iv) Is used oil managed under the requirements of subpart (1)(f)1(iv) of Rule 0400-12-01-.02 and Rule 0400-12-01-.11;

(v) Is spent lead-acid batteries managed under the requirements of paragraph (7) of Rule 0400-12-01-.09;

(vi) Is universal waste managed under subparagraph (1)(j) of Rule 0400-12-01-.02 and Rule 0400-12-01-.12;

(vii) Is a hazardous waste that is an unused commercial chemical product (listed in paragraph (4) of Rule 0400-12-01-.02 or exhibiting one or more characteristics in paragraph (3) of Rule 0400-12-01-.02) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to subparagraph (10)(n) of this rule. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in subparagraph (10)(a) of this rule;

(viii) Is managed as part of an episodic event in compliance with the conditions of paragraph (11) of this rule; or

(ix) Is managed immediately upon generation in a collection system (sewer system) where the wastewaters will mix with sanitary wastes at any point before reaching a publically owned treatment works (POTW).

4. In determining the quantity of hazardous waste generated in a calendar month, a generator need not include:

(i) Hazardous waste when it is removed from on-site accumulation, so long as the hazardous waste was previously counted once;

(ii) Hazardous waste ~~produced~~ generated by on-site treatment (including reclamation) of the generator's hazardous waste, so long as the hazardous waste that is treated was previously counted once; and

(iii) Hazardous waste spent materials that are generated, reclaimed, and subsequently reused on site, so long as such spent materials have been previously counted once.

5. Based on the generator category as determined under this subparagraph, the generator must meet the applicable independent requirements listed in part (a)1 of this paragraph. A generator's category also determines which of the provisions of subparagraphs (e), (f), (g), or (h) of this paragraph must be met to obtain an exemption from the storage facility permit, interim status, and operating requirements when accumulating hazardous waste.

6. Mixing hazardous wastes with solid wastes

(i) Very small quantity generator wastes.

(I) Hazardous wastes generated by a very small quantity generator may be mixed with solid wastes. Very small quantity generators may mix a portion or all of its hazardous waste with solid waste and remain subject to subparagraph (e) of this paragraph even though the resultant mixture exceeds the quantity limits identified in the definition of very small quantity generator at subparagraph (2)(a) of Rule 0400-12-01-.01, unless the mixture exhibits one or more of the characteristics of hazardous waste identified in paragraph (3) of Rule 0400-12-01-.02.

(II) If the resulting mixture exhibits a characteristic of hazardous waste, this resultant mixture is a newly-generated hazardous waste. The very small quantity generator must count both the resultant mixture amount plus the other hazardous waste generated in the calendar month to determine whether the total quantity exceeds the very small quantity generator calendar month quantity limits identified in the definition of generator categories found in subparagraph (2)(a) of Rule 0400-12-01-.01. If so, to remain exempt from the permitting, interim status, and operating

standards, the very small quantity generator must meet the conditions for exemption applicable to either a small quantity generator or a large quantity generator. The very small quantity generator must also comply with the applicable independent requirements for either a small quantity generator or a large quantity generator.

(III) If a very small quantity generator's wastes are mixed with used oil, the mixture is subject to Rule 0400-12-01-.11. Any material produced from such a mixture by processing, blending, or other treatment is also regulated under Rule 0400-12-01-.11.

(ii) Small quantity generator and large quantity generator wastes.

(I) Hazardous wastes generated by a small quantity generator or large quantity generator may be mixed with solid waste. These mixtures are subject to the following: the mixture rule in item (1)(c)1(ii)(IV) of Rule 0400-12-01-.02, subparts (1)(c)2(ii) and (iii) of Rule 0400-12-01-.02, and item (1)(c)7(ii)(I) of Rule 0400-12-01-.02; the prohibition of dilution rule at part (1)(c)1 of Rule 0400-12-01-.10; the land disposal restriction requirements of subparagraph (3)(a) of Rule 0400-12-01-.10 if a characteristic hazardous waste is mixed with a solid waste so that it no longer exhibits the hazardous characteristic; and the hazardous waste determination requirement at subparagraph (b) of this paragraph.

(II) If the resulting mixture is found to be a hazardous waste, this resultant mixture is a newly-generated hazardous waste. A small quantity generator must count both the resultant mixture amount plus the other hazardous waste generated in the calendar month to determine whether the total quantity exceeds the small quantity generator calendar monthly quantity limits identified in the definition of generator categories found in subparagraph (2)(a) of Rule 0400-12-01-.01. If so, to remain exempt from the permitting, interim status, and operating standards, the small quantity generator must meet the conditions for exemption applicable to a large quantity generator. The small quantity generator must also comply with the applicable independent requirements for a large quantity generator.

(e) Conditions for exemption for a very small quantity generator. [40 CFR 262.14]

1. Provided that the very small quantity generator meets all the conditions for exemption listed in this subparagraph, hazardous waste generated by the very small quantity generator is not subject to the requirements of Rules 0400-12-01-.03 (except for subparagraphs (a) through (e) of this paragraph, part (5)(b)6, subparagraph (5)(d), and paragraph (11), if applicable) through 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10, and the notification requirements of paragraph (2) of this rule, and the very small quantity generator may accumulate hazardous waste on site without complying with such requirements. The conditions for exemption are as follows:

(i) In a calendar month the very small quantity generator generates less than or equal to the amounts specified in the definition of “very small quantity generator” in subparagraph (2)(a) of Rule 0400-12-01-.01;

(ii) The very small quantity generator complies with parts (b)1 through 4 of this paragraph;

(iii) If the very small quantity generator accumulates at any time greater than 1 kilogram (2.2 lbs) of acute hazardous waste or 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in subparagraph (4)(b) or part (4)(d)5 of Rule 0400-12-01-.02, all quantities of that

acute hazardous waste are subject to the following additional conditions for exemption:

(I) Such waste is held on site for no more than 90 days beginning on the date when the accumulated wastes exceed the amounts provided in this subpart; and

(II) The conditions for exemption in parts (h)1 through 7 of this paragraph.

(iv) If the very small quantity generator accumulates at any time 1,000 kilograms (2,200 lbs) or greater of non-acute hazardous waste, all quantities of that hazardous waste are subject to the following additional conditions for exemption:

(I) Such waste is held on site for no more than 180 days, or 270 days if applicable, beginning on the date when the accumulated waste exceed the amounts provided in this subpart;

(II) The quantity of waste accumulated on site never exceeds 6,000 kilograms (13,200 lbs); and

(III) The conditions for exemption in subparts (g)2(ii) of this paragraph.

(v) A very small quantity generator that accumulates hazardous waste in amounts less than or equal to the limits in subparts (iii) and (iv) of this part must either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:

(I) Permitted under Rule 0400-12-01-.07 or under 40 CFR part 270;

(II) In interim status under Rules 0400-12-01-.05 and 0400-12-01-.07 or under 40 CFR parts 265 and 270;

(III) Authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR part 271;

(IV) Permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to 40 CFR Part 258;

(V) Permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, is subject to the requirements in 40 CFR Parts 257.5 through 257.30;

(VI) A facility which:

I. Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

II. Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation;

(VII) For universal waste managed under Rule 0400-12-01-.12, a universal waste handler or destination facility subject to the requirements of Rule 0400-12-01-.12 or 40 CFR part 273;

(VIII) A large quantity generator under the control of the same person as the very small quantity generator provided the following conditions are met:

I. The very small quantity generator and the large quantity generator are under the control of the same person as defined in subparagraph (2)(a) of Rule 0400-12-01-.01. “Control,” for the purposes of this item, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person as defined in subparagraph (2)(a) of Rule 0400-12-01-.01 shall not be deemed to “control” such generators; and

II. The very small quantity generator marks its container(s) of hazardous waste with:

A. The words “Hazardous Waste” and

B. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

(IX) Reserved;

(X) Reserved; or

(XI) For airbag waste, an airbag waste collection facility or a designated facility subject to the requirements of part (1)(d)10 of Rule 0400-12-01-.02.

2. The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

3. A very small quantity generator experiencing an episodic event may generate and accumulate hazardous waste in accordance with paragraph (11) of this rule in lieu of subparagraphs (f), (g), and (h) of this paragraph.

(f) Satellite accumulation area regulations for small and large quantity generators. [40 CFR 262.15]

1. A generator may accumulate as much as 55 gallons of non-acute hazardous waste or either (i) one quart of liquid acute hazardous waste listed in subparagraph (4)(b) or part (4)(d)5 of Rule 0400-12-01-.02 or (ii) 1 kg (2.2 lbs) of solid acute hazardous waste listed in subparagraph (4)(b) or part (4)(d)5 of Rule 0400-12-01-.02 in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with the requirements of Rules 0400-12-01-.05 through 0400-12-01-.07 and 0400-12-01-.09, provided that all of the conditions for exemption in this subparagraph are met. A generator may comply with the conditions for exemption in this subparagraph instead of complying with the conditions for exemption in part (g)2 or (h)1 of this paragraph, except as required in subparts (vii) and (viii) of this part. The conditions for exemption for satellite accumulation are:

(i) If a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must immediately transfer the hazardous waste from this

container to a container that is in good condition and does not leak, or immediately transfer and manage the waste in a central accumulation area operated in compliance with part (g)2 or (h)1 of this paragraph.

(ii) The generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(iii) Special standards for incompatible wastes.

(I) Incompatible wastes, or incompatible wastes and materials, (see appendix V in paragraph (53) of Rule 0400-12-01-.05 for examples) must not be placed in the same container, unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

(II) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V in paragraph (53) of Rule 0400-12-01-.05 for examples), unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

(III) A container holding a hazardous waste that is incompatible with any waste or other materials accumulated nearby in other containers must be separated from the other materials or protected from them by any practical means.

(iv) A container holding hazardous waste must be closed at all times during accumulation, except:

(I) When adding, removing, or consolidating waste; or

(II) When temporary venting of a container is necessary

I. For the proper operation of equipment, or

II. To prevent dangerous situations, such as build-up of extreme pressure.

(v) A generator must mark or label its container with the following:

(I) The words “Hazardous Waste” and

(II) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

(vi) A generator who accumulates either acute hazardous waste listed in subparagraph (4)(b) or part (4)(d)5 of Rule 0400-12-01-.02 or non-acute hazardous waste in excess of the amounts listed in this part at or near any point of generation must do the following:

(I) Comply within three consecutive calendar days with the applicable central accumulation area regulations in part (g)2 or (h)1 of this paragraph, or

(II) Remove the excess from the satellite accumulation area within three consecutive calendar days to either:

I. A central accumulation area operated in accordance with the applicable regulations in part (g)2 or (h)1 of this paragraph;

II. An on-site interim status or permitted treatment, storage, or disposal facility, or

III. An off-site designated facility; and

(III) During the three-consecutive-calendar-day period the generator must continue to comply with subparts (i) through (v) of this part. The generator must mark or label the container(s) holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(vii) All satellite accumulation areas operated by a small quantity generator must meet the preparedness and prevention regulations of subpart (g)2(viii) of this paragraph and the emergency procedures of subpart (g)2(ix) of this paragraph.

(viii) All satellite accumulation areas operated by a large quantity generator must meet the Preparedness, Prevention, and Emergency Procedures in paragraph (12) of this rule.

(Note: The term operator, as used in this part, refers to an individual or individuals responsible for the equipment or processes generating the hazardous waste and does not refer to a company or entity as a whole.)

2. [Reserved]

(g) Conditions for exemption for a small quantity generator that accumulates hazardous waste. [40 CFR 262.16]

A small quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Rules 0400-12-01-.05 through 0400-12-01-.07, and 0400-12-01-.09, including the notification requirements, provided that all the conditions for exemption listed in this subparagraph are met:

1. Generation. The generator generates in a calendar month no more than the amounts specified in the definition of “small quantity generator” in subparagraph (2)(a) of Rule 0400-12-01-.01.

2. Accumulation. The generator accumulates hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in parts 3, 4, and 5 of this subparagraph. The following accumulation conditions also apply:

(i) Accumulation limit. The quantity of hazardous waste accumulated on site never exceeds 6,000 kilograms (13,200 pounds);

(ii) Accumulation of hazardous waste in containers

(I) Condition of containers. If a container holding hazardous waste is not in good condition, or if it begins to leak, the small quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this subparagraph.

(II) Compatibility of waste with container. The small quantity generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(III) Management of containers.

I. A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

II. A container holding hazardous waste must not be opened, handled, or accumulated in a manner that may rupture the container or cause it to leak.

(IV) Inspections.

I. At least weekly, the small quantity generator must inspect central accumulation areas. The small quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See item (I) of this subpart for remedial action required if deterioration or leaks are detected.

II. The small quantity generator must record inspections required by subitem I of this item in an inspection log or summary. The small quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(V) Special conditions for accumulation of incompatible wastes.

I. Incompatible wastes, or incompatible wastes and materials, (see appendix V of paragraph (53) of Rule 0400-12-01-.05 for examples) must not be placed in the same container, unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

II. Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of paragraph (53) of Rule 0400-12-01-.05 for examples), unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

III. A container accumulating hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(iii) Accumulation of hazardous waste in tanks.

(I) [Reserved]

(II) A small quantity generator of hazardous waste must comply with the following general operating conditions:

I. Treatment or accumulation of hazardous waste in tanks must comply with part (2)(h)2 of Rule 0400-12-01-.05.

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

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

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

(III) I. Except as noted in item (IV) of this subpart, a small quantity generator that accumulates hazardous waste in tanks must inspect, where present:

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

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

C. The level of waste in the tank at least once each operating day to ensure compliance with subitem (II)III of this subpart;

D. The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

E. The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation). The generator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule that ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

II. The small quantity generator must record inspections required by subitem I of this item in an inspection log or summary. The small quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(IV) I. A small quantity generator accumulating hazardous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert personnel to leaks, or implement established workplace practices to ensure

leaks are promptly identified, must inspect at least weekly, where applicable, the areas identified in subitems (III)I A through E of this subpart. Use of the alternate inspection schedule must be documented in the generator's operating record. This documentation must include a description of the established workplace practices at the generator.

II. The small quantity generator must record inspections required by subitem I of this item in an inspection log or summary. The small quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(V) [Reserved]

(VI) A small quantity generator accumulating hazardous waste in tanks must, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the small quantity generator can demonstrate, in accordance with part (1)(c)3 or 4 of Rule 0400-12-01-.02, that any solid waste removed from its tank is not a hazardous waste, then it must manage such waste in accordance with all applicable provisions of this rule and Rules 0400-12-01-.04, 0400-12-01-.05, and 0400-12-01-.10.

(VII) A small quantity generator must comply with the following special conditions for accumulation of ignitable or reactive waste:

I. Ignitable or reactive waste must not be placed in a tank, unless:

A. The waste is treated, rendered, or mixed before or immediately after placement in a tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under subparagraph (3)(b) or (d) of Rule 0400-12-01-.02 and part (2)(h)2 of Rule 0400-12-01-.05 is complied with; or

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

C. The tank is used solely for emergencies.

II. A small quantity generator which treats or accumulates ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's “Flammable and Combustible Liquids Code” (1977 or 1981) (incorporated by reference, see subparagraph (2)(b) of Rule 0400-12-01-.01).

III. A small quantity generator must comply with the following special conditions for incompatible wastes:

A. Incompatible wastes, or incompatible wastes and materials, (see appendix V of paragraph (53) of Rule 0400-12-01-.05 for examples) must not be placed in the

same tank, unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

B. Hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material, unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

(iv) Accumulation of hazardous waste on drip pads. If the waste is placed on drip pads, the small quantity generator must comply with the following:

(I) Paragraph (23) of Rule 0400-12-01-.05 (except part (23)(f)3 of Rule 0400-12-01-.05);

(II) The small quantity generator must remove all wastes from the drip pad at least once every 90 days. Any hazardous wastes that are removed from the drip pad at least once every 90 days are then subject to the 180-day accumulation limit in this part and subparagraph (f) of this paragraph if hazardous wastes are being managed in satellite accumulation areas prior to being moved to the central accumulation area; and

(III) The small quantity generator must maintain on site at the facility the following records readily available for inspection:

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

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

III. The records of inspections required by part (23)(e)2 of Rule 0400-12-01-.05, as incorporated by reference by item (I) of this subpart, in an inspection log or summary. The small quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(v) Accumulation of hazardous waste in containment buildings. If the waste is placed in containment buildings, the small quantity generator must comply with paragraph (30) of Rule 0400-12-01-.05. The generator must label its containment buildings with the words “Hazardous Waste” in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on site and also in a conspicuous place provide an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).The generator must also maintain:

(I) The professional engineer certification that the building complies with the design standards specified in subparagraph (30)(b) of Rule 0400-12-01-.05. This certification must be in the generator's files prior to operation of the unit; and

(II) The following records by use of inventory logs, monitoring equipment, or any other effective means:

I. A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that the generator is consistent with maintaining the 90 day limit, and documentation that the procedures are complied with; or

II. Documentation that the unit is emptied at least once every 90 days.

(III) Inventory logs or records with the information required by subitems (II)I and II of this subpart and required by subpart (30)(b)3(iv) of Rule 0400-12-01-.05, as incorporated by reference by this subpart, must be maintained on site and readily available for inspection.

(vi) Labeling and marking of containers and tanks.

(I) Containers. A small quantity generator must mark or label its containers with the following:

I. The words “Hazardous Waste”;

II. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

III. The date upon which each period of accumulation begins clearly visible for inspection on each container.

(II) Tanks. A small quantity generator accumulating hazardous waste in tanks must do the following:

I. Mark or label its tanks with the words “Hazardous Waste”;

II. Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

III. Use inventory logs, monitoring equipment, or other records to demonstrate that hazardous waste has been emptied within 180 days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that

estimated volumes of hazardous waste entering the tank daily exit the tank within 180 days of first entering; and

IV. Keep inventory logs or records with the information required by subitem III of this item on site and readily available for inspection.

(vii) Land disposal restrictions. A small quantity generator must comply with all the applicable requirements under Rule 0400-12-01-.10.

(viii) Preparedness and prevention.

(I) Maintenance and operation of facility. A small quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

(II) Required equipment. All areas where hazardous waste is either generated or accumulated must be equipped with the things in subitems I through IV of this item (unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). A small quantity generator may determine the most appropriate locations to locate equipment necessary to prepare for and respond to emergencies.

I. An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

II. A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

III. Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

IV. Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

(III) Testing and maintenance of equipment. All communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(IV) Access to communications or alarm system.

I. Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee,

unless such a device is not required under item (II) of this subpart.

II. In the event there is just one employee on the premises while the facility is operating, the employee must have immediate access (e.g., direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under item (II) of this subpart.

(V) Required aisle space. The small quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

(VI) Arrangements with local authorities.

I. The small quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee if it is determined to be the appropriate organization with which to make arrangements.

A. A small quantity generator attempting to make arrangements with its local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals.

B. As part of this coordination, the small quantity generator shall attempt to make arrangements, as necessary, to familiarize the organizations identified in this subitem with the layout of the facility, the properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes as well as the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.

C. Where more than one police or fire department might respond to an emergency, the small quantity generator shall attempt to make arrangements designating primary emergency authority to a specific fire or police department and arrangements with any others to provide support to the primary emergency authority.

II. A small quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

III. A facility possessing 24-hour response capabilities may seek a waiver from the authority having jurisdiction (AHJ) over the fire code within the facility's state or locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the waiver is documented in the operating record.

(ix) Emergency procedures. The small quantity generator must comply with the following conditions for those areas of the generator facility where hazardous waste is generated and accumulated:

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

(II) The small quantity generator must post the following information next to telephones or in areas directly involved in the generation and accumulation of hazardous waste:

I. The name and emergency telephone number of the emergency coordinator;

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

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

(III) The small quantity generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies;

(IV) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

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

II. In the event of a spill, the small quantity generator is responsible for containing the flow of hazardous waste to the extent possible and, as soon as is practicable, cleaning up the hazardous waste and any contaminated materials or soil. Such containment and cleanup can be conducted either by the small quantity generator or by a contractor on behalf of the small quantity generator;

III. In the event of a fire, explosion, or other release that could threaten human health outside the facility, or when the small quantity generator has knowledge that a spill has reached surface water, the small quantity generator must immediately notify the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include the following information:

A. The name, address, and U.S. EPA identification number of the small quantity generator;

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

C. Quantity and type of hazardous waste involved in the incident;

D. Extent of injuries, if any; and

E. Estimated quantity and disposition of recovered materials, if any.

3. Transporting over 200 miles. A small quantity generator who must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on site for 270 days or less without a permit or without having interim status provided that the generator complies with the conditions of part 2 of this subparagraph.

4. Accumulation time limit extension. A small quantity generator who accumulates hazardous waste for more than 180 days (or for more than 270 days if it must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more) is subject to the requirements of Rules 0400-12-01-.05 through 0400-12-01-.08 and 0400-12-01-.10 unless it has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by the Commissioner if hazardous wastes must remain on site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Commissioner on a case-by-case basis.

5. Rejected load. A small quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of subparagraph (5)(c) of Rule 0400-12-01-.05 or subparagraph (5)(c) of Rule 0400-12-01-.06 may accumulate the returned waste on site in accordance with parts 1 through 4 of this subparagraph. Upon receipt of the returned shipment, the generator must:

(i) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

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

6. A small quantity generator experiencing an episodic event may accumulate hazardous waste in accordance with paragraph (11) of this rule in lieu of subparagraph (h) of this paragraph.

(h) Conditions for exemption for a large quantity generator that accumulates hazardous waste. [40 CFR 262.17]

A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Rules 0400-12-01-.05 through 0400-12-01-.07, and 0400-12-01-.09, including the notification requirements, provided that all of the following conditions for exemption are met:

1. Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in parts 2 through 5 of this subparagraph. The following accumulation conditions also apply:

(i) Accumulation of hazardous waste in containers. If the hazardous waste is placed in containers, the large quantity generator must comply with the following:

(I) Air emission standards. The applicable requirements of paragraphs (27), (28), and (29) of Rule 0400-12-01-.05;

(II) Condition of containers. If a container holding hazardous waste is not in good condition, or if it begins to leak, the large quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this part;

(III) Compatibility of waste with container. The large quantity generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired;

(IV) Management of containers.

I. A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

II. A container holding hazardous waste must not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

(V) Inspections.

I. At least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See item (II) of this subpart for remedial action required if deterioration or leaks are detected.

II. The large quantity generator must record inspections required by subitem I of this item in an inspection log or summary. The large quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(VI) Special conditions for accumulation of ignitable and reactive wastes.

I. Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's property line unless a written approval is obtained from the authority having jurisdiction over the local fire code allowing hazardous waste accumulation to occur within this restricted area. A record of the written approval must be maintained as long as ignitable or reactive hazardous waste is accumulated in this area.

II. The large quantity generator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to the following: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the large quantity generator must confine smoking and open flame to

specially designated locations. “No Smoking” signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(VII) Special conditions for accumulation of incompatible wastes.

I. Incompatible wastes, or incompatible wastes and materials, (see appendix V of paragraph (53) of Rule 0400-12-01-.05 for examples) must not be placed in the same container, unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

II. Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of paragraph (53) of Rule 0400-12-01-.05 for examples), unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

III. A container holding a hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(ii) Accumulation of hazardous waste in tanks.

(I) If the waste is placed in tanks, the large quantity generator must comply with the applicable requirements of paragraph (10) of Rule 0400-12-01-.05, except part (10)(h)3 of Rule 0400-12-01-.05 (closure and post-closure care) and subparagraph (10)(k) of Rule 0400-12-01-.05 (waste analysis and trial tests), as well as the applicable requirements of paragraphs (27), (28), and (29) of Rule 0400-12-01-.05.

(II) The large quantity generator must record inspections required by item (I) of this subpart which required compliance with subparagraph (10)(f) of Rule 0400-12-01-.05 in an inspection log or summary. The large quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(iii) Accumulation of hazardous waste on drip pads. If the hazardous waste is placed on drip pads, the large quantity generator must comply with the following:

(I) Paragraph (23) of Rule 0400-12-01-.05;

(II) The large quantity generator must remove all wastes from the drip pad at least once every 90 days. Any hazardous wastes that are removed from the drip pad are then subject to the 90-day accumulation limit in this part and subparagraph (f) of this paragraph, if the hazardous wastes are being managed in satellite accumulation areas prior to being moved to a central accumulation area; and

(III) The large quantity generator must maintain on site at the facility the following records readily available for inspection:

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

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

III. The records of inspections required by part (23)(e)2 of Rule 0400-12-01-.05, as incorporated by reference by item (I) of this subpart, in an inspection log or summary. The large quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(iv) Accumulation of hazardous waste in containment buildings. If the waste is placed in containment buildings, the large quantity generator must comply with paragraph (30) of Rule 0400-12-01-.05. The generator must label its containment building with the words “Hazardous Waste” in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on site, and also in a conspicuous place provide an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704). The generator must also maintain:

(I) The professional engineer certification that the building complies with the design standards specified in subparagraph (30)(b) of Rule 0400-12-01-.05. This certification must be in the generator's files prior to operation of the unit; and

(II) The following records by use of inventory logs, monitoring equipment, or any other effective means:

I. A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that the generator is consistent with respecting the 90-day limit, and documentation that the procedures are complied with; or

II. Documentation that the unit is emptied at least once every 90 days.

(III) Inventory logs or records with the information required by subitems (II)I and (II)II of this subpart and required by subpart (30)(b)3(iv) of Rule 0400-12-01-.05, as incorporated by reference by this subpart, must be maintained on site and readily available for inspection.

(v) Labeling and marking of containers and tanks

(I) Containers. A large quantity generator must mark or label its containers with the following:

I. The words “Hazardous Waste”;

II. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste

characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

III. The date upon which each period of accumulation begins clearly visible for inspection on each container.

(II) Tanks. A large quantity generator accumulating hazardous waste in tanks must do the following:

I. Mark or label its tanks with the words “Hazardous Waste”;

II. Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

III. Use inventory logs, monitoring equipment, or other records to demonstrate that hazardous waste has been emptied within 90 days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 90 days of first entering; and

IV. Keep inventory logs or records with the information required by subitem III of this item on site and readily available for inspection.

(vi) Emergency procedures. The large quantity generator complies with the standards in paragraph (12) of this rule, Preparedness, Prevention and Emergency Procedures for Large Quantity Generators.

(vii) Personnel training.

(I) I. Facility personnel must successfully complete a program of classroom instruction, online training (e.g., computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with this part. The large quantity generator must ensure that this program includes all the elements described in the document required under item (IV) of this subpart.

II. This program must be directed by a person trained in hazardous waste management procedures and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

III. At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:

A. Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

B. Key parameters for automatic waste feed cut-off systems;

C. Communications or alarm systems;

D. Response to fires or explosions;

E. Response to ground-water contamination incidents; and

F. Shutdown of operations.

IV. For facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the large quantity generator is not required to provide separate emergency response training pursuant to this subpart, provided that the overall facility training meets all the conditions of exemption in this subpart.

(II) Facility personnel must successfully complete the program required in item (I) of this subpart within six months after the date of their employment or assignment to the facility, or to a new position at the facility, whichever is later. Employees must not work in unsupervised positions until they have completed the training standards of item (I) of this subpart.

(III) Facility personnel must take part in an annual review of the initial training required in item (I) of this subpart.

(IV) The large quantity generator must maintain the following documents and records at the facility:

I. The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

II. A written job description for each position listed under subitem I of this item. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;

III. A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under subitem I of this item;

IV. Records that document that the training or job experience, required under items (I), (II), and (III) of this subpart, has been given to, and completed by, facility personnel.

(V) Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

(viii) Closure. A large quantity generator accumulating hazardous wastes in containers, tanks, drip pads, and containment buildings, prior to closing a unit at the facility, or prior to closing the facility, must meet the following conditions:

(I) Notification for closure of a waste accumulation unit. A large quantity generator must perform one of the following when closing a waste accumulation unit:

I. Place a notice in the operating record within 30 days after closure identifying the location of the unit within the facility; or

II. Meet the closure performance standards of item (III) of this subpart for container, tank, and containment building waste accumulation units or item (IV) of this subpart for drip pads and notify the Commissioner following the procedures in subitem (II)II of this subpart for the waste accumulation unit.

If the waste accumulation unit is subsequently reopened, the generator may remove the notice from the operating record.

(II) Notification for closure of the facility.

I. Notify the Commissioner using a form provided by the Commissioner no later than 30 days prior to closing the facility. The form must be completed according to the instructions accompanying it.

II. Notify the Commissioner using a form provided by the Commissioner and completed according to the instructions accompanying it within 90 days after closing the facility that it has complied with the closure performance standards of items (III) or (IV) of this subpart. If the facility cannot meet the closure performance standards of items (III) or (IV) of this subpart, notify the Commissioner using a form provided by the Commissioner and completed according to the instructions accompanying it that it will close as a landfill under subparagraph (14)(k) of Rule 0400-12-01-.05 in the case of a container, tank, or containment building unit(s), or for a facility with drip pads, notify using a form provided by the Commissioner and completed according to the instructions accompanying it that it will close under the standards of part (23)(f)2 of Rule 0400-12-01-.05.

III. A large quantity generator may request additional time to clean close, but it must notify Commissioner using a form provided by the Commissioner and completed according to the instructions accompanying it within 75 days after the date provided in subitem I of this item to request an extension and provide an explanation as to why the additional time is required.

(Note: For the purpose of this subpart, to clean close means complying with the closure performance standards of item (III) of this subpart for container, tank, and containment building waste accumulation units or item (IV) of this subpart for drip pads.)

(III) Closure performance standards for container, tank systems, and containment building waste accumulation units.

I. At closure, the generator must close the waste accumulation unit or facility in a manner that:

A. Minimizes the need for further maintenance by controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment, the post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground, surface waters, or to the atmosphere,

B. Removes or decontaminates all contaminated equipment, structures, and soil and any remaining hazardous waste residues from waste accumulation units including containment system components (pads, liners, etc.), contaminated soils and subsoils, bases, and structures and equipment contaminated with waste, unless part (1)(c)4 of Rule 0400-12-01-.02 applies.

II. Any hazardous waste generated in the process of closing either the generator's facility or unit(s) accumulating hazardous waste must be managed in accordance with all applicable standards of this rule and Rules 0400-12-01-.04, 0400-12-01-.05, and 0400-12-01-.10, including removing any hazardous waste contained in these units within 90 days of generating it and managing these wastes in a RCRA Subtitle C or equivalent hazardous waste permitted treatment, storage, and disposal facility or interim status facility.

III. If the generator demonstrates that any contaminated soils and wastes cannot be practicably removed or decontaminated as required in section B of this subitem, then the waste accumulation unit is considered to be a landfill, and the generator must close the waste accumulation unit and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (subparagraph (14)(k) of Rule 0400-12-01-.05). In addition, for the purposes of closure, post-closure, and financial responsibility, such a waste accumulation unit is then considered to be a landfill, and the generator must meet all of the requirements for landfills specified in paragraphs (7) and (8) of Rule 0400-12-01-.05.

(IV) Closure performance standards for drip pad waste accumulation units. At closure, the generator must comply with the closure requirements of item (II) of this subpart, section (III)I A of this subpart, subitem (III)II of this subpart, and parts (23)(k)1 and 2 of Rule 0400-12-01-.05.

(V) The closure requirements of this subpart do not apply to satellite accumulation areas.

(ix) Land disposal restrictions. The large quantity generator must comply with all applicable requirements under Rule 0400-12-01-.10.

2. Accumulation time limit extension. A large quantity generator who accumulates hazardous waste for more than 90 days is subject to the requirements of Rules 0400-12-01-.05 through 0400-12-01-.10, including the notification requirements, unless it has been granted an extension to the 90-day period. Such extension may be granted by the

Commissioner 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 Commissioner on a case-by-case basis.

3. Accumulation of F006. A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006 may accumulate F006 waste on site for more than 90 days, but not more than 180 days, without being subject to Rules 0400-12-01-.05 through 0400-12-01-07 and 0400-12-01-.09, including the notification requirements, provided that it complies with all of the following additional conditions for exemption:

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

   (ii) The F006 waste is legitimately recycled through metals recovery;

   (iii) No more than 20,000 kilograms of F006 waste is accumulated on site at any one time; and

   (iv) The F006 waste is managed in accordance with the following:

      (I) I. If the F006 waste is placed in containers, the large quantity generator must comply with the applicable conditions for exemption in subpart 1(i) of this subparagraph; and/or

      II. If the F006 is placed in tanks, the large quantity generator must comply with the applicable conditions for exemption of subpart 1(ii) of this subparagraph; and/or

      III. If the F006 is placed in containment buildings, the large quantity generator must comply with paragraph (30) of Rule 0400-12-01-.05 and must have placed its professional engineer certification that the building complies with the design standards specified in subparagraph (30)(b) of Rule 0400-12-01-.05 in the facility's files prior to operation of the unit. The large quantity generator must maintain the following records:

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

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

      (II) The large quantity generator is exempt from all the requirements in paragraphs (7) and (8) of Rule 0400-12-01-.05, except for those referenced in subpart 1(viii) of this subparagraph.

      (III) The date upon which each period of accumulation begins is clearly marked and must be clearly visible for inspection on each container;

      (IV) While being accumulated on site, each container and tank is labeled or marked clearly with:

         I. The words “Hazardous Waste”; and

II. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

(V) The large quantity generator complies with the requirements in subparts 1(vi) and (vii) of this subparagraph.

4. F006 transported over 200 miles. A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on site for more than 90 days, but not more than 270 days, without being subject to Rules 0400-12-01-.05 through 0400-12-01-.07 and 0400-12-01-.09, including the notification requirements, if the large quantity generator complies with all of the conditions for exemption of subparts 3(i) through (iv) of this subparagraph.

5. F006 accumulation time extension. A large quantity generator accumulating F006 in accordance with parts 3 and 4 of this subparagraph who accumulates F006 waste on site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on site is an operator of a storage facility and is subject to the requirements of Rules 0400-12-01-.05 through 0400-12-01-.08, including the notification requirements, unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by the Commissioner if F006 waste must remain on site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the Commissioner on a case-by-case basis.

6. Consolidation of hazardous waste received from very small quantity generators. Large quantity generators may accumulate on site hazardous waste received from very small quantity generators under control of the same person (as defined in subparagraph (2)(a) of Rule 0400-12-01-.01) without a storage permit or interim status and without complying with the requirements of Rules 0400-12-01-.05 through 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10, including the notification requirements, provided that they comply with the following conditions. “Control,” for the purposes of this part, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person shall not be deemed to “control” such generators.

(i) The large quantity generator notifies the Commissioner at least 30 days prior to receiving the first shipment from a very small quantity generator(s) using a form provided by the Commissioner and completed according to the instructions accompanying it; and

(I) Identifies on the form the name(s) and site address(es) for the very small quantity generator(s) as well as the name and business telephone number for a contact person for the very small quantity generator(s); and

(II) Submits an updated notification form provided by the Commissioner within 30 days after a change in the name or site address for the very small quantity generator.

(ii) The large quantity generator maintains records of shipments for three years from the date the hazardous waste was received from the very small quantity generator. These records must identify the name, site address, and contact information for the very small quantity generator and include a description of the hazardous waste received, including the quantity and the date the waste was received.

(iii) The large quantity generator complies with the independent requirements identified in subitem (a)2(i)(I)III of this paragraph and the conditions for exemption in this part for all hazardous waste received from a very small quantity generator. For purposes of the labeling and marking regulations in subpart 1(v) of this subparagraph, the large quantity generator must label the container or unit with the date accumulation started (i.e., the date the hazardous waste was received from the very small quantity generator). If the large quantity generator is consolidating incoming hazardous waste from a very small quantity generator with either its own hazardous waste or with hazardous waste from other very small quantity generators, the large quantity generator must label each container or unit with the earliest date any hazardous waste in the container was accumulated on site.

7. Rejected load. A large quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of subparagraph (5)(c) of Rule 0400-12-01-.05 or subparagraph (5)(c) of Rule 0400-12-01-.06 may accumulate the returned waste on site in accordance with parts 1 and 2 of this subparagraph. Upon receipt of the returned shipment, the generator must:

(i) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

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

(i) EPA identification numbers for small quantity generators and large quantity generators. [40 CFR 262.18]

1. A generator must not treat, store, dispose of, transport, or offer for transportation~~,~~ hazardous waste without having received an EPA identification number from the Commissioner.

2. A generator who has not received an EPA identification number may obtain one by applying to the Commissioner pursuant to paragraph (2) of this rule. Upon receiving the request, the Commissioner will assign an EPA identification number to the generator.

3. A generator must not offer its hazardous waste to transporters who do not have a valid hazardous waste permit from the Department to transport hazardous waste in Tennessee (see paragraph (2) of Rule 0400-12-01-.04), or to treatment, storage, or disposal facilities that have not received an EPA identification number.

4. A recognized trader must not arrange for import or export of hazardous waste without having received an EPA identification number from the Administrator or the Commissioner.

(2) Notification

(a) Applicability

1. Each person who meets the definition, in subparagraph (2)(a) of Rule 0400-12-01-.01, of large quantity generator or small quantity generator must notify the Commissioner, describing the hazardous wastes and the generator's activities regarding them according to subparagraphs (b) through (e) of this paragraph, except as parts 2 and 3 of this subparagraph, parts (1)(d)1, 2, 4, 5, 7, and 8 of Rule 0400-12-01-.02, and subparagraph (1)(g) of Rule 0400-12-01-.02 provide otherwise.

2. A person shall not be required to notify with regard to each individual hazardous waste stream generated which is piped along with other wastes to an on-site wastewater treatment facility or piped to a publicly owned treatment works (POTW) for treatment. However, if the conglomerate waste stream delivered by the collection system to the on-site wastewater treatment facility or to the POTW is a hazardous waste as defined in subparagraph (1)(c) of Rule 0400-12-01-.02, then the generator must notify with regard to that waste stream and file an annual report in accordance with subparagraph (5)(b) of this rule.

3. A generator shall not be required to notify with regard to those hazardous wastes generated by analytical laboratory operations which are properly (i.e., in accordance with safe disposal procedures and local sewer use ordinances) discharged to the collection sewer system of a publicly-owned treatment works.

   (Comment: This exclusion from notification requirements is not intended to encourage the discharge of hazardous waste to a sewer nor does it exclude the laboratory from having to comply with federal, state, or local pretreatment or sewer use requirements.)

(b) Existing Generators

Except as subparagraph (a) of this paragraph provides otherwise, a person who is a generator of a waste on the effective date of the regulations established under Rule 0400-12-01-.02 which identify that waste as a hazardous waste subject to the requirements of this paragraph, must notify the Commissioner within 90 days of that date. Such notification must be submitted on generator notification forms provided by the Commissioner. The form must be completed according to the instructions accompanying it.

(c) New Generators

Except as subparagraphs (a) and (e) of this paragraph provide otherwise, a person who becomes a generator of a waste after the effective date of regulations established under Rule 0400-12-01-.02 which identify that waste as a hazardous waste subject to the requirements of this paragraph, must notify the Commissioner within 90 days after the date of initial generation. Such notification must be submitted on generator notification forms provided by the Commissioner. The form must be completed according to the instructions accompanying it.

(d) Changes in Generator Data

1. Small and large quantity generators shall be responsible for maintaining an up-to-date notification file by:

   (i) Re-notifying the Commissioner of the following changes in the information submitted within 30 days after such changes by revising or submitting the appropriate notification forms, completed according to the instructions for completing the form:

      (I) Change in ownership of the person generating the hazardous waste;

      (Note: See part (5)(b)2 of this rule for additional requirements for the submission of an annual report due to a change of ownership.)

(II) Change in mailing address, but not the site location;

(Note: A change in site location makes the generator subject to subparagraph (c) of this paragraph.)

(III) Change in the mailing point of contact; and

(IV) Generating a new hazardous waste stream; and

(Note: The Department shall, upon request, grant up to 60 days additional time in cases where retesting of the waste is deemed necessary.)

(ii) Reviewing the most current notification information on file with the Commissioner, as made available by the Commissioner with the annual report, correcting inaccurate data or supplying all the information needed to ensure the Commissioner is maintaining an accurate notification file. The updated or corrected information shall be returned to the Commissioner by March 1st following the receipt of the notification information on file or as instructed otherwise by the Commissioner.

2. A generator planning to cease operating and close the facility, or to cease operating at one site and move to another site, shall notify the Commissioner 30 days prior to ceasing to operate, submit a final annual report in accordance with part (5)(b)2 of this rule, and pay any applicable fees.

3. If ceasing to operate and close the facility, or ceasing to operate at one site to move to another site was not foreseen, the generator shall notify the Commissioner within 30 days of ceasing to operate, submit a final annual report in accordance with part (5)(b)2 of this rule, and pay any applicable fees.

(e) Special Cases

Except as subparagraph (a) of this paragraph provides otherwise:

1. Persons who generate hazardous wastes at more than one location in Tennessee shall file notification for each such generating location.

2. A group of generating installations located at a single site under the ownership or operation of one person may file a single notification.

(3) Manifest Requirements Applicable to Small and Large Quantity Generators [40 CFR 262 Subpart B]

(a) General Requirements [40 CFR 262.20]

1. (i) A generator who transports, or offers for transport~~,~~ a hazardous waste for offsite treatment, storage or disposal or a treatment, storage, and disposal facility that offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control Number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A.

(ii) The revised Manifest form and procedures in subparagraph (2)(a) of Rule 0400-12-01-.01, subparagraph (1)(g) of Rule 0400-12-01-.02, subparagraphs (3)(a), (3)(b), (3)(h), (4)(c), (4)(e), (6)(e), and (7)(a) of this rule shall become effective September 5, 2006.

(iii) Electronic manifest.

In lieu of using the manifest form specified in subpart (i) of this part, a person required to prepare a manifest under subpart (i) of this part may prepare and use an electronic manifest, provided that the person:

(I) Complies with the requirements in subparagraph (e) of this paragraph for use of electronic manifests, and

(II) Complies with the requirements of 40 CFR 3.10 for the reporting of electronic documents to EPA.

2. A generator must designate on the Manifest one facility which is permitted to handle the waste described on the Manifest.

3. A generator may also designate on the Manifest one alternate facility which is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.

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

5. The requirements of this paragraph do not apply to hazardous waste produced by generators of greater than 100 kg but less than 1000 kg in a calendar month where:

(i) The waste is reclaimed under a contractual agreement pursuant to which:

(I) The type of waste and frequency of shipments are specified in the agreement;

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

(ii) The generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.

6. The requirements of this paragraph and part (4)(c)2 of this rule do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding part (1)(a)1 of Rule 0400-12-01-.04, the generator or transporter must comply with the requirements for transporters set forth in subparagraphs (4)(a) and (b) of Rule 0400-12-01-.04 in the event of a discharge of hazardous waste on a public or private right-of-way.

(b) Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests [40 CFR 262.21]

1. The Manifest to be used must be issued by EPA or approved by the EPA Director of the Office of Resource Conservation and Recovery as set forth in 40 CFR 262.21.

(Note: 40 CFR 262.21 provides that:

(a) (1) A registrant may not print, or have printed, the manifest for use or distribution unless it has received approval from the EPA Director of the Office of Resource Conservation and Recovery to do so under paragraphs (c) and (e) of this section.

(2) The approved registrant is responsible for ensuring that the organizations identified in its application are in compliance with the procedures of its approved application and the requirements of this

section. The registrant is responsible for assigning manifest tracking numbers to its manifests.

(b) A registrant must submit an initial application to the EPA Director of the Office of Resource Conservation and Recovery that contains the following information:

(1) Name and mailing address of registrant;

(2) Name, telephone number and email address of contact person;

(3) Brief description of registrant's government or business activity;

(4) EPA identification number of the registrant, if applicable;

(5) Description of the scope of the operations that the registrant plans to undertake in printing, distributing, and using its manifests, including:

(i) A description of the printing operation. The description should include an explanation of whether the registrant intends to print its manifests in-house (i.e., using its own printing establishments) or through a separate (i.e., unaffiliated) printing company. If the registrant intends to use a separate printing company to print the manifest on its behalf, the application must identify this printing company and discuss how the registrant will oversee the company. If this includes the use of intermediaries (e.g., prime and subcontractor relationships), the role of each must be discussed. The application must provide the name and mailing address of each company. It also must provide the name and telephone number of the contact person at each company.

(ii) A description of how the registrant will ensure that its organization and unaffiliated companies, if any, comply with the requirements of this section. The application must discuss how the registrant will ensure that a unique manifest tracking number will be pre-printed on each manifest. The application must describe the internal control procedures to be followed by the registrant and unaffiliated companies to ensure that numbers are tightly controlled and remain unique. In particular, the application must describe how the registrant will assign manifest tracking numbers to its manifests. If computer systems or other infrastructure will be used to maintain, track, or assign numbers, these should be indicated. The application must also indicate how the printer will pre-print a unique number on each form (e.g., crash or press numbering). The application also must explain the other quality procedures to be followed by each establishment and printing company to ensure that all required print specifications are consistently achieved and that printing violations are identified and corrected at the earliest practicable time.

(iii) An indication of whether the registrant intends to use the manifests for its own business operations or to distribute the manifests to a separate company or to the general public (e.g., for purchase).

(6) A brief description of the qualifications of the company that will print the manifest. The registrant may use readily available information to do so (e.g., corporate brochures, product samples, customer references, documentation of ISO certification), so long as such information pertains to the establishments or company being proposed to print the manifest.

(7) Proposed unique three-letter manifest tracking number suffix. If the registrant is approved to print the manifest, the registrant must use this suffix to pre-print a unique manifest tracking number on each manifest.

(8) A signed certification by a duly authorized employee of the registrant that the organizations and companies in its application will comply with the procedures of its approved application and the requirements of this Section and that it will notify the EPA Director of the Office of Resource Conservation and Recovery of any duplicated manifest tracking numbers on manifests that have been used or distributed to other parties as soon as this becomes known.

(c) EPA will review the application submitted under paragraph (b) of this section and either approve it or request additional information or modification before approving it.

(d) (1) Upon EPA approval of the application under paragraph (c) of this section, EPA will provide the registrant an electronic file of the manifest, continuation sheet, and manifest instructions and ask the registrant to submit three fully assembled manifests and continuation sheet samples, except as noted in paragraph (d)(3) of this section. The registrant's samples must meet all of the specifications in paragraph (f) of this section and be printed by the company that will print the manifest as identified in the application approved under paragraph (c) of this section.

(2) The registrant must submit a description of the manifest samples as follows:

(i) Paper type (i.e., manufacturer and grade of the manifest paper);

(ii) Paper weight of each copy;

(iii) Ink color of the manifest's instructions. If screening of the ink was used, the registrant must indicate the extent of the screening; and

(iv) Method of binding the copies.

(3) The registrant need not submit samples of the continuation sheet if it will print its continuation sheet using the same paper type, paper weight of each copy, ink color of the instructions, and binding method as its manifest form samples.

(e) EPA will evaluate the forms and either approve the registrant to print them as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its forms until EPA approves them. An approved registrant must print the manifest and continuation sheet according to its application approved under paragraph (c) of this section and the manifest specifications in paragraph (f) of this section. It also must print the forms according to the paper type, paper weight, ink color of the manifest instructions and binding method of its approved forms.

(f) Paper manifests and continuation sheets must be printed according to the following specifications:

(1) The manifest and continuation sheet must be printed with the exact format and appearance as EPA Forms 8700–22 and 8700–22A,

respectively. However, information required to complete the manifest may be pre-printed on the manifest form.

(2) A unique manifest tracking number assigned in accordance with a numbering system approved by EPA must be pre-printed in Item 4 of the manifest. The tracking number must consist of a unique three-letter suffix following nine digits.

(3) The manifest and continuation sheet must be printed on 8 1/2 x 11-inch white paper, excluding common stubs (e.g., top- or side-bound stubs). The paper must be durable enough to withstand normal use.

(4) The manifest and continuation sheet must be printed in black ink that can be legibly photocopied, scanned, and faxed, except that the marginal words indicating copy distribution must be printed with a distinct ink color or with another method (e.g., white text against black background in text box, or, black text against grey background in text box) that clearly distinguishes the copy distribution notations from the other text and data entries on the form.

(5) The manifest and continuation sheet must be printed as five-copy forms. Copy-to-copy registration must be exact within 1/32nd of an inch. Handwritten and typed impressions on the form must be legible on all five copies. Copies must be bound together by one or more common stubs that reasonably ensure that they will not become detached inadvertently during normal use.

(6) Each copy of the manifest and continuation sheet must indicate how the copy must be distributed, as follows:

(i) Page 1 (top copy): “Designated facility to EPA’s e-Manifest system.

(ii) Page 2: “Designated facility to generator”.

(iii) Page 3: “Designated facility copy”.

(iv) Page 4: “Transporter copy”.

(v) Page 5: (bottom copy): “Generator's initial copy”.

(7) The instructions for the manifest form (EPA Form 8700-22) and the manifest continuation sheet (EPA Form 8700-22A) shall be printed in accordance with the content that is currently approved under OMB Control Number 2050-0039 and published to the e-Manifest program's website. The instructions must appear legibly on the back of the copies of the manifest and continuation sheet as provided in this paragraph (f). The instructions must not be visible through the front of the copies when photocopied or faxed.

(i) Manifest Form 8700–22.

(A) The “Instructions for Generators” on Copy 5;

(B) The “Instructions for International Shipment Block” and “Instructions for Transporters” on Copy 4; and

(C) The “Instructions for Treatment, Storage, and Disposal Facilities” on Copy 3.

(ii) Manifest Form 8700–22A.

(A) The “Instructions for Generators” on Copy 5;

(B) The “Instructions for Transporters” on Copy 4; and

(C) The “Instructions for Treatment, Storage, and Disposal Facilities” on Copy 3.

(8) The designated facility copy of each manifest and continuation sheet must include in the bottom margin the following warning in prominent font: “If you received this manifest, you have responsibilities under the e-Manifest Act. See instructions on reverse side.”

(g) (1) A generator may use manifests printed by any source so long as the source of the printed form has received approval from EPA to print the manifest under paragraphs (c) and (e) of this section. A registered source may be a:

(i) State agency;

(ii) Commercial printer;

(iii) Hazardous waste generator, transporter or TSDF; or

(iv) Hazardous waste broker or other preparer who prepares or arranges shipments of hazardous waste for transportation.

(2) A generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under these states' authorized programs. Generators also must determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.

(h) (1) If an approved registrant would like to update any of the information provided in its application approved under paragraph (c) of this section (e.g., to update a company phone number or name of contact person), the registrant must revise the application and submit it to the EPA Director of the Office of Resource Conservation and Recovery, along with an indication or explanation of the update, as soon as practicable after the change occurs. The Agency either will approve or deny the revision. If the Agency denies the revision, it will explain the reasons for the denial, and it will contact the registrant and request further modification before approval.

(2) If the registrant would like a new tracking number suffix, the registrant must submit a proposed suffix to the EPA Director of the Office of Resource Conservation and Recovery, along with the reason for requesting it. The Agency will either approve the suffix or deny the suffix and provide an explanation why it is not acceptable.

(3) If a registrant would like to change the paper type, paper weight, ink color of the manifest instructions, or binding method of its manifest or continuation sheet subsequent to approval under paragraph (e) of this section, then the registrant must submit three samples of the revised form for EPA review and approval. If the approved registrant would like

to use a new printer, the registrant must submit three manifest samples printed by the new printer, along with a brief description of the printer's qualifications to print the manifest. EPA will evaluate the manifests and either approve the registrant to print the forms as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its revised forms until EPA approves them.

(i) If, subsequent to its approval under paragraph (e) of this section, a registrant typesets its manifest or continuation sheet instead of using the electronic file of the forms provided by EPA, it must submit three samples of the manifest or continuation sheet to the registry for approval. EPA will evaluate the manifests or continuation sheets and either approve the registrant to print them as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its typeset forms until EPA approves them.

(j) EPA may exempt a registrant from the requirement to submit form samples under paragraph (d) or (h)(3) of this section if the Agency is persuaded that a separate review of the registrant's forms would serve little purpose in informing an approval decision (e.g., a registrant certifies that it will print the manifest using the same paper type, paper weight, ink color of the instructions and binding method of the form samples approved for some other registrant). A registrant may request an exemption from EPA by indicating why an exemption is warranted.

(k) An approved registrant must notify EPA by phone or email as soon as it becomes aware that it has duplicated tracking numbers on any manifests that have been used or distributed to other parties.

(l) If, subsequent to approval of a registrant under paragraph (e) of this section, EPA becomes aware that the approved paper type, paper weight, ink color of the instructions, or binding method of the registrant's form is unsatisfactory, EPA will contact the registrant and require modifications to the form.

(m) (1) EPA may suspend and, if necessary, revoke printing privileges if we find that the registrant:

(i) Has used or distributed forms that deviate from its approved form samples in regard to paper weight, paper type, ink color of the instructions, or binding method; or

(ii) Exhibits a continuing pattern of behavior in using or distributing manifests that contain duplicate Manifest Tracking Numbers.

(2) EPA will send a warning letter to the registrant that specifies the date by which it must come into compliance with the requirements. If the registrant does not come in compliance by the specified date, EPA will send a second letter notifying the registrant that EPA has suspended or revoked its printing privileges. An approved registrant must provide information on its printing activities to EPA if requested.)

(c) Number of Copies [40 CFR 262.22]

The manifest consists of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and another copy to be returned to the generator.

(d) Use of the Manifest [40 CFR 262.23]

1. The generator shall:

   (i) Sign the manifest certification by hand;

   (ii) Obtain the handwritten signature of the initial transporter (Transporter 1) and date of acceptance on the manifest; and

   (iii) Retain one copy, in accordance with part (5)(a)1 of this rule.

2. The generator must give the transporter the remaining copies of the manifest.

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

4. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this subparagraph to:

   (i) The next non-rail transporter, if any; or

   (ii) The designated facility if transported solely by rail; or

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

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

6. 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 part (5)(c)6 of Rule 0400-12-01-.05 or part (5)(c)6 of Rule 0400-12-01-.06), the generator must:

   (i) Sign either:

      (I) Item 20 of the new manifest if a new manifest is used for the returned shipment; or

      (II) Item 18c of the original manifest if the original manifest is used for the returned shipment;

   (ii) Provide the transporter a copy of the manifest;

   (iii) 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

   (iv) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.

   (Note: See parts (3)(a)5 and 6 of Rule 0400-12-01-.04 for special provisions for rail or water (bulk shipment) transporters.)

(e) Use of the electronic manifest [40 CFR 262.24]

1. Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with subpart (a)1(iii) of this paragraph, and used in accordance with this subparagraph in lieu of EPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

   (i) Any requirement in these regulations to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of subparagraph (f) of this paragraph.

   (ii) Any requirement in these regulations to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the system.

   (iii) Any requirement in these regulations for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector.

   (iv) No generator may be held liable for the inability to produce an electronic manifest for inspection under this subparagraph if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.

2. A generator may participate in the electronic manifest system either by accessing the electronic manifest system from its own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for off-site transportation.

3. Restriction on use of electronic manifests. A generator may use an electronic manifest for the tracking of hazardous waste shipments involving any RCRA hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the use of the electronic manifest, except that:

   (i) A generator must sign by hand and retain a paper copy of the manifest signed by hand by the initial transporter, in lieu of executing the generator copy electronically, thereby enabling the transporter and subsequent ~~was~~ waste handlers to execute the remainder of the manifest copies electronically.

   (ii) Reserved.

4. Requirement for one printed copy. To the extent the Hazardous Materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR 177.817, a generator originating an electronic manifest must also provide the initial transporter with one printed copy of the electronic manifest.

5. Special procedures when electronic manifest is unavailable. If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator must obtain and complete a paper manifest and if necessary, a continuation sheet (EPA Forms 8700-22 and 8700-22A) in accordance with

the manifest instructions, and use these paper forms from this point forward in accordance with the requirements of subparagraph (d) of this paragraph.

6. Special procedures for electronic signature methods undergoing tests. If a generator has prepared an electronic manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the generator shall also sign with an ink signature the generator/offeror certification on the printed copy of the manifest provided under part 4 of this subparagraph.

7. Reserved.

8. Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. Generators may participate electronically in the post-receipt data corrections process by following the process described in part (5)(b)12 of Rule 0400-12-01-.06, which applies to corrections made to either paper or electronic manifest records.

(f) Electronic manifest signatures [40 CFR 262.25]

Electronic signature methods for the e-Manifest system shall:

1. Be a legally valid and enforceable signature under applicable EPA and other Federal requirements pertaining to electronic signatures; and

2. Be a method that is designed and implemented in a manner that EPA considers to be as cost-effective and practical as possible for the users of the manifest.

(g) [Reserved] [40 CFR 262.26]

(h) Waste Minimization Certification [40 CFR 262.27]

A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the Uniform Hazardous Waste Manifest:

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

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

(4) Pre-transport Requirements Applicable to Small and Large Quantity Generators [40 CFR 262 Subpart C]

(a) Packaging [40 CFR 262.30]

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable DOT regulations on packaging under 49 CFR Parts 173, 178, and 179.

(b) Labeling [40 CFR 262.31]

Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable DOT regulations on hazardous materials under 49 CFR Part 172.

(c) Marking [40 CFR 262.32]

1. Before transporting or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable DOT regulations on hazardous materials under 49 CFR Part 172.

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

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

(ii) Generator's Name and Address _____

(iii) Generator's EPA Identification Number _____

(iv) Manifest Tracking Number _____

(v) EPA Hazardous Waste Number(s) _____

3. A generator may use a nationally recognized electronic system, such as bar coding, to identify the EPA Hazardous Waste Number(s), except as required by subpart 2(v) of this subparagraph or part 4 of this subparagraph.

4. Lab packs that will be incinerated in compliance with part (3)(c)3 of Rule 0400-12-01-.10 are not required to be marked with EPA Hazardous Waste Number(s), except D004, D005, D006, D007, D008, D010, and D011, where applicable.

(d) Placarding [40 CFR 262.33]

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR 172 Subpart F.

(e) [Reserved]

(f) Liquids in landfills prohibition [40 CFR 262.35]

The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited. Prior to disposal in a hazardous waste landfill, liquids must meet additional requirements as specified in subparagraphs (14)(o) of Rule 0400-12-01-.05 and (14)(o) of Rule 0400-12-01-.06.

(5) Recordkeeping and Reporting [40 CFR 262, Subpart D]

(a) Recordkeeping applicable to small and large quantity generators [40 CFR 262.40]

1. A generator must keep a copy of each manifest signed in accordance with part (3)(d)1 of this rule for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

2. A generator must keep a copy of each Annual Report and Exception Report for a period of at least three years from the due date of the report (March 1).

3. See part (1)(b)6 of this rule for recordkeeping requirements for documenting hazardous waste determinations.

4. The periods of retention referred to in this subparagraph are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Commissioner or Board.

(b) Annual Reporting [40 CFR 262.41]

1. A generator who is a large or small quantity generator for at least one month of the calendar year who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must complete and submit an annual report to the Commissioner by March 1 for the preceding calendar year. Such report must be submitted on forms provided by the Commissioner, and the form must be completed according to the instructions accompanying it. The report must include, but shall not necessarily be limited to, the following information:

(i) The year covered by the report.

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

(iii) For each hazardous waste stream (i.e., each separate waste but not necessarily each batch or shipment of such waste) generated by the generator during the reporting year, except for those wastes identified in part 4 of this subparagraph, the following information:

(I) A descriptive name of the waste and the appropriate waste code(s) from Rule 0400-12-01-.02;

(II) The methods by which the waste was managed on-site by the generator during the reporting year and the total quantities managed by each method; and

(III) For those wastes managed off-site during the reporting year:

I. The EPA identification number of each treatment, storage, or disposal facility, or the name and address of other places, to which the waste was sent;

II. The total quantity of the waste sent to each place and the method(s) by which it was to be managed; and

III. The EPA identification number(s) of those transporters whose services were used during the reporting year.

(iv) A summary of the efforts undertaken during the year to reduce volume and toxicity as required on the Tennessee annual report forms.

(v) A summary of the changes in volume and toxicity of waste actually achieved during the year as required on the Tennessee annual report forms.

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

2. A generator must also submit the annual report established in part 1 of this subparagraph prior to those events, such as change of ownership or cessation of business, which would make him no longer subject to the annual reporting requirement. In such case, the report would cover the period of time that has elapsed since December 31 of the preceding calendar year.

3. Any generator who is a large or small quantity generator for at least one month of the calendar year who treats, stores, or disposes of hazardous waste on-site must complete and submit an annual report to the Commissioner by March 1 of each year covering those wastes in accordance with the provisions of Rules 0400-12-01-.05, 0400-12-01-.06, 0400-12-01-.07 and 0400-12-01-.09. Such report must be submitted on forms provided by the Commissioner, and the forms must be completed according to the instructions accompanying it. This requirement also applies to large quantity generators that receive hazardous waste from very small quantity generators.

4. Exports of hazardous waste to foreign countries are not required to be reported on the annual report form. A separate annual report requirement is set forth at part (9)(d)7 of this rule.

5. A generator shall not be required to annually report on those hazardous wastes generated by analytical laboratory operations which are properly (i.e., in accordance with safe disposal practices and local sewer use ordinances) discharged to the collection sewer system of a publicly-owned treatment works.

   (Comment: This exclusion from annual reporting requirements is not intended to encourage the discharge of hazardous waste to a sewer nor does it exclude the laboratory from having to comply with federal, state, or local pretreatment or sewer use requirements.)

6. A very small quantity generator of an episodic event(s) in compliance with paragraph (11) of this rule shall submit an annual report to the Commissioner by March 1 for the episodic event(s) occurring the preceding calendar year. Such report must be submitted on forms provided by the Commissioner, and the form must be completed according to the instructions accompanying it. The report must include, but shall not necessarily be limited to, the following information:

   (i) The year covered by the report.

   (ii) The name, address, telephone number, and EPA identification number of the very small quantity generator.

   (iii) For each hazardous waste stream (i.e., each separate waste but not necessarily each batch or shipment of such waste) generated by the generator during the reporting year, except for those wastes identified in part 4 of this subparagraph, the following information:

      (I) A descriptive name of the waste and the appropriate waste code(s) from Rule 0400-12-01-.02;

      (II) The methods by which the waste was managed on-site by the generator during the reporting year and the total quantities managed by each method; and

      (III) For those wastes managed off-site during the reporting year:

         I. The EPA identification number of each treatment, storage, or disposal facility, or the name and address of other places, to which the waste was sent;

         II. The total quantity of the waste sent to each place and the method(s) by which it was to be managed; and

         III. The EPA identification number(s) of those transporters whose services were used during the reporting year.

   (iv) The certification signed by the very small generator or authorized representative.

(c) Exception Reporting [40 CFR 262.42]

1. (i) A large quantity generator of hazardous waste who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

(ii) A large quantity generator of hazardous waste must submit an Exception Report to the Commissioner if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designed facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

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

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

(iii) The Exception Report required by subpart (ii) of this part must be submitted to the Commissioner within five days after the 45-day period expires.

2. A small quantity generator of hazardous waste who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the Commissioner.

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

3. 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 procedure of subparts (5)(c)5(i) through (vi) of Rule 0400-12-01-.05 or subparts (5)(c)5(i) through (vi) of Rule 0400-12-01-.06, the generator must comply with the requirements of part 1 or 2 of this subparagraph, 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 part 1 or 2 of this subparagraph for a shipment forwarding such waste to an alternate facility by a designated facility:

(i) The copy of the manifest received by the generator must have the handwritten 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

(ii) The 35/45/60-day time frames begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

(d) Additional Reporting [40 CFR 262.43]

The Commissioner, as deemed necessary under T.C.A. § 68-212-105(4), T.C.A § 68-212-106, and T.C.A. § 68-212-107 of the Hazardous Waste Management Act, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in Rule 0400-12-01-.02.

(e) Recordkeeping for small quantity generators [40 CFR 262.44]

A small quantity generator is exempt from the requirement under part (a)2 of this paragraph to maintain copies of Exception Reports and the requirements of part (c)1 of this paragraph.

(6) Hazardous Waste Reduction Plan

(a) Applicability

1. Except for very small quantity generators who remain very small quantity generators for all 12 months of the calendar year, all generators shall complete a hazardous waste reduction plan in accordance with the requirements of subparagraph (b) of this paragraph. After completion of a plan, the generator shall maintain a current copy of the plan at the generating facility. The plan and the annual progress reports under subparagraph (c) of this paragraph shall be made available, upon request, to a representative of the department at any reasonable time. The department may make use of the information as it deems necessary to carry out its duties under this rule.

2. For the purposes of this paragraph, a generator shall permit the commissioner to inspect the hazardous waste reduction plan. The generator shall permit any officer, employee or representative of the department at all reasonable times to have access to the plan. The generator shall furnish a copy of the plan upon request to the commissioner.

3. Large and small quantity generators shall have three years from the date they first became a large or small quantity generator, to complete their waste reduction plan. Only large and small quantity hazardous waste generators are required to have a hazardous waste reduction plan.

4. Hazardous waste streams resulting from one-time generation events, such as accidental spills, equipment modification, plant closure, etc., are not subject to the requirements of this paragraph.

(b) Contents of Plan

1. A hazardous waste reduction plan shall include, at a minimum, the following:

(i) A dated and signed written policy articulating management support for the generator's hazardous waste reduction plan;

(ii) The scope and objectives of the plan, including the evaluation of technologies, procedures and personnel training programs to ensure that unnecessary waste is not generated and to encourage hazardous waste reduction. Specific goals shall be set for hazardous waste reduction, as described in subparagraphs (b) through (d) of the paragraph;

(iii) A description of technically and economically practical hazardous waste reduction options to be implemented and planned schedule for implementation. These options shall be based on an internal analysis of hazardous waste streams conducted to review individual processes or facilities and other activities where waste may be generated and identify opportunities to reduce or eliminate waste generation. Such analyses shall evaluate data on the types, amount and hazardous constituents of waste generated, where and why that waste was generated within the production process or other operations, and potential hazardous waste reduction and recycling techniques applicable to those wastes;

(iv) A description of the hazardous waste accounting systems that identify waste management costs and factor in liability, compliance and oversight costs to the extent feasible;

(v) A description of the employee awareness and training programs designed to involve employees to the maximum extent feasible in hazardous waste reduction planning and implementation; and

(vi) A description of how the plan has been or will be incorporated into management practices and procedures so as to ensure an ongoing effort.

2. As part of each plan developed under this subparagraph, a generator shall establish specific performance goals for the source reduction of each hazardous waste stream.

3. The specific performance goals established under this subparagraph shall be quantitative goals, expressed in numeric terms. Whenever possible, the units of measurement should be in pounds (or tons) of waste generated per standard unit of production, as defined by the generator. If the establishment of numeric performance goals is not practical, the performance goals shall include a clearly stated list of actions designed to lead to the establishment of numeric goals as soon as practical.

4. As part of each plan developed under this subparagraph, each generator shall explain the rationale for each performance goal. Acts of God or other unforeseeable events beyond the control of the generator do not have to be considered in setting goals. The rationale for a particular performance goal shall address any impediments to hazardous waste reduction, including, but not limited to, the following:

(i) The availability of technically practical hazardous waste reduction methods, including any anticipated changes in the future;

(ii) Previously implemented reductions of hazardous waste;

(iii) The economic practicability of available hazardous waste reduction methods, including any anticipated changes in the future. Examples of situations where hazardous waste reduction may not be economically practical include, but are not limited to:

(I) For valid reasons of prioritization, a particular company has chosen first to address other more serious hazardous waste reduction concerns;

(II) Necessary steps to reduce hazardous waste are likely to have significant adverse impacts on product quality; or

(III) Legal or contractual obligations interfere with the necessary steps that would lead to hazardous waste reduction.

5. A generator required to complete a hazardous waste reduction plan under subparagraph (a) of this paragraph may include as a preface to its initial plan:

(i) An explanation and documentation regarding hazardous waste reduction efforts completed or in progress before the first reporting date; and

(ii) An explanation and documentation regarding impediments to hazardous waste reduction specific to the individual facility.

(c) Annual Progress Report

1. All generators shall annually review their waste reduction plan and complete a hazardous waste reduction progress report which shall:

(i) Analyze and quantify progress made, if any, in hazardous waste reduction, relative to each performance goal established under subparagraph (b) of this paragraph.

(ii) Set forth amendments, if needed, to the hazardous waste reduction plan and explain the need for the amendments.

2. Except for the information reported to the department under paragraph (5)(b) of this rule, Annual Reporting, the annual progress report shall be retained at the facility and shall not be considered a public record. However, the generator shall permit any officer, employee or representative of the department at all reasonable times to have access to the annual progress report.

(d) Review of Plan

1. The Commissioner may review a plan or an annual progress report to determine whether the plan or progress report reasonably contains the elements specified under subparagraph (b) of this paragraph. If a generator fails to complete a plan containing these elements or an annual progress report reasonably containing the elements required, the department shall notify the generator of the specific deficiencies. The department also may specify a reasonable time frame, of not more than 120 days, within which the generator shall modify the plan or progress report correcting the specified deficiencies.

2. If the Commissioner determines that a plan or progress report has not been modified to address the deficiencies identified, the Commissioner may issue an order for correction to the responsible person, and this order shall be complied with within the time limit specified in the order. Such order shall be served by personal service or shall be sent by certified mail, return receipt requested. Investigations made in accordance with this paragraph may be made on the initiative of the commissioner or board. Prior to the issuance of any order or the execution of any other enforcement action, the commissioner or director may request the presence of the alleged violator of this paragraph at a meeting to show cause why enforcement action ought not to be taken by the department.

(e) Confidentiality

A plan or annual progress report developed pursuant to this paragraph and maintained at the generating facility shall not be considered a public record. Information supplied to the department, as provided by this rule and defined as proprietary by regulation, shall not be revealed to any person without the consent of the person supplying such information. However, the summary information on waste reduction activities submitted to the department may be utilized by the commissioner, the board, the department, the United States Environmental Protection Agency, or any authorized representative of the commissioner or the board in connection with the responsibilities of the department or board pursuant to this paragraph or as necessary to comply with federal law. Copies of the any Form R's provided to the State and Environmental Protection Agency (EPA), can be requested from the Tennessee Emergency Management Agency (TEMA).

(7) [Reserved]

(8) [Reserved]

(9) Transboundary Movements of Hazardous Waste for Recovery and Disposal [40 CFR 262 Subpart H]

(Note: The implementation of this paragraph remains the responsibility of EPA.)

(a) Applicability. [40 CFR 262.80]

1. The requirements of this paragraph apply to transboundary movements of hazardous wastes.

2. Any person (including exporter, importer, disposal facility operator, or recovery facility operator) who mixes two or more wastes (including hazardous and non-hazardous

wastes) or otherwise subjects two or more wastes (including hazardous and non-hazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under RCRA and/or the Tennessee Hazardous Waste Management Act and any exporter duties, if applicable, under this paragraph.

(b) Definitions [40 CFR 262.81]

In addition to the definitions set forth at subparagraph (2)(a) of Rule 0400-12-01-.01, the following definitions apply to this paragraph.

"Competent authority" means the regulatory authority or authorities of concerned countries having jurisdiction over transboundary movements of wastes.

"Countries concerned" means the countries of export or import and any countries of transit.

"Country of export" means any country from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated.

"Country of import" means any country to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of submitting the wastes to recovery or disposal operations therein.

"Country of transit" means any country other than the country of export or country of import across which a transboundary movement of hazardous wastes is planned or takes place.

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

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

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

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

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

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

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

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

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

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

10. D10 Incineration on land.

11. D11 Incineration at sea.

12. D12 Permanent storage.

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

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

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

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

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

“EPA Acknowledgment of Consent (AOC)” means the letter EPA sends to the exporter documenting the specific terms of the country of import's consent and the country(ies) of transit's consent(s). The AOC meets the definition of an export license in U.S. Census Bureau regulations 15 CFR 30.1.

“Export” means the transportation of hazardous waste from a location under the jurisdiction of the United States to a location under the jurisdiction of another country, or a location not under the jurisdiction of any country, for the purposes of recovery or disposal operations therein.

“Exporter, also known as primary exporter on the RCRA hazardous waste manifest,” means the person domiciled in the United States who is required to originate the movement document in accordance with part (d)4 of this paragraph or the manifest for a shipment of hazardous waste in accordance with subpart B of 40 CFR part 262, or equivalent state provision, which specifies a foreign receiving facility as the facility to which the hazardous wastes will be sent, or any recognized trader who proposes export of the hazardous wastes for recovery or disposal operations in the country of import.

“Foreign 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 hazardous wastes and who proposes shipment of the hazardous wastes to the United States for recovery or disposal operations.

“Foreign importer” means the person to whom possession or other form of legal control of the hazardous waste is assigned at the time the exported hazardous waste is received in the country of import.

“Foreign receiving facility” means a facility which, under the importing country's applicable domestic law, is operating or is authorized to operate in the country of import to receive the hazardous wastes and to perform recovery or disposal operations on them.

“Import” means the transportation of hazardous waste from a location under the jurisdiction of another country to a location under the jurisdiction of the United States for the purposes of recovery or disposal operations therein.

“Importer” means the person to whom possession or other form of legal control of the hazardous waste is assigned at the time the imported hazardous waste is received in the United States.

“OECD area” means all land or marine areas under the national jurisdiction of any OECD Member country. When the regulations refer to shipments to or from an OECD Member country, this means OECD area.

“OECD” means the Organization for Economic Cooperation and Development.

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

"Receiving facility" means a U.S. facility which, under RCRA and other applicable domestic laws, is operating or is authorized to operate to receive hazardous wastes and to perform recovery or disposal operations on them.

"Recovery operations" means activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses, which include:

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

2. R2 Solvent reclamation/regeneration.

3. R3 Recycling/reclamation of organic substances which are not used as solvents.

4. R4 Recycling/reclamation of metals and metal compounds.

5. R5 Recycling/reclamation of other inorganic materials.

6. R6 Regeneration of acids or bases.

7. R7 Recovery of components used for pollution abatement.

8. R8 Recovery of components used from catalysts.

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

10. R10 Land treatment resulting in benefit to agriculture or ecological improvement.

11. R11 Uses of residual materials obtained from any of the operations numbered R1-R10 or RC14 (for transboundary shipments with Canada only).

12. R12 Exchange of wastes for submission to any of the operations numbered R1-R11 or RC14 (for transboundary shipments with Canada only).

13. R13 Accumulation of material intended for any operation numbered R1-R12 or RC14 (for transboundary shipments with Canada only).

14. RC14 Recovery or regeneration of a substance or use or re-use of a recyclable material, other than by any of operations R1 to R10 (for transboundary shipments with Canada only).

15. RC15 Testing of a new technology to recycle a hazardous recyclable material (for transboundary shipments with Canada only).

16. RC16 Interim storage prior to any of operations R1 to R11 or RC14 (for transboundary shipments with Canada only).

"Transboundary movement" means any movement of hazardous wastes from an area under the national jurisdiction of one country to an area under the national jurisdiction of another country.

(c) General conditions. [40 CFR 262.82]

1. Scope. The level of control for exports and imports of waste is indicated by assignment of the waste to either a list of wastes subject to the Green control procedures or a list of wastes subject to the Amber control procedures and whether the waste is or is not hazardous waste. The OECD Green and Amber lists are incorporated by reference in subparagraph (2)(b) of Rule 0400-12-01-.01.

(i) Green list wastes.

(I) Green wastes that are not hazardous wastes are subject to existing controls normally applied to commercial transactions and are not subject to the requirements of this paragraph.

(II) Green wastes that are hazardous wastes are subject to the requirements of this paragraph.

(ii) Amber list wastes.

(I) Amber wastes that are hazardous wastes are subject to the requirements of this paragraph even if they are imported to or exported from a country that does not consider the waste to be hazardous or control the transboundary shipment as a hazardous waste import or export.

I. For exports, the exporter must comply with subparagraph (d) of this paragraph.

II. For imports, the recovery or disposal facility and the importer must comply with subparagraph (e) of this paragraph.

(II) Amber wastes that are not hazardous wastes, but are considered hazardous by the other country, are subject to the Amber control procedures in the country that considers the waste hazardous and are not subject to the requirements of this paragraph. All responsibilities of the importer or exporter shift to the foreign importer or foreign exporter in the other country that considers the waste hazardous unless the parties make other arrangements through contracts.

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

(iii) Mixtures of wastes.

(I) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not hazardous waste is not subject to the requirements of this paragraph.

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

(II) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is hazardous waste is subject to the requirements of this paragraph.

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

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

(I) If such wastes are hazardous waste, such wastes are subject to the requirements of this paragraph.

(II) If such wastes are not hazardous waste, such wastes are not subject to the requirements of this paragraph.

2. General conditions applicable to transboundary movements of hazardous waste:

(i) The hazardous waste must be destined for recovery or disposal operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the country of import;

(ii) The transboundary movement must be in compliance with applicable international transport agreements; and

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

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

3. Duty to return wastes subject to the Amber control procedures during transit through the United States. When a transboundary movement of hazardous wastes transiting the United States and subject to the Amber control procedures does not comply with the requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if alternative arrangements cannot be made to recover or dispose of these wastes in an environmentally sound manner, the waste must be returned to the country of export. The U.S. transporter must inform EPA at the specified mailing address in part 5 of this subparagraph 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 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 countries.

4. Laboratory analysis exemption. Export and import of a hazardous waste sample is exempt from the requirements of this paragraph if the sample is destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery or disposal operations, does not exceed twenty-five kilograms (25 kg) in quantity, is appropriately packaged and labeled and complies with the conditions of part (1)(d)4 or 5 of Rule 0400-12-01-.02.

5. EPA Address for submittals by postal mail or hand delivery. Submittals required in this paragraph to be made by postal mail or hand delivery should be sent to the following addresses:

(i) For postal mail delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, 1200 Pennsylvania Avenue N.W., Washington, DC 20460.

(ii) For hand-delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental

Protection Agency, William Jefferson Clinton South Bldg., Room 6144, 1200 Pennsylvania Ave N.W., Washington, DC 20004.

(d) Exports of hazardous waste. [40 CFR 262.83]

1. General export requirements. Except as provided in subparts (v) and (vi) of this part, exporters that have received an AOC from EPA before December 31, 2016, are subject to that approval and the requirements listed in the AOC that existed at the time of that approval until such time the approval period expires. All other exports of hazardous waste are prohibited unless:

(i) The exporter complies with the contract requirements in part 6 of this subparagraph;

(ii) The exporter complies with the notification requirements in part 2 of this subparagraph;

(iii) The exporter receives an AOC from EPA documenting consent from the countries of import and transit (and original country of export if exporting previously imported hazardous waste);

(iv) The exporter ensures compliance with the movement documents requirements in part 4 of this subparagraph;

(v) The exporter ensures compliance with the manifest instructions for export shipments in part 3 of this subparagraph; and

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

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

I. Submits Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b), and includes the following items in the EEI, along with the other information required under 15 CFR 30.6:

A. EPA license code;

B. Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);

C. EPA consent number for each hazardous waste;

D. Country of ultimate destination code per 15 CFR 30.6(a)(5);

E. Date of export per 15 CFR 30.6(a)(2);

F. RCRA hazardous waste manifest tracking number, if required;

G. Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

H. EPA net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

II. Complies with a paper-based process by:

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

B. Providing the transporter with an additional copy of the manifest, and instructing the transporter via mail, email or fax to deliver that copy to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with item (3)(a)7(iv)(II) of Rule 0400-12-01-.04.

(II) For shipments initiated on or after the AES filing compliance date, submits Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b), and includes the following items in the EEI, along with the other information required under 15 CFR 30.6:

I. EPA license code;

II. Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);

III. EPA consent number for each hazardous waste;

IV. Country of ultimate destination code per 15 CFR 30.6(a)(5);

V. Date of export per 15 CFR 30.6(a)(2);

VI. RCRA hazardous waste manifest tracking number, if required;

VII. Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

VIII. EPA net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

2. Notifications.

(i) General notifications. At least 60 days before the first shipment of hazardous waste is expected to leave the United States, the exporter must provide notification in English to EPA of the proposed transboundary movement. Notifications must be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one year of shipments of one or more hazardous wastes being sent to the same recovery or disposal facility, and must include all of the following information:

(I) Exporter name and EPA identification number, address, telephone, fax numbers, and email address;

(II) Foreign receiving facility name, address, telephone, fax numbers, e-mail address, ~~and~~ technologies employed, and the applicable recovery or disposal operations as defined in subparagraph (b) of this paragraph;

(III) Foreign importer name (if not the owner or operator of the foreign receiving facility), address, telephone, fax numbers, and e-mail address;

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

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

(VI) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and the ports of entry and exit for each country of transit;

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

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

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

(X) Means of transport planned to be used;

(XI) Description(s) of each hazardous waste, including whether each hazardous waste is regulated universal waste under 40 CFR part 273 or the state equivalent, spent lead-acid batteries being exported for recovery of lead under 40 CFR part 266, subpart G, or the state equivalent, or industrial ethyl alcohol being exported for reclamation under 40 CFR 261.6(a)(3)(i) or the state equivalent, estimated total quantity of each waste in either metric tons or cubic meters, the applicable RCRA waste code(s) for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in subparagraph (2)(b) of Rule 0400-12-01-.02, and the United Nations/U.S. Department of Transportation (DOT) ID number for each waste;

(XII) Specification of the recovery or disposal operation(s) as defined in subparagraph (b) of this paragraph.

(XIII) Certification/Declaration signed by the exporter that states:

"I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or

other financial guarantee is or shall be in force covering the transboundary movement."

Name: _____

Signature: _____

Date: _____

(ii) Exports to pre-consented recovery facilities in OECD Member countries. If the recovery facility is located in an OECD member country and has been pre-consented by the competent authority of the OECD member country to recover the waste sent by exporters located in other OECD member countries, the notification may cover up to three years of shipments. Notifications proposing export to a pre-consented facility in an OECD member country must include all information listed in items (i)(I) through (XIII) of this part and additionally state that the facility is pre-consented. Exporters must submit the notification to EPA using the allowable methods listed in subpart (i) of this part at least 10 days before the first shipment is expected to leave the United States.

(iii) Notifications listing interim recycling operations or interim disposal operations. If the foreign receiving facility listed in item (i)(II) of this part will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, or in the case of transboundary movements with Canada, any of the interim recovery operations R12, R13, or RC16, or interim disposal operations D13 to D14, or DC17, the notification submitted according to subpart (i) of this part must also include the final foreign recovery or disposal facility name, address, telephone, fax numbers, email address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, or in the case of transboundary movements with Canada, which of the applicable recovery or disposal operations R1 through R11, RC14 to RC15, D1 through D12, and DC15 to DC16 will be employed at the final foreign recovery or disposal facility. The recovery and disposal operations in this subpart are defined in subparagraph (b) of this paragraph.

(iv) Renotifications. When the exporter wishes to change any of the information specified on the original notification (including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters), the exporter must submit a renotification of the changes to EPA using the allowable methods in subpart (i) of this part. Any shipment using the requested changes cannot take place until the countries of import and transit consent to the changes and the exporter receives an EPA AOC letter documenting the countries' consents to the changes.

(v) For cases where the proposed country of import and recovery or disposal operations are not covered under an international agreement to which both the United States and the country of import are parties, EPA will coordinate with the Department of State to provide the complete notification to country of import and any countries of transit. In all other cases, EPA will provide the notification directly to the country of import and any countries of transit. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of items (i)(I) through (XIII) of this part.

(vi) Where the countries of import and transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the exporter documenting the countries' consents. Where any of the countries of import and transit objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the exporter.

(vii) Export of hazardous wastes for recycling or disposal operations that were originally imported into the United States for recycling or disposal operations in a third country is prohibited unless an exporter in the United States complies with the export requirements in this subparagraph, including providing notification to EPA in accordance with subpart (i) of this part. In addition to listing all required information in items (i)(I) through (XIII) of this part, the exporter must provide the original consent number issued for the initial import of the wastes in the notification, and receive an AOC from EPA documenting the consent of the competent authorities in new country of import, the original country of export, and any transit countries prior to re-export.

(viii) Upon request by EPA, the exporter must furnish to EPA any additional information which the country of import requests in order to respond to a notification.

3. RCRA manifest instructions for export shipments. The exporter must comply with the manifest requirements of subparagraphs (3)(a) through (d) of this rule except that:

(i) In lieu of the name, site address and EPA ID number of the designated permitted facility, the exporter must enter the name and site address of the foreign receiving facility.

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

(iii) The exporter must list the consent number from the AOC for each hazardous waste listed on the manifest, matched to the relevant list number for the hazardous waste from block 9b. If additional space is needed, the exporter should use a Continuation Sheet(s) (EPA Form 8700-22A).

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

4. Movement document requirements for export shipments.

(i) All exporters must ensure that a movement document meeting the conditions of subpart (ii) of this part accompanies each transboundary movement of hazardous wastes from the initiation of the shipment until it reaches the foreign receiving facility, including cases in which the hazardous waste is stored and/or sorted by the foreign importer prior to shipment to the foreign receiving facility, except as provided in items (I) and (II) of this subpart.

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

(II) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment, the exporter must forward the movement document 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.

(ii) The movement document must include the following items (I) through (XV) of this subpart:

(I) The corresponding consent number(s) and hazardous waste number(s) for the listed hazardous waste from the relevant EPA AOC(s);

(II) The shipment number and the total number of shipments from the EPA AOC;

(III) Exporter name and EPA identification number, address, telephone, fax numbers, and email address;

(IV) Foreign receiving facility name, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in subparagraph (b) of this paragraph;

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

(VI) Description(s) of each hazardous waste, quantity of each hazardous waste in the shipment, applicable RCRA hazardous waste code(s) for each hazardous waste, applicable OECD waste code for each hazardous waste from the lists incorporated by reference in subparagraph (2)(b) of Rule 0400-12-01-.01, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(VII) Date movement commenced;

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

(IX) Company name, EPA ID number, address, telephone, fax, and email address of all transporters;

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

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

(XII) Certification/declaration signed and dated by the exporter that the information in the movement document is complete and correct:

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

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

(XV) As part of the contract requirements per part 6 of this subparagraph, the exporter must require that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter, to the competent authorities of the countries of import and transit, and for shipments occurring on or after the electronic import-export reporting compliance date, the exporter must additionally require that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in subpart 2(i) of this subparagraph.

5. Duty to return or re-export hazardous wastes. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s) and alternative arrangements cannot be made to recover or dispose of the waste in an environmentally sound manner in the country of import, the exporter must ensure that the hazardous waste is returned to the United States or re-exported to a third

country. If the waste must be returned, the exporter must provide for the return of the hazardous waste shipment within 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 countries agree. In all cases, the exporter must submit an exception report to EPA in accordance with part 8 of this subparagraph.

6. Export contract requirements

(i) Exports of hazardous waste are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent arrangements must be executed by the exporter, foreign importer (if different from the foreign receiving facility), and the owner or operator of the foreign receiving facility and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this part 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.

(ii) Contracts or equivalent arrangements must specify the name and EPA ID number, where available, of items (I) through (IV) of this subpart:

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

(II) Each person who will have physical custody of the hazardous wastes;

(III) Each person who will have legal control of the hazardous wastes; and

(IV) The foreign receiving facility.

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

(I) The transporter or foreign receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the exporter, EPA, and either the competent authority of the country of transit or the competent authority of the country of import of the need to make alternate management arrangements; and

(II) The person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of hazardous wastes and, as the case may be, shall provide the notification for re-export to the competent authority in the country of import and include the equivalent of the information required in paragraph (b)(1) of this section, the original consent number issued for the initial export of the hazardous wastes in the notification, and obtain consent from EPA and the competent authorities in the new country of import and any transit countries prior to re-export.

(iv) Contracts must specify that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter and to the competent authorities of the countries of import and transit. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign receiving facility send a copy to EPA at the

same time using the allowable methods listed in subpart 2(i) of this subparagraph on or after that date.

(v) Contracts must specify that the foreign receiving facility shall send a copy of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than 30 days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the exporter and to the competent authority of the country of import. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in subpart 2(i) of this subparagraph on or after that date.

(vi) Contracts must specify that the foreign importer or the foreign receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC17, (recovery and disposal operations defined in subparagraph (b) of this paragraph) as appropriate, will:

(I) Provide the notification required in item (iii)(II) of this part prior to any re-export of the hazardous wastes to a final foreign recovery or disposal facility in a third country; and

(II) Promptly send copies of the confirmation of recovery or disposal that it receives from the final foreign recovery or disposal facility within one year of shipment delivery to the final foreign recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, DC15 or DC16 to the competent authority of the country of import. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign facility send copies to EPA at the same time using the allowable method listed in subpart 2(i) of this subparagraph on or after that date.

(vii) Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of the country of import and any countries of transit, in accordance with applicable national or international law requirements.

(Note: Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD Member countries and other foreign countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, persons or facilities located in those OECD Member countries or other foreign countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.)

(viii) Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this paragraph.

(ix) 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).

7. Annual reports. The exporter shall file an annual report with EPA no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. Prior to one year after

the AES filing compliance date, the exporter must mail or hand-deliver annual reports to EPA using one of the addresses specified in part (c)5 of this paragraph, or submit to EPA using the allowable methods specified in subpart 2(i) of this subparagraph if the exporter has electronically filed EPA information in AES, or its successor system, per subitem 1(vi)(I)I of this subparagraph for all shipments made the previous calendar year. Subsequently, the exporter must submit annual reports to EPA using the allowable methods specified in subpart 2(i) of this subparagraph. The annual report must include all of the following subparts (i) through (vi) of this part specified as follows:

(i) The EPA identification number, name, and mailing and site address of the exporter filing the report;

(ii) The calendar year covered by the report;

(iii) The name and site address of each foreign receiving facility;

(iv) By foreign receiving facility, for each hazardous waste exported:

(I) A description of the hazardous waste;

(II) The applicable EPA hazardous waste code(s) (from paragraphs (3) or (4) of Rule 0400-12-01-.02) for each waste;

(III) The applicable waste code from the appropriate OECD waste list incorporated by reference in subparagraph (2)(b) of Rule 0400-12-01-.01;

(IV) The applicable DOT ID number;

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

(VI) The consent number(s) under which the hazardous waste was shipped, and for each consent number, the total amount of the hazardous waste and the number of shipments exported during the calendar year covered by the report;

(v) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than 100kg but less than 1,000kg in a calendar month, and except for hazardous waste for which information was already provided pursuant to subparagraph (5)(b) of this rule:

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

(II) 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

(vi) A certification signed by the exporter that states:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

8. Exception reports.

(i) The exporter must file an exception report in lieu of the requirements of subparagraph (5)(c) of this rule (if applicable) with EPA if any of the following occurs:

(I) The exporter has not received a copy of the RCRA hazardous waste manifest (if applicable) signed by the transporter identifying the point of departure of the hazardous waste from the United States, within 45 days from the date it was accepted by the initial transporter, in which case the exporter must file the exception report within the next 30 days;

(II) The exporter has not received a written confirmation of receipt from the foreign receiving facility in accordance with part 4 of this subparagraph within 90 days from the date the waste was accepted by the initial transporter in which case the exporter must the exception report within 30 days; or

(III) The foreign receiving facility notifies the exporter, or the country of import notifies EPA, of the need to return the shipment to the U.S. or arrange alternate management, in which case the exporter must file the exception report within 30 days of notification, or one day prior to the date the return shipment commences, whichever is sooner.

(ii) Prior to the electronic import-export reporting compliance date, exception reports must be mailed or hand delivered to EPA using the addresses listed in part (c)5 of this paragraph. Subsequently, exception reports must be submitted to EPA using the allowable methods listed in subpart 2(i) of this subparagraph.

9. Recordkeeping.

(i) The exporter shall keep the following records in items (I) through (V) of this subpart and provide them to EPA or authorized state personnel upon request:

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

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

(III) A copy of any exception reports and a copy of each confirmation of receipt (i.e., movement document) sent by the foreign receiving facility to the exporter for at least three years from the date the hazardous waste was accepted by the initial transporter; and

(IV) A copy of each confirmation of recovery or disposal sent by the foreign receiving facility to the exporter for at least three years from the date that the foreign receiving facility completed interim or final processing of the hazardous waste shipment.

(V) A copy of each contract or equivalent arrangement established per subparagraph (f) of this paragraph for at least three years from the expiration date of the contract or equivalent arrangement.

(ii) Exporters may satisfy these recordkeeping requirements by retaining electronically submitted documents in the exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No exporter may be held liable for the inability to produce such documents for inspection under this part if the exporter can demonstrate that the inability to produce the document is due exclusively to

technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the exporter bears no responsibility.

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

(e) Imports of hazardous waste. [40 CFR 262.84]

1. General import requirements.

(i) With the exception of subpart (v) of this part, importers of shipments covered under a consent from EPA to the country of export issued before December 31, 2016 are subject to that approval and the requirements that existed at the time of that approval until such time the approval period expires. Otherwise, any other person who imports hazardous waste from a foreign country into the United States must comply with the requirements of this rule and the special requirements of this paragraph.

(ii) In cases where the country of export does not require the foreign exporter to submit a notification and obtain consent to the export prior to shipment, the importer must submit a notification to EPA in accordance with part 2 of this subparagraph.

(iii) The importer must comply with the contract requirements in part 6 of this subparagraph.

(iv) The importer must ensure compliance with the movement documents requirements in part 4 of this subparagraph; and

(v) The importer must ensure compliance with the manifest instructions for import shipments in part 3 of this subparagraph.

2. Notifications. In cases where the competent authority of the country of export does not regulate the waste as hazardous waste and, thus, does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, but EPA does regulate the waste as hazardous waste:

(i) The importer is required to provide notification in English to EPA of the proposed transboundary movement of hazardous waste at least 60 days before the first shipment is expected to depart the country of export. Notifications submitted prior to the electronic import-export reporting compliance date must be mailed or hand delivered to EPA at the addresses specified in part (c)5 of this paragraph. Notifications submitted on or after the electronic import-export reporting compliance date must be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one year of shipments of one or more hazardous wastes being sent from the same foreign exporter, and must include all of the following information:

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

(II) Receiving facility name, EPA ID number, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in subparagraph (b) of this paragraph;

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

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

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

(VI) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and the ports of entry and exit for each country of transit;

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

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

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

(X) Means of transport planned to be used;

(XI) Description(s) of each hazardous waste, including whether each hazardous waste is regulated universal waste under 40 CFR part 273 or the state equivalent, spent lead-acid batteries being exported for recovery of lead under 40 CFR part 266, subpart G, or the state equivalent, or industrial ethyl alcohol being exported for reclamation under 40 CFR 261.6(a)(3)(i) or the state equivalent, estimated total quantity of each hazardous waste, the applicable RCRA hazardous waste code(s) for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in subparagraph (2)(b) of Rule 0400-12-01-.01, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(XII) Specification of the recovery or disposal operation(s) as defined in subparagraph (b) of this paragraph; and

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

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

Name: _____

Signature: _____

Date: _____

(Note: The United States does not currently require financial assurance for these waste shipments.)

(ii) Notifications listing interim recycling operations or interim disposal operations. If the receiving facility listed in item (i)(II) of this part will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, the notification submitted according to subpart (i) of this part must also include the final recovery or disposal facility name, address, telephone, fax numbers, email address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, will be

employed at the final recovery or disposal facility. The recovery and disposal operations in this subpart are defined in subparagraph (b) of this paragraph.

(iii) Renotifications. When the foreign exporter wishes to change any of the conditions specified on the original notification (including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters), the importer must submit a renotification of the changes to EPA using the allowable methods in subpart (i) of this part. Any shipment using the requested changes cannot take place until EPA and the countries of transit consent to the changes and the importer receives an EPA AOC letter documenting the consents to the changes.

(iv) A notification is complete when EPA determines the notification satisfies the requirements of items (i)(I) through (XIII) of this part.

(v) Where EPA and the countries of transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the importer documenting the countries' consents and EPA's consent. Where any of the countries of transit or EPA objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the importer.

(vi) Export of hazardous wastes originally imported into the United States. Export of hazardous wastes that were originally imported into the United States for recycling or disposal operations is prohibited unless an exporter in the United States complies with the export requirements in subpart (d)2(vii) of this paragraph.

3. RCRA Manifest instructions for import shipments.

(i) When importing hazardous waste, the importer must meet all the requirements of subparagraph (3)(a) of this rule for the manifest except that:

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

(II) In place of the generator's signature on the certification statement, the importer or his agent must sign and date the certification and obtain the signature of the initial transporter.

(ii) The importer may obtain the manifest form from any source that is registered with the EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

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

(iv) The importer must provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to U.S. EPA in accordance with subpart (5)(b)1(iii) of Rule 0400-12-01-.05 and subpart (5)(b)1(iii) of Rule 0400-12-01-.06.

(v) In lieu of the requirements of part (3)(a)4 of this rule, where a shipment cannot be delivered for any reason to the receiving facility, the importer must instruct the transporter in writing via fax, email or mail to:

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

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

4. Movement document requirements for import shipments.

(i) The importer must ensure that a movement document meeting the conditions of subpart (ii) of this part accompanies each transboundary movement of hazardous wastes from the initiation of the shipment in the country of export until it reaches the receiving facility, including cases in which the hazardous waste is stored and/or sorted by the importer prior to shipment to the receiving facility, except as provided in items (I) and (II) of this subpart.

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

(II) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment, the importer must forward the movement document to the next non-rail transporter, if any, or the last rail transporter to handle the hazardous waste in the United States if imported by rail.

(ii) The movement document must include the following items (I) through (XV) of this subpart:

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

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

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

(IV) Receiving facility name, EPA ID number, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in subparagraph (b) of this paragraph;

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

(VI) Description(s) of each hazardous waste, quantity of each hazardous waste in the shipment, applicable RCRA hazardous waste code(s) for each hazardous waste, the applicable OECD waste code for each hazardous waste from the lists incorporated by reference in subparagraph (2)(b) of Rule 0400-12-01-.01, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(VII) Date movement commenced;

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

(IX) Company name, EPA ID number, address, telephone, fax, and email address of all transporters;

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

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

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

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

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

(XV) The receiving facility must send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the foreign exporter, to the competent authorities of the countries of export and transit, and for shipments received on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

5. Duty to return or export hazardous wastes. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s), the provisions of subpart 6(iv) of this subparagraph apply. If alternative arrangements cannot be made to recover the hazardous waste in an environmentally sound manner in the United States, the hazardous waste must be returned to the country of export or exported to a third country. The provisions of subpart 2(vi) of this subparagraph apply to any hazardous waste shipments to be exported to a third country. 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 importer.

6. Import contract requirements.

(i) Imports of hazardous waste must 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 foreign exporter, importer, and the owner or operator of the receiving facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this part 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.

(ii) Contracts or equivalent arrangements must specify the name and EPA ID number, where available, of items (I) through (IV) of this subpart:

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

(II) Each person who will have physical custody of the hazardous wastes;

(III) Each person who will have legal control of the hazardous wastes; and

(IV) The receiving facility.

(iii) Contracts or equivalent arrangements must specify the use of a movement document in accordance with part 4 of this subparagraph.

(iv) Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the hazardous wastes if their disposition cannot be carried out as described in the notification of intent to export submitted by either the foreign exporter or the importer. In such cases, contracts must specify that:

(I) The transporter or receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the foreign exporter and importer, and the competent authority where the shipment is located of the need to arrange alternate management or return; and

(II) The person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of the hazardous wastes and, as the case may be, shall provide the notification for re-export required in subpart (d)2(vii) of this paragraph.

(v) Contracts must specify that the importer or the receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC15 through DC17, as appropriate, will provide the notification required in subpart (d)2(vii) of this paragraph prior to the re-export of hazardous wastes. The recovery and disposal operations in this paragraph are defined in subparagraph (b) of this paragraph.

(vi) 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.

(Note: Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD Member countries or other foreign countries do. It is the responsibility of the importer to ascertain and comply with such requirements; in some cases, persons or facilities located in those countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.)

(vii) Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this paragraph.

(viii) Upon request by EPA, importers or disposal 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).

7. Confirmation of recovery or disposal. The receiving facility must do the following:

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

(ii) If the receiving facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, the receiving facility shall promptly send copies of the confirmation of recovery or disposal that it receives

from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC14 to RC15, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export, and for confirmations received on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in this paragraph are defined in subparagraph (b) of this paragraph.

8. Recordkeeping.

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

(I) A copy of each notification that the importer sends to EPA under subpart 2(i) of this subparagraph and each EPA AOC it receives in response for a period of at least three years from the date the hazardous waste was accepted by the initial foreign transporter; and

(II) A copy of each contract or equivalent arrangement established per part 6 of this subparagraph for at least three years from the expiration date of the contract or equivalent arrangement.

(ii) The receiving facility shall keep the following records:

(I) A copy of each confirmation of receipt (i.e., movement document) that the receiving facility sends to the foreign exporter for at least three years from the date it received the hazardous waste;

(II) A copy of each confirmation of recovery or disposal that the receiving facility sends to the foreign exporter for at least three years from the date that it completed processing the waste shipment;

(III) For the receiving facility that performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17 (recovery and disposal operations defined in subparagraph (b) of this paragraph, a copy of each confirmation of recovery or disposal that the final recovery or disposal facility sent to it for at least three years from the date that the final recovery or disposal facility completed processing the waste shipment; and

(IV) A copy of each contract or equivalent arrangement established per part 6 of this subparagraph for at least three years from the expiration date of the contract or equivalent arrangement.

(iii) Importers and receiving facilities may satisfy these recordkeeping requirements by retaining electronically submitted documents in the importer's or receiving facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No importer or receiving facility may be held liable for the inability to produce such documents for inspection under this part if the importer or receiving facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the importer or receiving facility bears no responsibility.

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

(f) through (j) [Reserved] [40 CFR 262.85-262.89]

(10) Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities [40 CFR 262, Subpart K]

(a) Definitions for this paragraph [40 CFR 262.200]

The following definitions apply to this paragraph:

1. [Reserved]

2. "College/University" means a private or public, post-secondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the U.S. Department of Education.

3. "Eligible academic entity" means a college or university, or a non-profit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

4. "Formal written affiliation agreement" means:

(i) For a non-profit research institute, a written document that establishes a relationship between institutions for the purposes of research and/or education and is signed by authorized representatives, as defined by subparagraph (2)(a) of Rule 0400-12-01-.01, from each institution.

(ii) For a teaching hospital, a master affiliation agreement and program letter of agreement, as defined by the Accreditation Council for Graduate Medical Education, with an accredited medical program or medical school.

A relationship on a project-by-project or grant-by-grant basis is not considered a formal written affiliation agreement.

5. "Laboratory" means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also considered laboratories.

6. "Laboratory clean-out" means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or that have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (e.g., at the end of a semester or academic year) or as a result of a renovation, relocation, or change in laboratory supervisor/occupant. A regularly scheduled removal of unwanted material as required by subparagraph (i) of this paragraph does not qualify as a laboratory clean-out.

7. "Laboratory worker" means a person who handles chemicals and/or unwanted material in a laboratory and may include, but is not limited to, faculty, staff, post-doctoral fellows, interns, researchers, technicians, supervisors/managers, and principal investigators. A person does not need to be paid or otherwise compensated for his/her work in the laboratory to be considered a laboratory worker. Undergraduate and graduate students in a supervised classroom setting are not laboratory workers.

8. “Non-profit research institute” means an organization that conducts research as its primary function and files as a non-profit organization under the tax code of 26 U.S.C. 501(c)(3).

9. “Reactive acutely hazardous unwanted material” means an unwanted material that is one of the acutely hazardous commercial chemical products listed in part (4)(d)5 of Rule 0400-12-01-.02 for reactivity.

10. “Teaching hospital” means a hospital that trains students to become physicians, nurses, or other health or laboratory personnel.

11. “Trained professional” means a person who has completed the applicable training requirements of subparagraph (1)(h) of this rule for large quantity generators or is knowledgeable about normal operations and emergencies in accordance with subparagraph (1)(g) of this rule for small quantity generators and very small quantity generators. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

12. “Unwanted material” means any chemical, mixtures of chemicals, products of experiments, or other material from a laboratory that is no longer needed, wanted, or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to parts (1)(b)1 through 4 of Rule 0400-12-01-.02~~,~~ or a hazardous waste pursuant to subparagraph (1)(c) of Rule 0400-12-01-.02. If an eligible academic entity elects to use another equally effective term in lieu of “unwanted material,” as allowed by item (g)1(i)(I) of this paragraph, the equally effective term has the same meaning and is subject to the same requirements as “unwanted material” under this paragraph.

13. “Working container” means a small container (i.e., two gallons or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

(b) Applicability of this paragraph. [40 CFR 262.201]

1. Large quantity generators and small quantity generators.

This paragraph provides alternative requirements to the requirements in subparagraphs (1)(b) and (f) of this rule for the hazardous waste determination and accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this paragraph, provided that they complete the notification requirements of subparagraph (d) of this paragraph.

2. Very small quantity generators.

This paragraph provides alternative requirements to the conditional exemption in subparagraph (1)(e) of this rule for the accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this paragraph, provided that they complete the notification requirements subparagraph (d) of this paragraph.

(c) This paragraph is optional. [40 CFR 262.202]

1. Large quantity generators and small quantity generators.

Eligible academic entities have the option of complying with this paragraph with respect to its laboratories as an alternative to complying with the requirements of subparagraphs (1)(b) and (f) of this rule.

2. Very small quantity generators.

Eligible academic entities have the option of complying with this paragraph with respect to its laboratories as an alternative to complying with the conditional exemption of subparagraph (1)(e) of this rule.

(d) How an eligible academic entity indicates it will be subject to the requirements of this paragraph. [40 CFR 262.203]

1. An eligible academic entity must notify the Commissioner in writing that it is electing to be subject to the requirements of this paragraph for all the laboratories owned by the eligible academic entity under the same Installation Identification Number. An eligible academic entity that is a very small quantity generator and does not have an Installation Identification Number must notify that it is electing to be subject to the requirements of this paragraph for all the laboratories owned by the eligible academic entity that are on-site, as defined in subparagraph (2)(a) of Rule 0400-12-01-.01. An eligible academic entity must submit a separate notification (Hazardous Waste Registration and Notification form) for each Installation Identification Number (or site, for very small quantity generators) that is electing to be subject to the requirements of this paragraph, and must submit the Hazardous Waste Registration and Notification form before it begins operating under this paragraph.

2. Such notification must be submitted on Hazardous Waste Registration and Notification forms provided by the Commissioner. The form must be completed according to the instructions accompanying it.

3. An eligible academic entity must keep a copy of the notification on file at the eligible academic entity for as long as its laboratories are subject to this paragraph.

4. A teaching hospital that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the teaching hospital for as long as its laboratories are subject to this paragraph.

5. A non-profit research institute that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the non-profit research institute for as long as its laboratories are subject to this paragraph.

(e) How an eligible academic entity indicates it will withdraw from the requirements of this paragraph. [40 CFR 262.204]

1. An eligible academic entity must notify the Commissioner in writing that it is electing to no longer be subject to the requirements of this paragraph for all the laboratories owned by the eligible academic entity under the same Installation Identification Number and that it will comply with the requirements of subparagraphs (1)(b) and (f) of this rule for small quantity generators and large quantity generators. An eligible academic entity that is a very small quantity generator and does not have an Installation Identification Number must notify that it is withdrawing from the requirements of this paragraph for all the laboratories owned by the eligible academic entity that are on-site and that it will comply with the conditional exemption of subparagraph (1)(e) of this rule. An eligible academic entity must submit a separate notification (Hazardous Waste Registration and Notification form) for each Installation Identification Number (or site, for very small quantity generators) that is withdrawing from the requirements of this paragraph and must submit the Hazardous Waste Registration and Notification form before it begins operating under the requirements of subparagraphs (1)(b) and (f) of this rule for small quantity generators and large quantity generators, or subparagraph (1)(e) of this rule for very small quantity generators.

2. Such notification must be submitted on Hazardous Waste Registration and Notification forms provided by the Commissioner. The form must be completed according to the instructions accompanying it.

3. An eligible academic entity must keep a copy of the withdrawal notice on file at the eligible academic entity for three years from the date of the notification.

(f) Summary of the requirements of this paragraph. [40 CFR 262.205]

An eligible academic entity that chooses to be subject to this paragraph is not required to have interim status or a hazardous waste management permit for the accumulation of unwanted material and hazardous waste in its laboratories, provided the laboratories comply with the provisions of this paragraph and the eligible academic entity has a Laboratory Management Plan (LMP) in accordance with subparagraph (o) of this paragraph that describes how the laboratories owned by the eligible academic entity will comply with the requirements of this paragraph.

(g) Labeling and management standards for containers of unwanted material in the laboratory. [40 CFR 262.206]

An eligible academic entity must manage containers of unwanted material while in the laboratory in accordance with the requirements in this subparagraph.

1. Labeling: Label unwanted material as follows:

(i) The following information must be affixed or attached to the container:

(I) The words “unwanted material” or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in Part I of the Laboratory Management Plan; and

(II) Sufficient information to alert emergency responders to the contents of the container. Examples of information that would be sufficient to alert emergency responders to the contents of the container include, but are not limited to:

I. The name of the chemical(s); and

II. The type or class of chemical, such as organic solvents or halogenated organic solvents.

(ii) The following information may be affixed or attached to the container, but must at a minimum be associated with the container:

(I) The date that the unwanted material first began accumulating in the container; and

(II) Information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and hazardous waste and to assign the proper hazardous waste code(s), pursuant to subparagraph (1)(b) of this rule. Examples of information that would allow a trained professional to properly identify whether an unwanted material is a solid or hazardous waste include, but are not limited to:

I. The name and/or description of the chemical contents or composition of the unwanted material, or, if known, the product of the chemical reaction;

II. Whether the unwanted material has been used or is unused; and

III. A description of the manner in which the chemical was produced or processed, if applicable.

2. Management of Containers in the Laboratory:

An eligible academic entity must properly manage containers of unwanted material in the laboratory to assure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Proper container management must include the following:

(i) Containers are maintained and kept in good condition and damaged containers are replaced, overpacked, or repaired; and

(ii) Containers are compatible with their contents to avoid reactions between the contents and the container and are made of, or lined with, material that is compatible with the unwanted material so that the container's integrity is not impaired; and

(iii) Containers must be kept closed at all times, except:

(I) When adding, removing, or bulking unwanted material; or

(II) A working container may be open until the end of the procedure or work shift, or until it is full, whichever comes first, at which time the working container must either be closed or the contents emptied into a separate container that is then closed; or

(III) When venting of a container is necessary:

I. For the proper operation of laboratory equipment, such as with in-line collection of unwanted materials from high performance liquid chromatographs; or

II. To prevent dangerous situations, such as build-up of extreme pressure.

(h) Training. [40 CFR 262.207]

An eligible academic entity must provide training to all individuals working in a laboratory at the eligible academic entity, as follows:

1. Training for laboratory workers and students must be commensurate with their duties so they understand the requirements in this paragraph and can implement them.

2. An eligible academic entity can provide training for laboratory workers and students in a variety of ways, including, but not limited to:

(i) Instruction by the professor or laboratory manager before or during an experiment;

(ii) Formal classroom training;

(iii) Electronic/written training;

(iv) On-the-job training; or

(v) Written or oral exams.

3. An eligible academic entity that is a large quantity generator must maintain documentation for the durations specified in part (2)(g)5 of Rule 0400-12-01-.05 demonstrating training for all laboratory workers that is sufficient to determine whether laboratory workers have been trained. Examples of documentation demonstrating training can include, but are not limited to, the following:

(i) Sign-in/attendance sheet(s) for training session(s);

(ii) Syllabus for training session;

(iii) Certificate of training completion; or

(iv) Test results.

4. A trained professional must:

(i) Accompany the transfer of unwanted material and hazardous waste when the unwanted material and hazardous waste is removed from the laboratory; and

(ii) Make the hazardous waste determination, pursuant to parts (1)(b)1 through 4 of this rule, for unwanted material.

(i) Removing containers of unwanted material from the laboratory. [40 CFR 262.208]

1. Removing containers of unwanted material on a regular schedule. An eligible academic entity must either:

(i) Remove all containers of unwanted material from each laboratory on a regular interval, not to exceed 12 months; or

(ii) Remove containers of unwanted material from each laboratory within 12 months of each container's accumulation start date.

2. The eligible academic entity must specify in Part I of its Laboratory Management Plan whether it will comply with subpart 1(i) or (ii) of this subparagraph for the regular removal of unwanted material from its laboratories.

3. The eligible academic entity must specify in Part II of its Laboratory Management Plan how it will comply with subpart 1(i) or (ii) of this subparagraph and develop a schedule for regular removals of unwanted material from its laboratories.

4. Removing containers of unwanted material when volumes are exceeded.

(i) If a laboratory accumulates a total volume of unwanted material (including reactive acutely hazardous unwanted material) in excess of 55 gallons before the regularly scheduled removal, the eligible academic entity must ensure that all containers of unwanted material in the laboratory (including reactive acutely hazardous unwanted material):

(I) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that 55 gallons is exceeded; and

(II) Are removed from the laboratory within 10 calendar days of the date that 55 gallons was exceeded, or at the next regularly scheduled removal, whichever comes first.

(ii) If a laboratory accumulates more than 1 quart of liquid reactive acutely hazardous unwanted material or more than 1 kg (2.2 pounds) of solid reactive acutely hazardous unwanted material before the regularly scheduled removal, then the eligible academic entity must ensure that all containers of reactive acutely hazardous unwanted material:

(I) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that 1 quart or 1 kg is exceeded; and

(II) Are removed from the laboratory within 10 calendar days of the date that 1 quart or 1 kg was exceeded, or at the next regularly scheduled removal, whichever comes first.

(j) Where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the laboratory. [40 CFR 262.209]

1. Large quantity generators and small quantity generators.

An eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to subparagraph (1)(b) of this rule, for unwanted material in any of the following areas:

(i) In the laboratory before the unwanted material is removed from the laboratory, in accordance with subparagraph (k) of this paragraph;

(ii) Within four calendar days of arriving at an on-site central accumulation area, in accordance with subparagraph (l) of this paragraph; and

(iii) Within four calendar days of arriving at an on-site interim status or permitted treatment, storage, or disposal facility, in accordance with subparagraph (m) of this paragraph.

2. Very small quantity generators.

An eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to parts (1)(b)1 through 4 of this rule, for unwanted material in the laboratory before the unwanted material is removed from the laboratory, in accordance with subparagraph (k) of this paragraph.

(k) Making the hazardous waste determination in the laboratory before the unwanted material is removed from the laboratory. [40 CFR 262.210]

If an eligible academic entity makes the hazardous waste determination, pursuant to subparagraph (1)(b) of this rule, for unwanted material in the laboratory, it must comply with the following:

1. A trained professional must make the hazardous waste determination, pursuant to parts (1)(b)1 through 4 of this rule, before the unwanted material is removed from the laboratory.

2. If an unwanted material is a hazardous waste, the eligible academic entity must:

(i) Write the words “hazardous waste” on the container label that is affixed or attached to the container, before the hazardous waste may be removed from the laboratory; and

(ii) Write the appropriate hazardous waste code(s) on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste is transported off-site; and

(iii) Count the hazardous waste toward the eligible academic entity's generator category, pursuant to subparagraph (1)(d) of this rule, in the calendar month that the hazardous waste determination was made.

3. A trained professional must accompany all hazardous waste that is transferred from the laboratory(ies) to an on-site central accumulation area or on-site interim status or permitted treatment, storage, or disposal facility.

4. When hazardous waste is removed from the laboratory:

(i) Large quantity generators and small quantity generators must ensure it is taken directly from the laboratory(ies) to an on-site central accumulation area; on-site interim status or permitted treatment, storage or disposal facility; or transported off-site.

(ii) Very small quantity generators must ensure it is taken directly from the laboratory(ies) to any of the types of facilities listed in subparagraph (1)(d) of this rule.

5. An unwanted material that is a hazardous waste is subject to all applicable hazardous waste regulations when it is removed from the laboratory.

(l) Making the hazardous waste determination at an on-site central accumulation area. [40 CFR 262.211]

If an eligible academic entity makes the hazardous waste determination, pursuant to subparagraph (1)(b) of this rule, for unwanted material at an on-site central accumulation area, it must comply with the following:

1. A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site central accumulation area;

2. All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site central accumulation area;

3. The unwanted material becomes subject to the generator accumulation regulations of subparagraph (1)(g) of this rule for small quantity generators or subparagraph (1)(h) of this rule for large quantity generators as soon as it arrives in the central accumulation area, except for the “hazardous waste” labeling conditions of subpart (1)(g)2(vi) of this rule and subpart (1)(h)1(v) of this rule;

4. A trained professional must determine, pursuant to parts (1)(b)1 through 4 of this rule, if the unwanted material is a hazardous waste within four calendar days of the unwanted materials' arrival at the on-site central accumulation area; and

5. If the unwanted material is a hazardous waste, the eligible academic entity must:

(i) Write the words “hazardous waste” on the container label that is affixed or attached to the container within four calendar days of arriving at the on-site central accumulation area and before the hazardous waste may be removed from the on-site central accumulation area;

(ii) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed of on-site or transported off-site;

(iii) Count the hazardous waste toward the eligible academic entity's generator category, pursuant to subparagraph (1)(d) of this rule, in the calendar month that the hazardous waste determination was made; and

(iv) Manage the hazardous waste according to all applicable hazardous waste regulations.

(m) Making the hazardous waste determination at an on-site interim status or permitted treatment, storage, or disposal facility. [40 CFR 262.212]

If an eligible academic entity makes the hazardous waste determination, pursuant to subparagraph (1)(b) of this rule, for unwanted material at an on-site interim status or permitted treatment, storage, or disposal facility, it must comply with the following:

1. A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site interim status or permitted treatment, storage or disposal facility;

2. All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site interim status or permitted treatment, storage, or disposal facility;

3. The unwanted material becomes subject to the terms of the eligible academic entity's hazardous waste permit or interim status as soon as it arrives in the on-site treatment, storage, or disposal facility;

4. A trained professional must determine, pursuant to parts (1)(b)1 through 4 of this rule, if the unwanted material is a hazardous waste within four calendar days of the unwanted materials' arrival at an on-site interim status or permitted treatment, storage, or disposal facility; and

5. If the unwanted material is a hazardous waste, the eligible academic entity must:

   (i) Write the words “hazardous waste” on the container label that is affixed or attached to the container within four calendar days of arriving at the on-site interim status or permitted treatment, storage, or disposal facility and before the hazardous waste may be removed from the on-site interim status or permitted treatment, storage, or disposal facility;

   (ii) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed on-site or transported off-site;

   (iii) Count the hazardous waste toward the eligible academic entity's generator category, pursuant to subparagraph (1)(d) of this rule, in the calendar month that the hazardous waste determination was made; and

   (iv) Manage the hazardous waste according to all applicable hazardous waste regulations.

(n) Laboratory clean-outs. [40 CFR 262.213]

1. One time per 12-month period for each laboratory, an eligible academic entity may opt to conduct a laboratory clean-out that is subject to all the applicable requirements of this paragraph, except that:

   (i) If the volume of unwanted material in the laboratory exceeds 55 gallons (or 1 quart of liquid reactive acutely hazardous unwanted material or 1 kg of solid reactive acutely hazardous unwanted material), the eligible academic entity is not required to remove all unwanted materials from the laboratory within 10 calendar days of exceeding 55 gallons (or 1 quart of liquid reactive acutely hazardous unwanted material or 1 kg of solid reactive acutely hazardous unwanted material), as required by subparagraph (i) of this paragraph. Instead, the eligible academic entity must remove all unwanted materials from the laboratory within 30 calendar days from the start of the laboratory clean-out; and

   (ii) For the purposes of on-site accumulation, an eligible academic entity is not required to count a hazardous waste that is an unused commercial chemical product (listed in paragraph (4) of Rule 0400-12-01-.02 or exhibiting one or more

characteristics in paragraph (3) of Rule 0400-12-01-.02) generated solely during the laboratory clean-out toward its hazardous waste generator category, pursuant to subparagraph (1)(d) of this rule. An unwanted material that is generated prior to the beginning of the laboratory clean-out and is still in the laboratory at the time the laboratory clean-out commences must be counted toward hazardous waste generator category, pursuant to subparagraph (1)(d) of this rule, if it is determined to be hazardous waste; and

(iii) For the purposes of off-site management, an eligible academic entity must count all its hazardous waste, regardless of whether the hazardous waste was counted toward generator category under subpart (ii) of this part, and if it generates more than 1 kg/month of acute hazardous waste or more than 100 kg/month of non-acute hazardous waste (i.e., the very small quantity generator limits as defined in subparagraph (2)(a) of Rule 0400-12-01-.01), the hazardous waste is subject to all applicable hazardous waste regulations when it is transported off-site; and

(iv) An eligible academic entity must document the activities of the laboratory clean-out. The documentation must, at a minimum, identify the laboratory being cleaned out, the date the laboratory clean-out begins and ends, and the volume of hazardous waste generated during the laboratory clean-out. The eligible academic entity must maintain the records for a period of three years from the date the clean-out ends; and

2. For all other laboratory clean-outs conducted during the same 12-month period, an eligible academic entity is subject to all the applicable requirements of this paragraph, including, but not limited to:

(i) The requirement to remove all unwanted materials from the laboratory within 10 calendar days of exceeding 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), as required by subparagraph (i) of this paragraph; and

(ii) The requirement to count all hazardous waste, including unused hazardous waste, generated during the laboratory clean-out toward its hazardous waste generator category, pursuant to subparagraph (1)(d) of this rule.

(o) Laboratory management plan. [40 CFR 262.214]

An eligible academic entity must develop and retain a written Laboratory Management Plan or revise an existing written plan. The Laboratory Management Plan is a site-specific document that describes how the eligible academic entity will manage unwanted materials in compliance with this paragraph. An eligible academic entity may write one Laboratory Management Plan for all the laboratories owned by the eligible academic entity that have opted into this paragraph, even if the laboratories are located at sites with different Installation Identification Numbers. The Laboratory Management Plan must contain two parts with a total of nine elements identified in parts 1 and 2 of this subparagraph. In Part I of its Laboratory Management Plan, an eligible academic entity must describe its procedures for each of the elements listed in part 1 of this subparagraph. An eligible academic entity must implement and comply with the specific provisions that it develops to address the elements in Part I of the Laboratory Management Plan. In Part II of its Laboratory Management Plan, an eligible academic entity must describe its best management practices for each of the elements listed in part 2 of this subparagraph. The specific actions taken by an eligible academic entity to implement each element in Part II of its Laboratory Management Plan may vary from the procedures described in the eligible academic entity's Laboratory Management Plan, without constituting a violation of this paragraph. An eligible academic entity may include additional elements and best management practices in Part II of its Laboratory Management Plan if it chooses.

1. The eligible academic entity must implement and comply with the specific provisions of Part I of its Laboratory Management Plan. In Part I of its Laboratory Management Plan, an eligible academic entity must:

(i) Describe procedures for container labeling in accordance with part (g)1 of this paragraph, as follows:

(I) Identifying whether the eligible academic entity will use the term “unwanted material” on the containers in the laboratory (If not, identify an equally effective term that will be used in lieu of “unwanted material” and consistently by the eligible academic entity. The equally effective term, if used, has the same meaning and is subject to the same requirements as “unwanted material.”);

(II) Identifying the manner in which information that is “associated with the container” will be imparted.

(ii) Identify whether the eligible academic entity will comply with subpart (i)1(i) or (i)1(ii) of this paragraph for regularly scheduled removals of unwanted material from the laboratory.

2. In Part II of its Laboratory Management Plan, an eligible academic entity must:

(i) Describe its intended best practices for container labeling and management, (see the required standards at subparagraph (g) of this paragraph);

(ii) Describe its intended best practices for providing training for laboratory workers and students commensurate with their duties (see the required standards at part (h)1 of this paragraph);

(iii) Describe its intended best practices for providing training to ensure safe on-site transfers of unwanted material and hazardous waste by trained professionals (see the required standards at subpart (h)4(i) of this paragraph);

(iv) Describe its intended best practices for removing unwanted material from the laboratory, including:

(I) For regularly scheduled removals—Develop a regular schedule for identifying and removing unwanted materials from its laboratories (see the required standards at subparts (i)1(i) and (i)1(ii) of this paragraph); and

(II) For removals when maximum volumes are exceeded:

I. Describe its intended best practices for removing unwanted materials from the laboratory within 10 calendar days when unwanted materials have exceeded their maximum volumes (see the required standards at part (i)4 of this paragraph); and

II. Describe its intended best practices for communicating that unwanted materials have exceeded their maximum volumes;

(v) Describe its intended best practices for making hazardous waste determinations, including specifying the duties of the individuals involved in the process (see the required standards at parts (1)(b)1 through 4 of this rule and subparagraphs (j) through (m) of this paragraph);

(vi) Describe its intended best practices for laboratory clean-outs, if the eligible academic entity plans to use the incentives for laboratory clean-outs provided in subparagraph (n) of this paragraph, including:

(I) Procedures for conducting laboratory clean-outs (see the required standards at subparts (n)1(i) through (iii) of this paragraph); and

(II) Procedures for documenting laboratory clean-outs (see the required standards at subpart (n)1(iv) of this paragraph); and

(vii) Describe its intended best practices for emergency prevention, including:

(I) Procedures for emergency prevention, notification, and response, appropriate to the hazards in the laboratory;

(II) A list of chemicals that the eligible academic entity has, or is likely to have, that become more dangerous when they exceed their expiration date and/or as they degrade;

(III) Procedures to safely dispose of chemicals that become more dangerous when they exceed their expiration date and/or as they degrade; and

(IV) Procedures for the timely characterization of unknown chemicals.

3. An eligible academic entity must make its Laboratory Management Plan available to laboratory workers, students, or any others at the eligible academic entity who request it.

4. An eligible academic entity must review and revise its Laboratory Management Plan~~,~~ as needed.

(p) Unwanted material that is not solid or hazardous waste. [40 CFR 262.215]

1. If an unwanted material does not meet the definition of solid waste in subparagraph (1)(b) of Rule 0400-12-01-.02, it is no longer subject to this paragraph or to the hazardous waste regulations.

2. If an unwanted material does not meet the definition of hazardous waste in subparagraph (1)(c) of Rule 0400-12-01-.02, it is no longer subject to this paragraph or to the hazardous waste regulations but must be managed in compliance with any other applicable regulations and/or conditions.

(q) Non-laboratory hazardous waste generated at an eligible academic entity. [40 CFR 262.216]

An eligible academic entity that generates hazardous waste outside of a laboratory is not eligible to manage that hazardous waste under this paragraph; and

1. Remains subject to the generator requirements of subparagraphs (1)(b) and (f) of this rule for large quantity generators and small quantity generators (if the hazardous waste is managed in a satellite accumulation area), and all other applicable generator requirements of Rule 0400-12-01-.03, with respect to that hazardous waste; or

2. Remains subject to the conditional exemption of subparagraph (1)(e) of this rule for very small quantity generators, with respect to that hazardous waste.

(11) Alternate Standards for Episodic Generation [40 CFR 262, Subpart L]

(a) Applicability. [40 CFR 262.230]

This paragraph is applicable to very small quantity generators and small quantity generators as defined in subparagraph (1)(b) of Rule 0400-12-01-.01.

(b) Definitions for this paragraph. [40 CFR 262.231]

1. “Episodic event” means an activity or activities, either planned or unplanned, that does not normally occur during generator operations, resulting in an increase in the generation of hazardous wastes that exceeds the calendar month quantity limits for the generator's usual category.

2. “Planned episodic event” means an episodic event that the generator planned and prepared for, including regular maintenance, tank cleanouts, short-term projects, and removal of excess chemical inventory.

3. “Unplanned episodic event” means an episodic event that the generator did not plan or reasonably did not expect to occur, including production process upsets, product recalls, accidental spills, or “acts of nature” such as a tornado, hurricane, or flood.

(c) Conditions for a generator managing hazardous waste from an episodic event. [40 CFR 262.232]

1. Very small quantity generator. A very small quantity generator may maintain its existing generator category for hazardous waste generated during an episodic event provided that the generator complies with the following conditions:

(i) The very small quantity generator is limited to one episodic event per calendar year, unless a petition is granted under subparagraph (d) of this paragraph;

(ii) Notification. The very small quantity generator must notify the Commissioner no later than 30 calendar days prior to initiating a planned episodic event using forms provided by the Commissioner, and the forms must be completed according to the accompanying instructions. In the event of an unplanned episodic event, the generator must notify the Commissioner within 72 hours of the unplanned event via phone, email, or fax and subsequently submit the form provided by the Commissioner, and the form must be completed according to the instructions accompanying it. The generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of hazardous waste expected to be generated as a result of the episodic event, and shall identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to an emergency in compliance with item (1)(g)2(ix)(I) of this rule;

(iii) Installation Identification Number. The very small quantity generator must have an installation identification number or obtain an installation identification number using forms provided by the Commissioner, and the forms must be completed according to the accompanying instructions;

(iv) Accumulation. A very small quantity generator is prohibited from accumulating hazardous waste generated from an episodic event on drip pads and in containment buildings. When accumulating hazardous waste in containers and tanks the following conditions apply:

(I) Containers. A very small quantity generator accumulating in containers must mark or label its containers with the following:

I. The words “Episodic Hazardous Waste”;

II. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

III. The date upon which the episodic event began, clearly visible for inspection on each container.

(II) Tanks. A very small quantity generator accumulating episodic hazardous waste in tanks must do the following:

I. Mark or label the tanks with the words “Episodic Hazardous Waste”;

II. Mark or label the tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

III. Use inventory logs, monitoring equipment, or other records to identify the date upon which each episodic event begins; and

IV. Keep inventory logs or records with the information required by subitem III of this item on site and readily available for inspection.

(III) Hazardous waste must be managed in a manner that minimizes the possibility of a fire, explosion, or release of hazardous waste or hazardous waste constituents to the air, soil, or water;

I. Containers must be in good condition and compatible with the hazardous waste being accumulated therein. Containers must be kept closed except to add or remove waste; and

II. Tanks must:

A. Be in good condition and compatible with the hazardous waste accumulated therein;

B. Have procedures in place to prevent the overflow (e.g., be equipped with a means to stop inflow with systems such as a waste feed cutoff system or bypass system to a standby tank when hazardous waste is continuously fed into the tank); and

C. Be inspected at least once each operating day to ensure all applicable discharge control equipment, such as waste feed cutoff systems, bypass systems, and drainage systems are in good working order and to ensure the tank is operated according to its design by reviewing the data gathered from monitoring equipment such as pressure and temperature gauges from the inspection.

(v) The very small quantity generator must comply with the hazardous waste manifest provisions of paragraph (3) of this rule when it sends its episodic event hazardous waste off site to a designated facility, as defined in subparagraph (2)(a) of Rule 0400-12-01-.01, and comply with the annual reporting requirements of part (5)(b)6 of this rule.

(Note: The quantities of hazardous waste generated during an episodic event(s) does not exempt the very small quantity generator from paying any applicable fee in accordance with paragraph (5) of Rule 0400-12-01-.08.)

(vi) The very small quantity generator has up to 60 calendar days from the start of the episodic event to manifest and send its hazardous waste generated from the episodic event to a designated facility, as defined in subparagraph (2)(a) of Rule 0400-12-01-.01.

(vii) Very small quantity generators must maintain the following records for three years from the end date of the episodic event:

(I) Beginning and end dates of the episodic event;

(II) A description of the episodic event;

(III) A description of the types and quantities of hazardous wastes generated during the event;

(IV) A description of how the hazardous waste was managed as well as the name of the designated facility, as defined in subparagraph (2)(a) of Rule 0400-12-01-.01, that received the hazardous waste;

(V) Name(s) of permitted hazardous waste transporters used to transport the hazardous wastes generated during the event; and

(VI) An approval letter from the Commissioner if the generator petitioned to conduct one additional episodic event per calendar year.

2. Small quantity generators. A small quantity generator may maintain its existing generator category during an episodic event provided that the generator complies with the following conditions:

(i) The small quantity generator is limited to one episodic event per calendar year unless a petition is granted under subparagraph (d) of this paragraph;

(ii) Notification. The small quantity generator must notify the Commissioner no later than 30 calendar days prior to initiating a planned episodic event using forms provided by the Commissioner, and the forms must be completed according to the accompanying instructions. In the event of an unplanned episodic event, the small quantity generator must notify the Commissioner within 72 hours of the unplanned event via phone, email, or fax and subsequently submit the form provided by the Commissioner, and the form must be completed according to the instructions accompanying it. The small quantity generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of hazardous wastes expected to be generated as a result of the episodic event, and identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to emergency;

(iii) Installation Identification Number. The small quantity generator must have an installation identification number or obtain an installation identification number using forms provided by the Commissioner, and the forms must be completed according to the accompanying instructions; and

(iv) Accumulation by small quantity generators. A small quantity generator is prohibited from accumulating hazardous wastes generated from an episodic event on drip pads and in containment buildings. When accumulating hazardous waste generated from an episodic event in containers and tanks, the following conditions apply:

(I) Containers. A small quantity generator accumulating episodic hazardous waste in containers must meet the standards at subpart (1)(g)2(ii) of this rule and must mark or label its containers with the following:

I. The words “Episodic Hazardous Waste”;

II. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

III. The date upon which the episodic event began, clearly visible for inspection on each container.

(II) Tanks. A small quantity generator accumulating episodic hazardous waste in tanks must meet the standards at subpart (1)(g)2(iii) of this rule and must do the following:

I. Mark or label its tank with the words “Episodic Hazardous Waste”;

II. Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

III. Use inventory logs, monitoring equipment, or other records to identify the date upon which each period of accumulation begins and ends; and

IV. Keep inventory logs or records with the information required by subitem III of this item on site and available for inspection.

(v) The small quantity generator must treat hazardous waste generated from an episodic event on site or manifest and ship such hazardous waste off site to a designated facility (as defined by subparagraph (2)(a) of Rule 0400-12-01-.01) within 60 calendar days from the start of the episodic event, and it must comply with the annual reporting requirements of part (5)(b)1 of this rule.

(Note: The quantities of hazardous waste generated during an episodic event(s) does not exempt the small quantity generator from paying any applicable fee in accordance with paragraph (5) of Rule 0400-12-01-.08.)

(vi) The small quantity generator must maintain the following records for three years from the end date of the episodic event:

(I) Beginning and end dates of the episodic event;

(II) A description of the episodic event;

(III) A description of the types and quantities of hazardous wastes generated during the event;

(IV) A description of how the hazardous waste was managed as well as the name of the designated facility (as defined by subparagraph (2)(a) of Rule 0400-12-01-.01) that received the hazardous waste;

(V) Name(s) of permitted hazardous waste transporters used to transport the hazardous wastes generated during the event; and

(VI) An approval letter from the Commissioner if the generator petitioned to conduct one additional episodic event per calendar year.

(d) Petition to manage one additional episodic event per calendar year. [40 CFR 262.233]

1. A generator may petition the Commissioner in writing, either on paper or electronically, for a second episodic event in a calendar year without impacting its generator category under the following conditions:

(i) If a very small quantity generator or small quantity generator has already held a planned episodic event in a calendar year, the generator may petition the Commissioner for an additional unplanned episodic event in that calendar year within 72 hours of the unplanned event.

(ii) If a very small quantity generator or small quantity generator has already held an unplanned episodic event in a calendar year, the generator may petition the Commissioner for an additional planned episodic event in that calendar year.

2. The petition must include the following:

(i) The reason(s) why an additional episodic event is needed and the nature of the episodic event;

(ii) The estimated amount of hazardous waste to be managed from the event;

(iii) How the hazardous waste is to be managed;

(iv) The estimated length of time needed to complete management of the hazardous waste generated from the episodic event--not to exceed 60 days; and

(v) Information regarding the previous episodic event managed by the generator, including the nature of the event, whether it was a planned or unplanned event, and how the generator complied with the conditions.

3. The generator must retain written approval in its records for three years from the date the episodic event ended.

(12) Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators [40 CFR 262, Subpart M]

(a) Applicability. [40 CFR 262.250]

The regulations of this paragraph apply to those areas of a large quantity generator where hazardous waste is generated or accumulated on site.

(b) Maintenance and operation of facility. [40 CFR 262.251]

A large quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

(c) Required equipment. [40 CFR 262.252]

All areas deemed applicable by subparagraph (a) of this paragraph must be equipped with the items in parts 1 through 4 of this subparagraph (unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified in parts 1 through 4 of this subparagraph, or the actual hazardous waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). A large quantity generator may determine the most appropriate locations within its facility to locate equipment necessary to prepare for and respond to emergencies:

1. An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

2. A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

3. Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

4. Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

(d) Testing and maintenance of equipment. [40 CFR 262.253]

All communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(e) Access to communications or alarm system. [40 CFR 262.254]

1. Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under subparagraph (c) of this paragraph.

2. In the event there is just one employee on the premises while the facility is operating, the employee must have immediate access (e.g., direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under subparagraph (c) of this paragraph.

(f) Required aisle space. [40 CFR 262.255]

The large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

(g) Arrangements with local authorities. [40 CFR 262.256]

1. The large quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response

contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if it is determined to be the appropriate organization with which to make arrangements.

(i) A large quantity generator attempting to make arrangements with its local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals.

(ii) As part of this coordination, the large quantity generator shall attempt to make arrangements, as necessary, to familiarize the organizations identified in this part with the layout of the facility, the properties of the hazardous waste handled at the facility and associated hazards, places where personnel would normally be working, entrances to roads inside the facility, possible evacuation routes, and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

(iii) Where more than one police or fire department might respond to an emergency, the large quantity generator shall attempt to make arrangements designating primary emergency authority to a specific fire or police department, and attempt to make arrangements with any others to provide support to the primary emergency authority.

2. The large quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

3. A facility possessing 24-hour response capabilities may seek a waiver from the authority having jurisdiction (AHJ) over the fire code within the facility's state or locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the waiver is documented in the operating record.

(h) Purpose and implementation of contingency plan. [40 CFR 262.260]

1. A large quantity generator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

2. The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

(i) Content of contingency plan. [40 CFR 262.261]

1. The contingency plan must describe the actions facility personnel must take to comply with subparagraphs (h) and (m) of this paragraph in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

2. If the generator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR part 112, or some other emergency or contingency plan, it need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the standards of this paragraph. The generator may develop one contingency plan that meets all regulatory standards.

The Commissioner recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance (“One Plan”).

3. The plan must describe arrangements agreed to with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals or, if applicable, the Local Emergency Planning Committee, pursuant to subparagraph (g) of this paragraph.

4. The plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator (see subparagraph (l) of this paragraph), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. In situations where the generator facility has an emergency coordinator continuously on duty because it operates 24 hours per day, every day of the year, the plan may list the staffed position (e.g., operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times.

5. The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

6. The plan must include an evacuation plan for generator personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

(j) Copies of contingency plan. [40 CFR 262.262]

A copy of the contingency plan and all revisions to the plan must be maintained at the large quantity generator, and:

1. The large quantity generator must submit a copy of the contingency plan and all revisions to all local emergency responders (i.e., police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services). This document may also be submitted to the Local Emergency Planning Committee, as appropriate.

2. A large quantity generator that first becomes subject to these provisions after the effective date of these rules, or a large quantity generator that is otherwise amending its contingency plan, must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified in part 1 of this subparagraph or, as appropriate, the Local Emergency Planning Committee. The quick reference guide must include the following elements:

(i) The types/names of hazardous wastes in layman's terms and the associated hazard associated with each hazardous waste present at any one time (e.g., toxic paint wastes, spent ignitable solvent, corrosive acid);

(ii) The estimated maximum amount of each hazardous waste that may be present at any one time;

(iii) The identification of any hazardous wastes where exposure would require unique or special treatment by medical or hospital staff;

(iv) A map of the facility showing where hazardous wastes are generated, accumulated, and treated, and routes for accessing these wastes;

(v) A street map of the facility in relation to surrounding businesses, schools, and residential areas to understand how best to get to the facility and also evacuate citizens and workers;

(vi) The locations of water supply (e.g., fire hydrant and its flow rate);

(vii) The identification of on-site notification systems (e.g., a fire alarm that rings off site, smoke alarms); and

(viii) The name of the emergency coordinator(s) and 7/24-hour emergency telephone number(s) or, in the case of a facility where an emergency coordinator is continuously on duty, the emergency telephone number for the emergency coordinator.

3. Generators must update, if necessary, their quick reference guides, whenever the contingency plan is amended and submit these documents to the local emergency responders identified in part 1 of this subparagraph or, as appropriate, the Local Emergency Planning Committee.

4. For a facility possessing 24-hour response capabilities, submission of a copy of the contingency plan and of the quick reference guide as required by parts 1 and 2 of this subparagraph to a local emergency responder (i.e., police department, fire department, hospital, and state and local emergency response teams) is not required, provided a waiver has been obtained in accordance with part (g)3 of this paragraph that specifies that the services of the local emergency responder is not needed in the event of an emergency.

(k) Amendment of contingency plan. [40 CFR 262.263]

The contingency plan must be reviewed, and immediately amended, if necessary, whenever:

1. Applicable regulations are revised;

2. The plan fails in an emergency;

3. The generator facility changes--in its design, construction, operation, maintenance, or other circumstances--in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency;

4. The list of emergency coordinators changes; or

5. The list of emergency equipment changes.

(l) Emergency coordinator. [40 CFR 262.264]

At all times, there must be at least one employee either on the generator's premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures and implementing the necessary emergency procedures outlined in subparagraph (m) of this paragraph. Although responsibilities may vary depending on factors such as type and variety of hazardous waste(s) handled by the facility, as well as type and complexity of the facility, this emergency coordinator must be thoroughly familiar with all aspects of the generator's contingency plan, all operations and activities at the facility, the location and characteristics of hazardous waste handled, the location of all records within the facility, and the facility's layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

(m) Emergency procedures. [40 CFR 262.265]

1. Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

   (i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

   (ii) Notify appropriate state or local agencies with designated response roles if their help is needed.

2. Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. The emergency coordinator may do this by observation or review of the facility records or manifests and, if necessary, by chemical analysis.

3. Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).

4. If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, the emergency coordinator must report the findings as follows:

   (i) If the assessment indicates that evacuation of local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated; and

   (ii) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for that geographical area or the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include:

      (I) Name and telephone number of reporter;

      (II) Name and address of the generator;

      (III) Time and type of incident (e.g., release, fire);

      (IV) Name and quantity of material(s) involved, to the extent known;

      (V) The extent of injuries, if any; and

      (VI) The possible hazards to human health, or the environment, outside the facility.

5. During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the generator's facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released hazardous waste, and removing or isolating containers.

6. If the generator stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

7. Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the generator can demonstrate, in accordance with part (1)(c)3 or (1)(c)4 of Rule 0400-12-01-.02, that the recovered material is not a hazardous waste, then it is a newly generated hazardous waste that must be managed in accordance with all the applicable requirements and conditions for exemption in this rule and Rules 0400-12-01-.04 and 0400-12-01-.05.

8. The emergency coordinator must ensure that, in the affected area(s) of the facility:

   (i) No hazardous waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

   (ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

9. The generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, the generator must submit a written report on the incident to the Commissioner. The report must include:

   (i) Name, address, and telephone number of the generator;

   (ii) Date, time, and type of incident (e.g., fire, explosion);

   (iii) Name and quantity of material(s) involved;

   (iv) The extent of injuries, if any;

   (v) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

   (vi) Estimated quantity and disposition of recovered material that resulted from the incident.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 5 of subparagraph (a) of paragraph (1) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

5. A transporter of hazardous waste that is being imported from or exported to any other country for the purposes of recovery or disposal is subject to this paragraph and to all relevant requirements of paragraph (9) of Rule 0400-12-01-.03, including, but not limited to, parts (9)(d)4 and (9)(e)4 of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (c) of paragraph (1) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(c) Transfer Facility Requirements [40 CFR 263.12]

1. A hazardous waste transfer facility shall not operate without having received an installation identification number from the Department.

2. (i) The operator of a hazardous waste transfer facility shall maintain a log of all shipments of hazardous waste entering and leaving the facility.

(ii) The log required by subpart (i) of this part shall be developed by the owner or operator of the transfer facility and shall contain, at a minimum, the following information for each shipment:

(I) The date the shipment arrived;

(II) The generator's name and installation identification number;

(III) The manifest document number associated with the shipment;

(IV) The date the hazardous waste was shipped out of the transfer facility; and

(V) If the transporter mixes hazardous wastes by placing them into a single container at the transfer facility:

I. The item number(s) and letter(s) from the manifest document number(s) for all separately containerized wastes that are combined in the container; and

II. If the hazardous wastes mixed in the container have different U.S. DOT shipping descriptions, the new manifest number as required by part (a)4 of this paragraph.

(iii) The information required by subpart (ii) of this part shall be retained for a period of three years and made available for review by the Commissioner.

3. The operator of a hazardous waste transfer facility shall insure that the transfer facility's operations comply with the provisions of:

(i) Subparagraph (2)(g) of Rule 0400-12-01-.05, Personnel Training;

(ii) Paragraph (9) of Rule 0400-12-01-.05, Use and Management of Containers, except subparagraphs (9)(e) and (i) of Rule 0400-12-01-.05; and

(iii) Subparagraph (2)(e) of Rule 0400-12-01-.05, Security.

4. Except for the requirements of part 3 of this subparagraph, a transporter who stores manifested shipments of hazardous waste in containers meeting the independent requirements of subparagraph (4)(a) of Rule 0400-12-01-.03 at a transfer facility for a period of 10 days or less is not subject to regulation under Rules 0400-12-01-.05, 0400-12-01-.06, 0400-12-01-.07, and 0400-12-01-.10 with respect to the storage of those wastes.

5. In addition to the requirements of item (2)(ii)(V) of this subparagraph, when consolidating the contents of two or more containers with the same hazardous waste into a new container, or when combining and consolidating two different hazardous wastes that are compatible with each other, the transporter must mark its containers of 119 gallons or less with the following information:

(i) The words "Hazardous Waste"; and

(ii) The applicable EPA hazardous waste number(s) (hazardous waste codes) in paragraphs (3) and (4) of Rule 0400-12-01-.02, or in compliance with part (4)(c)3 of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 1 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(ii) Exports.

For exports of hazardous waste subject to the requirements of paragraph (9) of Rule 0400-12-01-.03, a transporter may not accept hazardous waste without a manifest signed by the generator in accordance with this paragraph, as appropriate, and for exports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by part (9)(d)4 of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (iv) of part 1 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(I) Any requirement in these regulations to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of subparagraph (3)(f) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (viii) of part 1 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(viii) Reserved.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by adding a new subpart (ix) to read as follows:

(ix) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. Transporters may participate electronically in the post-receipt data corrections process by following the process described in part (5)(b)12 of Rule 0400-12-01-.06, which applies to corrections made to either paper or electronic manifest records.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

3. The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports occurring under the terms of a consent issued by EPA to the exporter on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by part (9)(d)4 of Rule 0400-12-01-.03 also accompanies the hazardous waste. In the case of imports occurring under the terms of a consent issued by EPA to the country of export or the importer on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by part (9)(e)4 of Rule 0400-12-01-.03 also accompanies the hazardous waste.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 5 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(ii) A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by part (9)(d)4 of Rule 0400-12-01-.03 or part (9)(e)4 of Rule 0400-12-01-.03 accompanies the hazardous waste; and

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 6 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(ii) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification number, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by part (9)(d)4 of Rule 0400-12-01-.03 or part (9)(e)4 of Rule 0400-12-01-.03 accompanies the hazardous waste at all times.

(Note: Intermediate rail transporters are not required to sign the manifest, movement document, or shipping paper.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iv) of part 7 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(iv) For paper manifests only,

(I) Send a copy of the manifest to the e-Manifest system in accordance with the allowable methods specified in item (5)(b)1(ii)(V) of Rule 0400-12-01-.06; and

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

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (b) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(b) Compliance with the Manifest [40 CFR 263.21]

1. Except as provided in part 2 of this subparagraph, the transporter must deliver the entire quantity of hazardous waste which the transporter has accepted from a generator or a transporter to:

(i) The designated facility listed on the manifest; or

(ii) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(iii) The next designated transporter; or

(iv) The place outside the United States designated by the generator.

2. (i) Emergency condition. If the hazardous waste cannot be delivered in accordance with subpart 1(i), (ii), or (iv) of this subparagraph because of an emergency condition other than rejection of the waste by the designated facility or alternate designated facility, then the transporter must contact the generator for further instructions and must revise the manifest according to the generator's instructions.

(ii) Transporters without agency authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subpart 1(iii) of this subparagraph, and the current transporter is without contractual authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter must contact the generator for further instructions prior to making any revisions to the transporter designations on the manifest. The current transporter may thereafter make such revisions if:

(I) The hazardous waste is not delivered in accordance with subpart 1(iii) of this subparagraph because of an emergency condition; or

(II) The current transporter proposes to change the transporter(s) designated on the manifest by the generator, or to add a new transporter during transportation, to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety; and

(III) The generator authorizes the revision.

(iii) Transporters with agency authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subpart 1(iii) of this subparagraph, and the current transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporter(s) designated on the manifest, or add a new transporter, during transportation without the generator's prior, explicit approval, provided that:

(I) The current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;

(II) The transporter enters in Item 14 of each manifest for which such a change is made, the following statement of its agency authority:

"Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator's behalf;" and

(III) The change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.

(iv) Generator liability. The grant by a generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under subpart 2(iii) of this subparagraph does not affect the generator's liability or responsibility for complying with any applicable requirement under Chapter 0400-

12-01, or grant any additional authority to the transporter to act on behalf of the generator.

3. If hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter must obtain the following:

(i) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature and the Manifest Tracking Number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with subparagraph (c) of this paragraph and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in subparts (5)(c)5(i) through (vi) of Rule 0400-12-01-.06, or subparts 6(i) through (vi) of Rule 0400-12-01-.06 or subparts (5)(c)5(i) through (vi) of Rule 0400-12-01-.05 or subparts 6(i) through (vi) of Rule 0400-12-01-.05.

(ii) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and Identification Number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with subparagraph (c) of this paragraph and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with subparts (5)(c)5(i) through (vi) of Rule 0400-12-01-.06 or subparts (5)(c)5(i) through (vi) of Rule 0400-12-01-.05.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 2 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) The owner or operator of a facility permitted or registered by the Commissioner or Board, as appropriate, pursuant to the "Tennessee Solid Waste Disposal Act" (T.C.A. §§68-211-101 through 68-211-115 and 68-211-301), to manage municipal or industrial waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this rule by subparagraph (1)(e) of Rule 0400-12-01-.03;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iv) of part 2 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iv) A generator accumulating waste on-site in compliance with applicable conditions for exemption in subparagraphs (1)(e) through (h) of Rule 0400-12-01-.03 and paragraphs (10) and (11) of Rule 0400-12-01-.03, except to the extent the requirements of this rule are included in those subparagraphs or paragraphs;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (viii) of part 2 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(viii) A transporter storing manifested shipments of hazardous waste in containers meeting applicable DOT and the independent requirements of subparagraph (4)(a) of Rule 0400-12-01-.03 at a transfer facility for a period of 10 days or less;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (c) of paragraph (2) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

1. The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to paragraph (9) of Rule 0400-12-01-.03 from a foreign source must submit the following required notices:

(i) As per part (9)(e)2 of Rule 0400-12-01-.03, for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in subpart (9)(e)2(i) of Rule 0400-12-01-.03 at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(ii) As per item (9)(e)4(ii)(XV) of Rule 0400-12-01-.03, a copy of the movement document bearing all required signatures within three working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document must be maintained at the facility for at least three years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this subpart if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the owner or operator of a facility bears no responsibility.

(iii) As per subpart (9)(e)6(iv) of Rule 0400-12-01-.03, if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in subpart (9)(e)2(i) of Rule 0400-12-01-.03 of the need to return or arrange alternate management of the shipment.

(iv) As per part (9)(e)7 of Rule 0400-12-01-.03, such owner or operator shall:

(I) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than 30 days after completing

recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

(II) If the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in this item are defined in subparagraph (9)(b) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(ii) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his/her agent must:

(I) Sign and date each copy of the manifest;

(II) Note any discrepancies (as defined in part (c)1 of this paragraph) on each copy of the manifest;

(III) Immediately give the transporter at least one copy of the manifest;

(IV) Within 30 days of delivery, send a copy (Page 2) of the manifest to the generator;

(V) Paper manifest submission requirements are:

I. Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy (Page 1) of any paper manifest and any paper continuation sheet to the EPA’s e-Manifest system for purposes of data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

II. Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-

Manifest system for purposes of data entry and processing may be met by the owner or operator only by transmitting to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services; and

(VI) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iii) The owner or operator of a facility receiving hazardous waste subject to paragraph (9) of Rule 0400-012-01-.03 from a foreign source must:

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

(II) Send a copy of the manifest within 30 days of delivery to EPA using the addresses listed in part (9)(c)5 of Rule 0400-12-01-.03 until the facility can submit such a copy to the e-Manifest system per Item (ii)(V) of this part.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

3. Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of Rule 0400-12-01-.03. The provisions of subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03 are applicable to the onsite accumulation of hazardous wastes by generators. Therefore, the provisions of subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03 only apply to owners or operators who are shipping hazardous waste which they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under part (1)(h)6 of Rule 0400-12-01-.03.~~)~~

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 4 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

4. As per item (9)(e)4(ii)(XV) of Rule 0400-12-01-.03, within three working days of the receipt of a shipment subject to paragraph (9) of Rule 0400-12-01-.03, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the exporter, to competent authorities of all other countries of export and transit that control the shipment as an export and transit of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA

electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document must be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this part if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 6 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) Any requirement in these regulations for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of subparagraph (3)(f) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 10 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

10. Imposition of user fee for electronic manifest use.

(i) As prescribed in 40 CFR § 265.1311, and determined in 40 CFR § 265.1312, an owner or operator who is a user of the electronic manifest system shall be assessed a user fee by EPA for the submission and processing of each electronic and paper manifest. EPA shall update the schedule of user fees and publish them to the user community, as provided in 40 CFR § 265.1313.

(ii) An owner or operator subject to user fees under this part shall make user fee payments in accordance with the requirements of 40 CFR § 265.1314, subject to the informal fee dispute resolution process of 40 CFR § 265.1316, and subject to the sanctions for delinquent payments under 40 CFR §. 265.1315.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by adding a new part 12 to read as follows:

12. Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) shown on the manifest.

(i) Interested persons must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web-based service provided in e-Manifest for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(ii) Each correction submission must include the following information:

(I) The Manifest Tracking Number and date of receipt by the facility of the original manifest(s) for which data are being corrected;

(II) The item number(s) of the original manifest that is the subject of the submitted correction(s); and

(III) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(iii) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:

(I) The certification statement must be executed with a valid electronic signature; and

(II) A batch upload of data corrections may be submitted under one certification statement.

(iv) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(v) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system, certified by the respondent as specified in subpart (iii) of this part, and with notice of the corrections to other interested persons shown on the manifest.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 6 of subparagraph (a) of paragraph (6) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

6. The Commissioner may replace all or part of the requirements of this paragraph applying to a regulated unit (as defined in subparagraph (6)(a) of Rule 0400-12-01-.06), with alternative requirements developed for groundwater monitoring set out in an approved closure or post-closure plan or in an enforceable document (as defined in part (1)(b)9 of Rule 0400-12-01-.07), where the Commissioner determines that:

(i) A regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management unit(s) (or areas of concern) are likely to have contributed to the release; and

(ii) It is not necessary to apply the requirements of this paragraph because the alternative requirements will protect human health and the environment. The alternative standards for the regulated unit must meet the requirements of part (6)(l)1 of Rule 0400-12-01-.06.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (c) of paragraph (6) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

2. The owner or operator must determine the concentration or value of the following parameters in ground-water samples in accordance with parts 3 and 4 of this subparagraph:

(i) Parameters characterizing the suitability of the groundwater as a drinking water supply, as specified in appendix III.

(ii) Parameters establishing ground-water quality:

(I) Chloride

(II) Iron

(III) Manganese

(IV) Phenols

(V) Sodium

(VI) Sulfate

(Comment: These parameters are to be used as a basis for comparison in the event a ground-water quality assessment is required under part (d)4 of this paragraph.)

(iii) Parameters used as indicators of ground-water contamination:

(I) pH

(II) Specific Conductance

(III) Total Organic Carbon

(IV) Total Organic Halogen

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 4 of subparagraph (c) of paragraph (6) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

4. After the first year, all monitoring wells must be sampled and the samples analyzed with the following frequencies:

(i) Samples collected to establish ground-water quality must be obtained and analyzed for the parameters specified in subpart 2(ii) of this subparagraph at least annually.

(ii) Samples collected to indicate ground-water contamination must be obtained and analyzed for the parameters specified in subpart 2(iii) of this subparagraph at least semi-annually.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (v) of part 4 of subparagraph (d) of paragraph (6) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(v) The owner or operator must make his first determination under subpart (iv) of this part as soon as technically feasible, and prepare a report containing an assessment of ground-water quality. This report must be place in the facility operating record and maintained until closure of the facility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 5 of subparagraph (d) of paragraph (6) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

5. Notwithstanding any other provision of this paragraph, any ground-water quality assessment to satisfy the requirements of subpart 4(iv) of this subparagraph which is initiated prior to final closure of the facility must be completed and reported in accordance with subpart 4(v) of this subparagraph.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 4 of subparagraph (a) of paragraph (7) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

4. The Commissioner may replace all or part of the requirements of this paragraph (and the unit-specific standards in part (b)3 of this paragraph) applying to a regulated unit (as defined in subparagraph (6)(a) of Rule 0400-12-01-.06), with alternative requirements for closure set out in an approved closure or post-closure plan, or in an enforceable document (as defined in part (1)(b)9 of Rule 0400-12-01-.07), where the Commissioner determines that:

(i) A regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management unit(s) (or areas of concern) are likely to have contributed to the release, and

(ii) It is not necessary to apply the closure requirements of this paragraph (and/or those referenced herein) because the alternative requirements will protect human health and the environment and will satisfy the closure performance standard of part (b)1 and 2 of this paragraph.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (II) of Subpart (i) of part 2 of subparagraph (j) of paragraph (7) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(II) Its use is restricted under this paragraph; and

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (e) of paragraph (9) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(e) Inspections [40 CFR 265.174]

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See subparagraph (b) of this paragraph for remedial action required if deterioration or leaks are detected.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (l) of paragraph (10) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(l) Reserved.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (b) of paragraph (11) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

1. The owner or operator of each new surface impoundment unit, each lateral expansion of a surface impoundment unit, and each replacement of an existing surface impoundment unit must install two or more liners and a leachate collection and removal system between the liners, and operate the leachate collection and removal system, in accordance with part (11)(b)3 of Rule 0400-12-01-.06, unless exempted under part (11)(b)4, 5, or 6 of Rule 0400-12-01-.06.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subitem II of item (I) of subpart (ii) of part 4 of subparagraph (b) of paragraph (14) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

II. The monofill is located more than one-quarter mile from an "underground source of drinking water" (as that term is defined in subparagraph (2)(a) of Rule 0400-12-01-.01); and

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 2 of subparagraph (a) of paragraph (27) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of subparagraph (1)(h) of Rule 0400-12-01-.03 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of Rule 0400-12-01-.07, or

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 2 of subparagraph (a) of paragraph (27) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iii) A unit that is exempt from permitting under the provisions of subparagraph (1)(h) of Rule 0400-12-01-.03 (i.e., a "90-day" tank or container) and is not a recycling unit under the requirements of subparagraph (1)(f) of Rule 0400-12-01-.02.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (28) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(a) Applicability [40 CFR 265.1050]

1. The regulations in this paragraph apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in subparagraph (1)(b) of this rule).

2. Except as provided in part (o)11 of this paragraph, this paragraph applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

   (i) A unit that is subject to the permitting requirements of Rule 0400-12-01-.07;

   (ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of subparagraph (1)(h) of Rule 0400-12-01-.03 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of Rule 0400-12-01-.07; or

   (iii) A unit that is exempt from permitting under the provisions of subparagraph (1)(h) of Rule 0400-12-01-.03 (i.e., a "90-day" tank or container) and is not a recycling unit under the provisions of subparagraph (1)(f) of Rule 0400-12-01-.02.

3. Each piece of equipment to which this paragraph applies shall be marked in such a manner that it can be distinguished readily from other pieces of equipment.

4. Equipment that is in vacuum service is excluded from the requirements of subparagraph (c) through (k) of this paragraph if it is identified as required in subpart (o)7(v) of this paragraph.

5. Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year is excluded from the requirements of subparagraphs (c) through (k) of this paragraph if it is identified as required in subpart (o)7(vi) of this paragraph.

6. [Reserved] [40 CFR 265.1050(f)]

7. Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at 40 CFR part 63, subpart IIII, are not subject to the requirements of this paragraph.

(Note: The requirements of subparagraphs (c) through (o) of this paragraph apply to equipment associated with hazardous waste recycling units previously exempt under subpart (1)(f)3(i) of Rule 0400-12-01-.02. Other exemptions under subparagraph (1)(d) of Rule 0400-12-01-.02 and part (1)(b)2 of this rule are not affected by these requirements.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (iv) of part 3 of subparagraph (h) of paragraph (29) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(I) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in part (1)(g)2 of Rule 0400-12-01-.02, the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual

inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the container standards of this paragraph). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest (EPA Forms 8700-22 and 8700-22A), as required under subparagraph (5)(b) of this rule. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of item (III) of this subpart.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (iv) of part 4 of subparagraph (h) of paragraph (29) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(I) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in part (1)(g)2 of Rule 0400-12-01-.02, the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the container standards of this paragraph). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest (EPA Forms 8700-22 and 8700-22A), as required under subparagraph (5)(b) of this rule. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of item (III) of this subpart.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iv) of part 3 of subparagraph (b) of paragraph (30) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iv) Inspect and record in the facility's operating record at least once every seven days data gathered from monitoring and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 2 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) The owner or operator of a facility permitted or registered by the Commissioner or Board, as appropriate, pursuant to the "Tennessee Solid Waste Disposal Act" (T.C.A. §§ 68-211-101 through § 68-211-111 and § 68-211-301) to manage municipal or industrial waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this rule by subparagraph (1)(e) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 2 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iii) A generator accumulating waste on-site in compliance with subparagraphs (1)(e), (f), (g), and (h) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 6 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

6. The requirements of this rule apply to the owner or operator of a transfer facility where manifested shipments of hazardous waste in containers meeting the independent requirements of subparagraph (4)(a) of Rule 0400-12-01-.03 at a transfer facility for a period of 10 days or less.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (c) of paragraph (2) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(c) Required Notices [40 CFR 264.12]

1. The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to paragraph (9) of Rule 0400-12-01-.03 from a foreign source must submit the following required notices:

(i) As per part (9)(e)2 of Rule 0400-12-01-.03, for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in subpart (9)(e)2(i) of Rule 0400-12-01-.03 at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(ii) As per item (9)(e)4(ii)(XV) of Rule 0400-12-01-.03, a copy of the movement document bearing all required signatures within three working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document must be maintained at the facility for at least three years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this subpart if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or

its successor system for which the owner or operator of a facility bears no responsibility.

(iii) As per subpart (9)(e)6(iv) of Rule 0400-12-01-.03, if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in subpart (9)(e)2(i) of Rule 0400-12-01-.03 of the need to return or arrange alternate management of the shipment.

(iv) As per part (9)(e)7 of Rule 0400-12-01-.03, such owner or operator shall:

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

(II) If the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in this item are defined in subparagraph (9)(b) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iv) of Part 2 of subparagraph (f) of paragraph (2) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iv) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in subparagraphs (9)(e), (10)(d), (10)(f), (11)(g), (12)(e), (13)(i), (14)(d), (15)(h), (27)(c), (30)(d), (31)(c), (31)(d), (31)(i), and (32)(d) through (32)(j) of this rule, where applicable. Rule 0400-12-01-.07 requires the inspection schedule to be submitted with part B of the permit application. The Commissioner will evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the Commissioner may modify or amend the schedule as may be necessary.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(ii) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his/her agent must:

(I) Sign and date each copy of the manifest;

(II) Note any discrepancies (as defined in part (c)1 of this paragraph) on each copy of the manifest;

(III) Immediately give the transporter at least one copy of the manifest;

(IV) Within 30 days of delivery, send a copy (Page 2) of the manifest to the generator;

(V) Paper manifest submission requirements are:

I. Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy (Page 1) of any paper manifest and any paper continuation sheet to the EPA's e-Manifest system for purposes of data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

II. Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing may be met by the owner or operator only by transmitting to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services; and

(VI) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iii) The owner or operator of a facility receiving hazardous waste subject to paragraph (9) of Rule 0400-012-01-.03 from a foreign source must:

(I) Additionally list the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from

block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet(s) (EPA Form 8700-22A); and

(II) Send a copy of the manifest within 30 days of delivery to EPA using the addresses listed in part (9)(c)5 of Rule 0400-12-01-.03 until the facility can submit such a copy to the e-Manifest system per Item (ii)(V) of this part.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

3. Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of Rule 0400-12-01-.03. The provisions of subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03 are applicable to the onsite accumulation of hazardous wastes by generators. Therefore, the provisions of subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03 only apply to owners or operators who are shipping hazardous waste which they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under part (1)(h)6 of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 4 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

4. As per item (9)(e)4(ii)(XV) of Rule 0400-12-01-.03, within three working days of the receipt of a shipment subject to paragraph (9) of Rule 0400-12-01-.03, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter, to competent authorities of all other countries of export and transit that control the shipment as an export and transit of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document must be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this part if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of Part 6 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) Any requirement in these regulations for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of subparagraph (3)(f) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 10 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

10. Imposition of user fee for electronic manifest use.

(i) As prescribed in 40 CFR § 264.1311, and determined in 40 CFR § 264.1312, an owner or operator who is a user of the electronic manifest system shall be assessed a user fee by EPA for the submission and processing of each electronic and paper manifest. EPA shall update the schedule of user fees and publish them to the user community, as provided in 40 CFR § 264.1313.

(ii) An owner or operator subject to user fees under this part shall make user fee payments in accordance with the requirements of 40 CFR § 264.1314, subject to the informal fee dispute resolution process of 40 CFR § 264.1316, and subject to the sanctions for delinquent payments under 40 CFR § 264.1315.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 11 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) Electronic manifest signatures shall meet the criteria described in subparagraph (3)(f) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by adding a new part 12 to read as follows:

12. Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) shown on the manifest.

(i) Interested persons must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web-based service provided in e-Manifest for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(ii) Each correction submission must include the following information:

(I) The Manifest Tracking Number and date of receipt by the facility of the original manifest(s) for which data are being corrected;

(II) The item number(s) of the original manifest that is the subject of the submitted correction(s); and

(III) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(iii) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:

(I) The certification statement must be executed with a valid electronic signature; and

(II) A batch upload of data corrections may be submitted under one certification statement.

(iv) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(v) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system, certified by the respondent as specified in subpart (iii) of this part, and with notice of the corrections to other interested persons shown on the manifest.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (b) of paragraph (7) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

3. Complies with the closure requirements of this rule, including, but not limited to, the requirements of subparagraphs (9)(i), (10)(h), (11)(i), (12)(i), (13)(k), (14)(k), (15)(l), paragraphs (16) and (17), and subparagraphs (27)(b) through (d) and (33)(c).

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (II) of subpart (i) of part 2 of subparagraph (j) of paragraph (7) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(II) Its use is restricted under this paragraph; and

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 11 of subparagraph (p) of paragraph (8) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

11. IRREVOCABLE STANDBY LETTER OF CREDIT

A letter of credit, as specified in part (8)(n)8 of Rule 0400-12-01-.05 or part (n)8 of this paragraph, must be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

Name and Address of Issuing Institution _____
_____

(Address to Commissioner)

Dear Commissioner: We hereby establish our Irrevocable Standby Letter of Credit No. _____ in the favor of any and all third-party liability claimants, at the request and for the account of (owner's or operator's name and address) for third-party liability awards or settlements up to (in words) U.S. dollars $____per occurrence and the annual aggregate amount of (in words) U.S. dollars $_____, for sudden accidental occurrences and/or for third-party liability awards or settlements up to the amount of (in words) U.S. dollars $_____ per occurrence, and the annual aggregate amount of (in words) U.S. dollars $_____, for nonsudden accidental occurrences available upon presentation of a sight draft, bearing reference to this letter of credit No. ___, and

[(1) a signed certificate reading as follows:

CERTIFICATION OF VALID CLAIM

The undersigned, as parties (insert principal) and (insert name and address of third-party claimants), hereby certify that the claim of bodily injury (and/or) property damage caused by a (sudden or nonsudden) accidental occurrence arising from operations of (principal's) hazardous waste treatment, storage, or disposal facility should be paid in the amount of $_____. We hereby certify that the claim does not apply to any of the following:

(i) Bodily injury or property damage for which (insert principal) is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that (insert principal) would be obligated to pay in the absence of the contract or agreement.

(ii) Any obligation of (insert principal) under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(iii) Bodily injury to:

(I) An employee of (insert principal) arising from, and in the course of, employment by (insert principal); or

(II) The spouse, child, parent, brother or sister of that employee as a consequence of, or arising from, and in the course of employment by (insert principal). This exclusion applies:

I. Whether (insert principal) may be liable as an employer or in any other capacity; and

II. To any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in subitems I and II of this item.

(iv) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle or watercraft.

(v) Property damage to:

(I) Any property owned, rented, or occupied by (insert principal);

(II) Premises that are sold, given away or abandoned by (insert principal) if the property damage arises out of any part of those premises;

(III) Property loaned to (insert principal);

(IV) Personal property in the care, custody or control of (insert principal);

(V) That particular part of real property on which (insert principal) or any contractors or subcontractors working directly or indirectly on behalf of (insert principal) are performing operations, if the property damage arises out of these operations.

(Signatures)
Grantor _____

(Signatures)
Claimant(s) _____

or

(2) a valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by a sudden or nonsudden accidental occurrence arising from operation of the Grantor's facility or group of facilities.]

This letter of credit is effective as of (date) and shall expire on (date at least one year later), but such expiration date shall be automatically extended for a period of (at least one year) on (date) and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify you, the Commissioner, and (owner's or operator's name) by certified mail that we have decided not to extend this letter of credit beyond the current expiration date.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us.

In the event that this letter of credit is used in combination with another mechanism for liability coverage, this letter of credit shall be considered (insert "primary" or "excess") coverage.

We certify that the wording of this letter of credit is identical to the wording specified in part (8)(p)11 of Tennessee Rule 0400-12-01-.06 as such regulations were constituted on the date shown immediately below.

(Signatures(s))_____

(Name(s)) _____

(Title(s))_____

(Date) _____

This credit is subject to (insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce" or "the Uniform Commercial Code").

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (9) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(a) Applicability [40 CFR 264.170]

The regulations in this paragraph apply to owners and operators of all hazardous waste facilities that store hazardous waste in containers, except as subparagraph (1)(b) of this rule provides otherwise.

(Comment: Under subparagraph (1)(g) and part (4)(d)3 of Rule 0400-12-01-.02, if a hazardous waste is emptied from a container, then the residue remaining in the container is not considered a hazardous waste if the container is "empty" as defined in subparagraph (1)(g) of Rule 0400-12-01-.02. In that event, management of the container is exempt from the requirements of this paragraph.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (e) of paragraph (9) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(e) Inspections [40 CFR 264.174]

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors. See part (2)(f)3 of this rule and subparagraph (b) of this paragraph for remedial action required if deterioration or leaks are detected.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (b) of paragraph (10) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

1. For each existing tank system that does not have secondary containment meeting the requirements of subparagraph (d) of this paragraph, the owner or operator must determine that the tank system is not leaking or unfit for use. Except as provided in part 3 of this subparagraph, the owner or operator must obtain and keep on file at the facility a written assessment, reviewed and certified by a qualified Professional Engineer, in accordance with part (2)(a)10 of Rule 0400-12-01-.07, that attests to the tank system's integrity by January 12, 1988.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 5 of subparagraph (b) of paragraph (11) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes hazardous for reasons other than the toxicity characteristic in subparagraph (3)(e) of Rule 0400-12-01-.02; and

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 2 of subparagraph (a) of paragraph (30) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of subparagraph (1)(h) of Rule 0400-12-01-.03 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of Rule 0400-12-01-.07, or

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 2 of subparagraph (a) of paragraph (31) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iii) A unit that is exempt from permitting under the provisions of subparagraph (1)(h) of Rule 0400-12-01-.03 (i.e., a “90-day” tank or container) and is not a recycling unit under the provisions of subparagraph (1)(f) of Rule 0400-12-01-.02.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (iv) of part 3 of subparagraph (g) of paragraph (32) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(I) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in part (1)(g)2 of Rule 0400-12-01-.02), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure

devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the container standards of this paragraph). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest (EPA Forms 8700-22 and 8700-22A), as required under subparagraph (5)(b) of this rule. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of item (III) of this subpart.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (iv) of part 4 of subparagraph (g) of paragraph (32) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(I) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in part (1)(g)2 of Rule 0400-12-01-.02), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the container standards of this paragraph). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest (EPA Forms 8700-22 and 8700-22A), as required under subparagraph (5)(b) of this rule. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of item (III) of this subpart.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (57) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(a) Appendix I -- Recordkeeping Instructions

The recordkeeping provisions of subparagraph (5)(d) of this rule specify that an owner or operator must keep a written operating record at his facility. This appendix provides additional instructions for keeping portions of the operating record. See part (5)(d)2 of this rule for additional recordkeeping requirements.

The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility in the following manner:

Records of each hazardous waste received, treated, stored, or disposed of at the facility, which include the following:

1. A description by its common name and the Hazardous Waste Code(s) from Rule 0400-12-01-.02 which apply to the waste. The waste description also must include the waste's physical form, i.e., liquid, sludge, solid, or contained gas. If the waste is not listed in paragraph (4) of Rule 0400-12-01-.02, the description also must include the process that

produced it (for example, solid filter cake from production of ----, Hazardous Waste Code W051).

Each hazardous waste listed in paragraph (4) of Rule 0400-12-01-.02, and each hazardous waste characteristic defined in paragraph (3) of Rule 0400-12-01-.02, has a four-digit Hazardous Waste Code assigned to it. This number must be used for recordkeeping and reporting purposes. Where a hazardous waste contains more than one listed hazardous waste, or where more than one hazardous waste characteristic applies to the waste, the waste description must include all applicable Hazardous Waste Codes.

2. The estimated or manifest-reported weight, or volume and density, where applicable, in one of the units of measure specified in Table 1;

Table 1

Unit of Measure	Code[1]
Gallons	G
Gallons per Hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Tons	M
Short Tons	T
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds	P
Pounds per Hour	J
Kilograms	K
Kilograms per Hour	R
Cubic Yards	Y
Cubic Meters	C
Acres	B
Acre-feet	A
Hectares	Q
Hectare-meter	F
Btu's per Hour	I

FOOTNOTE: [1]Single digit symbols are used here for data processing purposes.

3. The method(s) (by handling code(s) as specified in Table 2) and date(s) of treatment, storage, or disposal.

Table 2.-Handling Codes for Treatment, Storage and Disposal Methods

Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store or dispose of each quantity of hazardous waste received.

(i) Storage

S01 Container (barrel, drum, etc.)

S02 Tank

S03 Waste Pile

S04 Surface Impoundment

S05 Drip Pad

S06 Containment Building (Storage)

S99 Other Storage (specify)

(ii) Treatment

(I) Thermal Treatment

T06 Liquid injection incinerator

T07 Rotary kiln incinerator

T08 Fluidized bed incinerator

T09 Multiple hearth incinerator

T10 Infrared furnace incinerator

T11 Molten salt destructor

T12 Pyrolysis

T13 Wet Air oxidation

T14 Calcination

T15 Microwave discharge

T18 Other (specify)

(II) Chemical Treatment

T19 Absorption mound

T20 Absorption field

T21 Chemical fixation

T22 Chemical oxidation

T23 Chemical precipitation

T24 Chemical reduction

T25 Chlorination

T26 Chlorinolysis

T27 Cyanide destruction

T28 Degradation

T29 Detoxification

T30 Ion exchange

T31 Neutralization

T32 Ozonation

T33 Photolysis

T34 Other (specify)

(III) Physical Treatment

I. Separation of components

T35 Centrifugation

T36 Clarification

T37 Coagulation

T38 Decanting

T39 Encapsulation

T40 Filtration

T41 Flocculation

T42 Flotation

T43 Foaming

T44 Sedimentation

T45 Thickening

T46 Ultrafiltration

T47 Other (specify)

II. Removal of Specific Components

T48 Absorption-molecular sieve

T49 Activated carbon

T50 Blending

T51 Catalysis

T52 Crystallization

T53 Dialysis

T54 Distillation

T55 Electrodialysis

T56 Electrolysis

T57 Evaporation

T58 High gradient magnetic separation

T59 Leaching

T60 Liquid ion exchange

T61 Liquid-liquid extraction

T62 Reverse osmosis

T63 Solvent recovery

T64 Stripping

T65 Sand filter

T66 Other (specify)

(IV) Biological Treatment
Activated sludge

T67 Activated Sludge

T68 Aerobic lagoon

T69 Aerobic tank

T70 Anaerobic tank

T71 Composting

T72 Septic tank

T73 Spray irrigation

T74 Thickening filter

T75 Trickling filter

T76 Waste stabilization pond

T77 Other (specify)

T78 [Reserved]

T79 [Reserved]

(V) Boilers and Industrial Furnaces

T80 Boiler

T81 Cement Kiln

T82 Lime Kiln

T83 Aggregate Kiln

T84 Phosphate Kiln

T85 Coke Oven

T86 Blast Furnace

T87 Smelting, Melting, or Refining Furnace

T88 Titanium Dioxide Chloride Process Oxidation Reactor

T89 Methane Reforming Furnace

T90 Pulping Liquor Recovery Furnace

T91 Combustion Device Used in the Recovery of Sulfur Values From Spent Sulfuric Acid

T92 Halogen Acid Furnaces

T93 Other Industrial Furnaces Listed in 40 CFR 260.10 (specify)

(VI) Other Treatment

T94 Containment Building (Treatment)

(iii) Disposal

D79 Underground Injection

D80 Landfill

D81 Land Treatment

D82 Ocean Disposal

D83 Surface Impoundment (to be closed as a landfill)

D99 Other Disposal (specify)

(iv) Miscellaneous (Subpart X)

X01 Open Burning/Open Detonation

X02 Mechanical Processing

X03 Thermal Unit

X04 Geologic Repository

X99 Other Subpart X (specify)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 4 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) Generators who accumulate hazardous waste on-site in compliance with all of the conditions for exemption provided in subparagraphs (1)(e), (f), (g), and (h) of Rule 0400-12-01-.03;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 4 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(ii) Persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulation under this rule by subparagraph (1)(d) of Rule 0400-12-01-.02 or subparagraph (1)(e) of Rule 0400-12-01-.03 (very small quantity generator exemption);

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (v) of part 1 of subparagraph (c) of paragraph (3) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(v) Changes made in accordance with an interim status corrective action order issued by EPA under section 3008(h) or other Federal authority, by an authorized State under comparable State authority, or by a court in a judicial action brought by EPA or by an authorized State. Changes under this subpart are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (c) of paragraph (3) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended deleting it in its entirety and substituting instead the following:

2. Except as specifically allowed under this part, changes listed under part 1 of this subparagraph may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

(i) Changes made solely for the purposes of complying with the requirements of subparagraph (10)(d) of Rule 0400-12-01-.05 for tanks and ancillary equipment.

(ii) If necessary to comply with Federal, State, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of federal RCRA section 3004(o).

(iii) Changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or

disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

(iv) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

(v) Changes necessary to comply with an interim status corrective action order issued by EPA under section 3008(h) or other Federal authority, by an authorized State under comparable State authority, or by a court in a judicial proceeding brought by EPA or an authorized State, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(vi) Changes to treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed by Rule 0400-12-01-.10 or federal RCRA section 3004, provided that such changes are made solely for the purpose of complying with Rule 0400-12-01-.10 or federal RCRA section 3004.

(vii) Addition of newly regulated units under subpart 1(vi) of this subparagraph.

(viii) Changes necessary to comply with standards under 40 CFR part 63, Subpart EEE-National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 13 of subparagraph (a) of paragraph (8) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

13. Information Repository

The Commissioner may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in item (7)(e)4(v)(II) of this rule. The information repository will be governed by the provisions in items (7)(e)4(v)(III) through (VI) of this rule.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (v) of part 3 of subparagraph (c) of paragraph (9) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(v) Modification of a closure plan or post-closure plan is required under part (7)(c)3 or (7)(i)4 of Rule 0400-12-01-.06.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subitem II of item (I) of subpart (i) of part 5 of subparagraph (c) of paragraph (9) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

II. The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the Commissioner in accordance with item (7)(e)3(i)(V) of this rule, and the appropriate units of State and local government, as specified in items (7)(e)3(i)(II) through (V) of this rule. This notification must be made within 90 calendar days after the change is put into effect. For the Class 1 modifications that require prior Commissioner approval, the notification must be

made within 90 calendar days after the Commissioner approves the request

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subitem I of item (VI) of subpart (ii) of part 5 of subparagraph (c) of paragraph (9) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

I. No later than 90 days after receipt of the modification request, the Commissioner must:

A. Approve the modification request, with or without changes, and modify the permit accordingly;

B. Deny the request;

C. Determine that the modification request must follow the procedures in subpart (iii) of this part for Class 3 modifications for the following reasons:

(A) There is significant public concern about the proposed modification; or

(B) The complex nature of the change requires the more extensive procedures of Class 3;

D. Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days; or

E. Notify the permittee that he or she will decide on the request within the next 30 days.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (v) of part 5 of subparagraph (c) of paragraph (9) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(I) Upon request of the permittee, the Commissioner may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subpart. Temporary authorizations must have a term of not more than 180 days.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

The note immediately following the title of paragraph (11) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities and immediately preceding subparagraph (a) of that paragraph is amended by deleting it in its entirety and substituting instead the following:

(Note: Why is this paragraph written in a special format? [40 CFR 270.79]

This paragraph is written in a special format to make it easier to understand the regulatory requirements. Like other regulations, this establishes enforceable legal requirements. For this Paragraph, “I” and “you” refer to the owner/operator.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 4 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following:

4. Persons requesting that the Underground Storage Tanks and Solid Waste Disposal Control Board review an action of the Commissioner;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Paragraph (2) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following:

(2) Installation Identification Number Application Fee

Any person identified in subparagraph (1)(b) of this rule applying to the Department for an Installation Identification Number on the Notification Forms provided by the Department shall submit as part of the request a fee as set forth below:

150 dollars for a new site;

150 dollars for a change in ownership;

150 dollars for a site relocation; and

100 dollars for adding a new hazardous waste stream.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (3) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following:

(a) Transporters

Any person who applies for a permit or a modification to a permit to transport hazardous wastes in Tennessee must submit a fee as set forth below:

200 dollars with a permit application; and

200 dollars per permit modification.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Parts 3 and 4 of subparagraph (a) of paragraph (4) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following:

3. Each person transporting used oil and that is required to submit an annual report under Rule 0400-12-01-.11 shall submit to the Commissioner an annual maintenance fee of 200 dollars.

4. Each person operating a used oil transfer facility under Rule 0400-12-01-.11 shall submit to the Commissioner an annual facility maintenance fee of 1,000 dollars by March 1 of each year.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

The introductory text of subparagraph (b) of Paragraph (4) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or

Transporters is amended by deleting it in its entirety and substituting instead the following, however, the parts of this subparagraph are retained without being changed by this amendment:

(b) Treatment, Storage, and Disposal Facilities (TSDF) including facilities conducting corrective action and post-closure.

The owner or operator of each hazardous waste treatment, storage, or disposal facility in Tennessee having either a permit issued under the Act or interim status as provided under Rule 0400-12-01-.07(3) must submit to the Commissioner, by March 1 of each year, an annual permit maintenance fee as provided in this subparagraph.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Paragraph (5) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following:

(5) Generator Fees

(a) Annual Generator Fees

1. Except as provided in subparagraph (b) of this paragraph, generators shall pay the base fee required by part 3 or 4 of this subparagraph plus an off-site shipping fee. The off-site shipping fee shall be determined in accordance with subparagraphs (c) and (d) of this paragraph.

2. A generator shall determine the quantity it generated each calendar month in the same manner as a generator determines it under subparagraph (1)(d) of Rule 0400-12-01-.03, except the quantities generated during episodic event(s) and managed in accordance with paragraph (11) of Rule 0400-12-01-.03 are included in the calendar month generation rate calculations for the purposes of paying the annual generator base fee required by this subparagraph.

3. After determining the quantities generated in accordance with part 2 of this subparagraph, a generator who generates the following amount in any one calendar month of the previous calendar year shall pay a base fee of $1,200:

(i) Greater than 100 kilograms (220 lbs) but less than 1,000 kilograms (2200 lbs) of non-acute hazardous waste; and

(ii) Less than or equal to 1 kilogram (2.2 lbs) of acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or are listed in part (4)(d)5 of Rule 0400-12-01-.02; and

(iii) Less than or equal to 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or are listed in part (4)(d)5 of Rule 0400-12-01-.02.

4. After determining the quantities generated in accordance with part 2 of this subparagraph, a generator who generates the following amount in any one calendar month of the previous calendar year shall pay a base fee of $2,000:

(i) Greater than or equal to 1,000 kilograms (2200 lbs) of non-acute hazardous waste; or

(ii) Greater than 1 kilogram (2.2 lbs) of acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or are listed in part (4)(d)5 of Rule 0400-12-01-.02; or

(iii) Greater than 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or are listed in part (4)(d)5 of Rule 0400-12-01-.02.

(b) Exclusions from Base Fee Assessment

1. Hazardous wastes generated from remediation or corrective actions required by the Tennessee Hazardous Waste Management Act of 1977 and 1983; the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) shall not be subject to the fee calculations in parts (a)1 or (a)2 of this paragraph.

2. A Generator does not owe this fee if neither part (a)3 or 4 of this paragraph is applicable.

(Note: The fee exclusions in this subparagraph also apply to Department-approved remediation or corrective actions under the administration of the Tennessee Petroleum Underground Storage Tank Act and Tennessee Drycleaner's Environmental Response Act.)

(c) Off-site Shipping Fee

1. Hazardous waste with a thermal heating value greater than 5000 BTU per pound that are subject to energy recovery as defined by handling codes for treatment methods T50 and T80 through T93 are assessed an off-site shipping fee of $0.0012 per pound.

2. Hazardous wastewaters, defined as containing less than 1 percent total organic carbon and less than 1 percent total suspended solids, shall be assessed an off-site shipping fee of $0.0047 per pound.

3. Except for those hazardous wastes excluded from off-site shipment fees as provided in subparagraphs (d) of this paragraph, all remaining waste not claimed in part 1 or 2 of this subparagraph shall be assessed an off-site shipping fee of $0.0088 per pound.

4. The off-site shipping fee for any single generator shall not exceed $29,200 in any calendar year.

(d) Exclusions from Off-site Shipping Fees

1. Hazardous wastes that are recycled/recovered as defined by handling codes for treatment methods T30, T54, and T63, lead smelting, precious metals recovery, and/or high temperature metals recovery are exempt from off-site shipping fees.

2. Hazardous wastes generated from remediation or corrective actions required by the Tennessee Hazardous Waste Management Act of 1977 and 1983; the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) shall not be subject to off-site shipping fees.

(Note: The fee exclusion in part 2 of this subparagraph also applies to department approved remediation or corrective actions under the administration of the Tennessee Petroleum Underground Storage Tank Act and Tennessee Drycleaner's Environmental Response Act.)

3. A Generator does not owe this fee, if neither part (a)3 or 4 of this paragraph is applicable.

4. Universal Wastes identified in Rule 0400-12-01-.12 and spent lead-acid batteries managed under paragraph (7) of Rule 0400-12-01-.09 are exempt from off-site shipping fees.

(e) Director's Option, case-by-case

The Director may include other handling codes for waste treatment methods in part (c)1 or part (d)1 of this paragraph on a case-by-case basis, based upon application by a generator.

(f) Date for Payment of Fees

These generator fees shall be paid no later than March 1 of each year for hazardous waste activities conducted the previous calendar year.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (d) of paragraph (8) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following:

(d) Date for Payment of Fees

Hazardous waste tipping fees shall be paid no later than March 1 of each year for hazardous waste activities conducted the previous calendar year.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (c) of paragraph (3) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

(c) Standards Applicable to Storers of Materials That Are to be Used in a Manner That Constitutes Disposal Who Are Not the Ultimate Users [40 CFR 266.22]

Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated under all applicable provisions of paragraphs (1) through (12) of Rule 0400-12-01-.05, paragraphs (1) through (12) of Rule 0400-12-01-.06, and Rule 0400-12-01-.07, and shall notify the Commissioner on forms provided by the Commissioner and completed as per the accompanying instructions.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (d) of paragraph (3) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

1. Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of paragraphs (1) through (12) of Rule 0400-12-01-.05, paragraphs (1) through (14) of Rule 0400-12-01-.06, Rule 0400-12-01-.07, and Rule 0400-12-01-.10 and shall notify the Commissioner on forms provided by the Commissioner and completed as per the accompanying instructions. (These requirements do not apply to products which contain these recyclable materials under the provisions of part (a)2 of this paragraph.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (a) of paragraph (6) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

2. Persons who generate, transport, or store recyclable materials that are regulated under this paragraph are subject to the following requirements:

(i) Notification of the Commissioner on forms provided by the Commissioner and completed as per the accompanying instructions;

(ii) Paragraph (3) of Rule 0400-12-01-.03 (for generators), Rules 0400-12-01-.04(3)(a) and (b) (for transporters), and Rules 0400-12-01-.05(5)(b) and (c) (for persons who store); and

(iii) For precious metals exported to or imported from other countries for recovery, paragraph (9) of Rule 0400-12-01-.03 and subparagraph (2)(c) of Rule 0400-12-01-.05.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Paragraph (7) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

(7) Spent Lead-Acid Batteries Being Reclaimed [40 CFR 266 Subpart G]

(a) Applicability and Requirements [40 CFR 266.80]

1. Are spent lead-acid batteries exempt from hazardous waste management requirements? If you generate, collect, transport, store, or regenerate lead-acid batteries for reclamation purposes, you may be exempt from certain hazardous waste management requirements. Use the following table to determine which requirements apply to you. Alternatively, you may choose to manage your spent lead-acid batteries under the "Universal Waste" rule in Rule 0400-12-01-.12.

If your batteries * * *	And if you * * *	Then you * * *	And you * * *
(i) Will be reclaimed through regeneration (such as by electrolyte replacement).		are exempt from Rules 0400-12-01-.03 (except for .03(1)(b)) through 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10 including the notification requirement of Rule 0400-12-01-.03(2).	are subject to Rules 0400-12-01-.02 and .03(1)(b).
(ii) Will be reclaimed other than through regeneration.	generate, collect, and/or transport these batteries.	are exempt from Rules 0400-12-01-.03 (except for .03(1)(b)) through 0400-12-01-.07 and 0400-12-01-.09, including the notification requirement of Rule 0400-12-01-.03(2).	are subject to Rules 0400-12-01-.02 and .03(1)(b), and applicable provisions under Rule 0400-12-01-.10.
(iii) Will be reclaimed other than through regeneration.	store these batteries but you aren't the reclaimer.	are exempt from Rules 0400-12-01-.03 (except for .03(1)(b)) through 0400-12-01-.07 and 0400-12-01-.09, including the notification requirement of Rule	are subject to Rules 0400-12-01-.02, .03(1)(b), and applicable provisions under Rule 0400-12-01-.10.

		0400-12-01-.03(2).	
(iv) Will be reclaimed other than through regeneration.	store these batteries before you reclaim them.	must comply with part 2 of this subparagraph and as appropriate other regulator provisions described in part 2 of this subparagraph.	are subject to Rules 0400-12-01-.02, .03(1)(b), and applicable provisions under Rule 0400-12-01-.10.
(v) Will be reclaimed other than through regeneration.	don't store these batteries before you reclaim them.	are exempt from Rules 0400-12-01-.03 (except for .03(1)(b)) through 0400-12-01-.07 and 0400-12-01-.09, including the notification requirement of Rule 0400-12-01-.03(2).	are subject to Rules 0400-12-01-.02, .03(1)(b), and applicable provisions under Rule 0400-12-01-.10.
(vi) Will be reclaimed through regeneration or any other means.	export these batteries for reclamation in a foreign country.	are exempt from Rules 0400-12-01-.03 (except for subparagraphs (1)(b) and (1)(i), and paragraph (9)), 0400-12-01-.04 through 0400-12-01-.07, 0400-12-01-.09 and 0400-12-01-.10	are subject to Rule 0400-12-01-.02 and subparagraphs (1)(b) and (1)(i) of Rule 0400-12-01-.03, and paragraph (9) of Rule 0400-12-01-.03.
(vii) Will be reclaimed through regeneration or any other means.	Transport these batteries in the U.S. to export them for reclamation in a foreign country.	are exempt from Rules 0400-12-01-.04 through 0400-12-01-.07, 0400-12-01-.09 and 0400-12-01-.10, including the notification requirements of Rule 0400-12-01-.03(2).	must comply with applicable requirements in paragraph (9) of Rule 0400-12-01-.03.
(viii) Will be reclaimed other than through regeneration.	Import these batteries from foreign country and store these batteries but you aren't the reclaimer.	are exempt from Rules 0400-12-01-.03 (except for subparagraphs (1)(b) and (1)(i), and paragraph (9)), 0400-12-01-.04 through 0400-12-01-.07, and 0400-12-01-.09.	are subject to Rule 0400-12-01-.02 and subparagraphs (1)(b) and (1)(i) of Rule 0400-12-01-.03, paragraph (9) of Rule 0400-12-01-.03 and applicable provisions under Rule 0400-12-01-.10.
(ix) Will be reclaimed other than through regeneration.	Import these batteries from foreign country and store these batteries before you reclaim them.	must comply with part (7)(a)2 of Rule 0400-12-01-.09 and as appropriate other regulatory provisions described in part (7)(a)2 of Rule 0400-12-01-.09.	are subject to Rule 0400-12-01-.02 and subparagraphs (1)(b) and (1)(i) of Rule 0400-12-01-.03, paragraph (9) of Rule 0400-12-01-.03 and applicable provisions under Rule 0400-12-01-.10.
(x) Will be reclaimed other than through regeneration.	Import these batteries from foreign country and don't store these batteries before you	are exempt from Rules 0400-12-01-.03 (except for subparagraphs (1)(b)	are subject to Rule 0400-12-01-.02 and subparagraphs (1)(b) and (1)(i) of Rule

	reclaim them.	and (1)(i), and paragraph (9)), 0400-12-01-.04 through 0400-12-01-.07, and 0400-12-01-.09.	0400-12-01-.03, paragraph (9) of Rule 0400-12-01-.03 and applicable provisions under Rule 0400-12-01-.10.

2. If I store spent lead-acid batteries before I reclaim them but not through regeneration, which requirements apply? The requirements of this part apply to you if you store spent lead-acid batteries before you reclaim them, but you don't reclaim them through regeneration. The requirements are slightly different depending on your Hazardous Waste permit status.

(i) For Interim Status Facilities, you must comply with:

(I) Notification of the Commissioner on forms provided by the Commissioner and completed as per the accompanying instructions.

(II) All applicable provisions in paragraph (1) of Rule 0400-12-01-.05.

(III) All applicable provisions in paragraph (2) of Rule 0400-12-01-.05, except subparagraph (2)(d) of Rule 0400-12-01-.05 (waste analysis).

(IV) All applicable provisions in paragraphs (3) and (4) of Rule 0400-12-01-.05.

(V) All applicable provisions in paragraph (5) of Rule 0400-12-01-.05, except subparagraphs (b) and (c) (dealing with the use of the manifest and manifest discrepancies).

(VI) All applicable provisions in paragraphs (6) through (12) of Rule 0400-12-01-.05.

(VII) All applicable provisions in Rule 0400-12-01-.07.

(ii) For Permitted Facilities.

(I) Notification of the Commissioner on forms provided by the Commissioner and completed as per the accompanying instructions.

(II) All applicable provisions in paragraph (1) of Rule 0400-12-01-.06.

(III) All applicable provisions in paragraph (2) of Rule 0400-12-01-.06 but not subparagraph (d) (waste analysis).

(IV) All applicable provisions in paragraph (3) and (4) of Rule 0400-12-01-.06.

(V) All applicable provisions in paragraph (5) of Rule 0400-12-01-.06 but not subparagraph (b) or (c) (dealing with the use of the manifest and manifest discrepancies).

(VI) All applicable provisions in paragraphs (6) through (12) of Rule 0400-12-01-.06.

(VII) All applicable provisions in Rule 0400-12-01-.07.

(b) Reserved.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) part 3 of subparagraph (a) of paragraph (8) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

(iii) Hazardous wastes that are exempt from regulation under subparagraph (1)(d) of Rule 0400-12-01-.02 and items (1)(f)1(iii)(III) and (IV) of Rule 0400-12-01-.02, and hazardous wastes that are subject to the special requirements for very small quantity generators under subparagraph (1)(e) of Rule 0400-12-01-.03; and

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 1 of subparagraph (f) of paragraph (14) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) When your LLMW has met the requirements of your NRC or NRC Agreement State license for decay-in-storage and can be disposed of as non-radioactive waste, then the conditional exemption for storage no longer applies. On that date your waste is subject to hazardous waste regulation under the relevant requirements of Rules 0400-12-01-.01 through .10, and the time period for accumulation of a hazardous waste as specified in subparagraph (1)(g) or (h) of Rule 0400-12-01-.03 begins.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Appendix III - Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride of paragraph (30) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

Terrain-adjusted Effective Stack Height (m)	Noncomplex Terrain				Complex Terrain	
	Values for Urban Areas		Values for Rural Areas		Values for Use in Urban and Rural Areas	
	Cl_2 (g/hr)	HCl (g/hr)	Cl_2 (g/hr)	HCl (g/hr)	Cl_2 (g/hr)	HCl (g/hr)
4	8.2E + 01	1.4E + 03	4.2E + 01	7.3E + 02	1.9E + 01	3.3E + 02
6	9.1E + 01	1.6E + 03	4.8E + 01	8.3E + 02	2.8E + 01	4.9E + 02
8	1.0E + 02	1.8E + 03	5.3E + 01	9.2E + 02	4.1E + 01	7.1E + 02
10	1.2E + 02	2.0E + 03	6.2E + 01	1.1E + 03	5.8E + 01	1.0E + 03
12	1.3E + 02	2.3E + 03	7.7E + 01	1.3E + 03	7.2E + 01	1.3E + 03
14	1.5E + 02	2.6E + 03	9.1E + 01	1.6E + 03	9.1E + 01	1.6E + 03
16	1.7E + 02	2.9E + 03	1.2E + 02	2.0E + 03	1.1E + 02	1.8E + 03
18	1.9E + 02	3.3E + 03	1.4E + 02	2.5E + 03	1.2E + 02	2.0E + 03
20	2.1E + 02	3.7E + 03	1.8E + 02	3.1E + 03	1.3E + 02	2.3E + 03
22	2.4E + 02	4.2E + 03	2.3E + 02	3.9E + 03	1.4E + 02	2.4E + 03
24	2.7E + 02	4.8E + 03	2.9E + 02	5.0E + 03	1.6E + 02	2.8E + 03
26	3.1E + 02	5.4E + 03	3.7E + 02	6.5E + 03	1.7E + 02	3.0E + 03
28	3.5E + 02	6.0E + 03	4.7E + 02	8.1E + 03	1.9E + 02	3.4E + 03
30	3.9E + 02	6.9E + 03	5.8E + 02	1.0E + 04	2.1E + 02	3.7E + 03
35	5.3E + 02	9.2E + 03	9.6E + 02	1.7E + 04	2.6E + 02	4.6E + 03
40	6.2E + 02	1.1E + 04	1.4E + 03	2.5E + 04	3.3E + 02	5.7E + 03
45	8.2E + 02	1.4E + 04	2.0E + 03	3.5E + 04	4.0E + 02	7.0E + 03
50	1.1E + 03	1.8E + 04	2.6E + 03	4.6E + 04	4.8E + 02	8.4E + 03
55	1.3E + 03	2.3E + 04	3.5E + 03	6.1E + 04	6.2E + 02	1.1E + 04
60	1.6E + 03	2.9E + 04	4.6E + 03	8.1E + 04	7.7E + 02	1.3E + 04
65	2.0E + 03	3.4E + 04	6.2E + 03	1.1E + 05	9.1E + 02	1.6E + 04
70	2.3E + 03	3.9E + 04	7.2E + 03	1.3E + 05	1.1E + 03	1.8E + 04

75	2.5E + 03	4.5E + 04	8.6E + 03	1.5E + 05	1.2E + 03	2.0E + 04
80	2.9E + 03	5.0E + 04	1.0E + 04	1.8E + 05	1.3E + 03	2.3E + 04
85	3.3E + 03	5.8E + 04	1.2E + 04	2.2E + 05	1.4E + 03	2.5E + 04
90	3.7E + 03	6.6E + 04	1.4E + 04	2.5E + 05	1.6E + 03	2.9E + 04
95	4.2E + 03	7.4E + 04	1.7E + 04	3.0E + 05	1.8E + 03	3.2E + 04
100	4.8E + 03	8.4E + 04	2.1E + 04	3.6E + 05	2.0E + 03	3.5E + 04
105	5.3E + 03	9.2E + 04	2.4E + 04	4.3E + 05	2.3E + 03	3.9E + 04
110	6.2E + 03	1.1E + 05	2.9E + 04	5.1E + 05	2.5E + 03	4.5E + 04
115	7.2E + 03	1.3E + 05	3.5E + 04	6.1E + 05	2.8E + 03	5.0E + 04
120	8.2E + 03	1.4E + 05	4.1E + 04	7.2E + 05	3.2E + 03	5.6E + 04

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Appendix V - Risk Specific Doses of paragraph (30) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

Appendix V - Risk Specific Doses [40 CFR 266 APPENDIX V]

Risk Specific Doses (10^{-5})

Constituent	CAS No.	Unit Risk ($m^3/\mu g$)	RsD ($\mu g/m^3$)
Acrylamide	79-06-1	1.3E-03	7.7E-03
Acrylonitrile	107-13-1	6.8E-05	1.5E-01
Aldrin	309-00-2	4.9E-03	2.0E-03
Aniline	62-53-3	7.4E-06	1.4E+00
Arsenic	7440-38-2	4.3E-03	2.3E-03
Benz(a)anthracene	56-55-3	8.9E-04	1.1E-02
Benzene	71-43-2	8.3E-06	1.2E+00
Benzidine	92-87-5	6.7E-02	1.5E-04
Benzo(a)pyrene	50-32-8	3.3E-03	3.0E-03
Beryllium	7440-41-7	2.4E-03	4.2E-03
Bis(2-chloroethyl)ether	111-44-4	3.3E-04	3.0E-02
Bis(chloromethyl)ether	542-88-1	6.2E-02	1.6E-04
Bis(2-ethylhexyl)-phthalate	117-81-7	2.4E-07	4.2E+01
1,3-Butadiene	106-99-0	2.8E-04	3.6E-02
Cadmium	7440-43-9	1.8E-03	5.6E-03
Carbon Tetrachloride	56-23-5	1.5E-05	6.7E-01
Chlordane	57-74-9	3.7E-04	2.7E-02
Chloroform	67-66-3	2.3E-05	4.3E-01
Chloromethane	74-87-3	3.6E-06	2.8E+00
Chromium VI	7440-47-3	1.2E-02	8.3E-04
DDT	50-29-3	9.7E-05	1.0E-01
Dibenz(a,h)anthracene	53-70-3	1.4E-02	7.1E-04
1,2-Dibromo-3-chloropropane	96-12-8	6.3E-03	1.6E-03
1,2-Dibromoethane	106-93-4	2.2E-04	4.5E-02
1,1-Dichloroethane	75-34-3	2.6E-05	3.8E-01
1,2-Dichloroethane	107-06-2	2.6E-05	3.8E-01
1,1-Dichloroethylene	75-35-4	5.0E-05	2.0E-01
1,3-Dichloropropene	542-75-6	3.5E-01	2.9E-05
Dieldrin	60-57-1	4.6E-03	2.2E-03
Diethylstilbestrol	56-53-1	1.4E-01	7.1E-05
Dimethylnitrosamine	62-75-9	1.4E-02	7.1E-04
2,4-Dinitrotoluene	121-14-2	8.8E-05	1.1E-01
1,2-Diphenylhydrazine	122-66-7	2.2E-04	4.5E-02
1,4-Dioxane	123-91-1	1.4E-06	7.1E+00
Epichlorohydrin	106-89-8	1.2E-06	8.3E+00
Ethylene Oxide	75-21-8	1.0E-04	1.0E-01
Ethylene Dibromide	106-93-4	2.2E-04	4.5E-02
Formaldehyde	50-00-0	1.3E-05	7.7E-01

Heptachlor	76-44-8	1.3E-03	7.7E-03
Heptachlor Epoxide	1024-57-3	2.6E-03	3.8E-03
Hexachlorobenzene	118-74-1	4.9E-04	2.0E-02
Hexachlorobutadiene	87-68-3	2.0E-05	5.0E-01
Alpha-hexachlorocyclo-hexane	319-84-6	1.8E-03	5.6E-03
Beta-hexachlorocyclohexane	319-85-7	5.3E-04	1.9E-02
Gamma-hexachlorocyclo-hexane	58-89-9	3.8E-04	2.6E-02
Hexachlorocyclohexane, Technical		5.1E-04	2.0E-02
Hexachlorodibenzo-p-dioxin (1,2 Mixture)		1.3E+0	7.7E-06
Hexachloroethane	67-72-1	4.0E-06	2.5E+00
Hydrazine	302-01-2	2.9E-03	3.4E-03
Hydrazine Sulfate	302-01-2	2.9E-03	3.4E-03
3-Methylcholanthrene	56-49-5	2.7E-03	3.7E-03
Methyl Hydrazine	60-34-4	3.1E-04	3.2E-02
Methylene Chloride	75-09-2	4.1E-06	2.4E+00
4,4'-Methylene-bis-2-chloroaniline	101-14-4	4.7E-05	2.1E-01
Nickel	7440-02-0	2.4E-04	4.2E-02
Nickel Refinery Dust	7440-02-0	2.4E-04	4.2E-02
Nickel Subsulfide	12035-72-2	4.8E-04	2.1E-02
2-Nitropropane	79-46-9	2.7E-02	3.7E-04
N-Nitroso-n-butylamine	924-16-3	1.6E-03	6.3E-03
N-Nitroso-n-methylurea	684-93-5	8.6E-02	1.2E-04
N-Nitrosodiethylamine	55-18-5	4.3E-02	2.3E-04
N-Nitrosopyrrolidine	930-55-2	6.1E-04	1.6E-02
Pentachloronitrobenzene	82-68-8	7.3E-05	1.4E-01
PCBs	1336-36-3	1.2E-03	8.3E-03
Pronamide	23950-58-5	4.6E-06	2.2E+00
Reserpine	50-55-5	3.0E-03	3.3E-03
2,3,7,8-Tetrachloro-dibenzo-p-dioxin	1746-01-6	4.5E+01	2.2E-07
1,1,2,2-Tetrachloroethane	79-34-5	5.8E-05	1.7E-01
Tetrachloroethylene	127-18-4	4.8E-07	2.1E+01
Thiourea	62-56-6	5.5E-04	1.8E-02
1,1,2-Trichloroethane	79-00-5	1.6E-05	6.3E-01
Trichloroethylene	79-01-6	1.3E-06	7.7E+00
2,4,6-Trichlorophenol	88-06-2	5.7E-06	1.8E+00
Toxaphene	8001-35-2	3.2E-04	3.1E-02
Vinyl Chloride	75-01-4	7.1E-06	1.4E+00

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparts (i) and (ii) of part 5 of subparagraph (a) of paragraph (1) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

(i) Waste generated by very small quantity generators, as defined in subparagraph (2)(a) of Rule 0400-12-01-.01;

(ii) Waste pesticides that a farmer disposes of pursuant to subpart (1)(a)2(vi) of Rule 0400-12-01-.03;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

3. "Hazardous constituent or constituents" means those constituents listed in Appendix VIII in paragraph (30) of Rule 0400-12-01-.02.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (v) of part 1 of subparagraph (g) of paragraph (1) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

(v) If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03 to meet applicable LDR treatment standards found at subparagraph (3)(a) of this rule, the generator must develop and follow a written waste analysis plan which describes the procedures they will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table 1, subparagraph (3)(f) of this rule, however, are not subject to these waste analysis requirements.) The plan must be kept on site in the generator's records, and the following requirements must be met:

(I) The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited waste(s) being treated and contain all information necessary to treat the waste(s) in accordance with the requirements of this rule, including the selected testing frequency.

(II) Such plan must be kept in the facility's on-site files and made available to inspectors.

(III) Wastes shipped off-site pursuant to this subpart must comply with the notification requirements of subpart (iii) of this part.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (III) of subpart (i) of part 4 of subparagraph (g) of paragraph (1) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

(III) For debris excluded under subpart (1)(c)6(i) of Rule 0400-12-01-.02, the technology from Table 1 of subparagraph (3)(f) of this rule used to treat the debris.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 4 of subparagraph (g) of paragraph (1) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

(iii) For debris excluded under subpart (1)(c)6(i) of Rule 0400-12-01-.02, the owner or operator of the treatment facility must document and certify compliance with the treatment standards in Table 1 of subparagraph (3)(f) of this rule as follows:

(I) Records must be kept of all inspections, evaluations, and analyses of treated debris that are made to determine compliance with the treatment standards;

(II) Records must be kept of any data or information the treater obtains during treatment of the debris that identifies key operating parameters of the treatment unit; and

(III) For each shipment of treated debris, a certification of compliance with the treatment standards must be signed by an authorized representative and placed in the facility's files. The certification must state the following:

"I certify under penalty of law that the debris has been treated in accordance with the requirements of subparagraph (3)(f) of Rule 0400-12-01-.10. I am aware that there are significant penalties for making a false certification, including the possibility of fine and imprisonment."

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Waste code K088 (Spent Potliners from primary aluminum reduction) of the Table "Treatment Standards for Hazardous Wastes" following part 10 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by: deleting from the third column: "Benz(a)anthra-cene" and replacing it with "Benz(a)anthracene"; deleting from the third column "Benzo(b)fluor-anthene" and replacing it with "Benzo(b)fluoranthene"; deleting from the third column "Benzo(k)fluor-anthene" and replacing it with "Benzo(k)fluoranthene"; deleting from the third column "Benzo(g,h,i)-perylene" and replacing it with "Benzo(g,h,i)perylene"; and deleting from the third column "Dibenz(a,h)-anthracene" and replacing it with "Dibenz(a,h)anthracene", so that, as amended, the entry for K088 shall read as follows:

K088	Spent potliners from primary aluminum reduction.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Benzo(b)fluoranthene	205-99-2	0.11	6.8
		Benzo(k)fluoranthene	207-08-9	0.11	6.8
		Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluoranthene	206-44-0	0.068	3.4
		Indeno(1,2,3,-cd)pyrene	193-39-5	0.0055	3.4
		Penanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Antimony	7440-36-0	1.9	1.15 mg/l TCLP

		Arsenic	7440-38-2	1.4	26.1 mg/kg
		Barium	7440-39-3	1.2	21 mg/l TCLP
		Beryllium	7440-41-7	0.82	1.22 mg/l TCLP
		Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Mercury	7439-97-6	0.15	0.025 mg/l TCLP
		Nickel	7440-02-0	3.98	11.0 mg/l TCLP
		Selenium	7782-49-2	0.82	5.7 mg/l TCLP
		Silver	7440-22-4	0.43	0.14 mg/l TCLP
		Cyanide (Total)[7]	57-12-5	1.2	590
		Cyanide (Amenable)[7]	57-12-5	0.86	30
		Fluoride	16984-48-8	35	NA

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Technology Code SSTRP in Table 1.[a]-TECHOLOGY CODES AND DESCRIPTION OF TECHNOLOGY-BASED STANDARDS following part 1 of subparagraph (c) of paragraph (3) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by inserting a comma after “unit” and before “such” in the second sentence, so that as amended the description for SSTRP shall read as follows:

SSTRP:	Steam stripping of organics from liquid wastes utilizing direct application of steam to the wastes operated such that liquid and vapor flow rates, as well as temperature and pressure ranges, have been optimized, monitored, and maintained. These operating parameters are dependent upon the design parameters of the unit, such as the number of separation stages and the internal column design, thus resulting in a condensed extract high in organics that must undergo either incineration, reuse as a fuel, or other recovery/reuse and an extracted wastewater that must undergo further treatment as specified in the standard.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 1 of subparagraph (a) of paragraph (4) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

(i) A generator stores such wastes in tanks, containers, or containment buildings on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in subparagraphs (1)(g) and (h) of Rule 0400-12-01-.03 and Rules 0400-12-01-.06 and 0400-12-01-.05.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (ii) of part 1 of subparagraph (a) of paragraph (4) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

(I) Each container is clearly marked to identify its contents and with:

I. The words “Hazardous Waste”;

II. The applicable EPA hazardous waste number(s) (hazardous waste codes) in paragraphs (3) and (4) of Rule 0400-12-01-.02; or use a nationally recognized electronic system, such as bar coding, to identify the EPA hazardous waste number(s);

III. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

IV. The date each period of accumulation begins;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (II) of subpart (i) of part 2 of subparagraph (a) of paragraph (2) of Rule 0400-12-01-.11 Standards for the Management of Used Oil is amended by deleting it in its entirety and substituting instead the following:

(II) Rebuttable Presumption for Used Oil

Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in paragraph (4) of Rule 0400-12-01-.02. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII) in paragraph (30) of Rule 0400-12-01-.02.

I. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in part (3)(e)3 of this rule, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed.

II. The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 2 of subparagraph (a) of paragraph (2) of Rule 0400-12-01-.11 Standards for the Management of Used Oil are amended by deleting them in their entirety and substituting instead the following:

(iii) Very Small Quantity Generator Hazardous Waste

(I) Mixtures of used oil and very small quantity generator hazardous waste regulated under subparagraph (1)(e) of Rule 0400-12-01-.03 are subject to regulation as used oil under this rule, provided the resultant mixture does not exhibit the characteristic of ignitability, in accordance with subparagraph (3)(b) of Rule 0400-12-01-.02.

(II) If the mixture of used oil and hazardous waste from a very small quantity generator regulated under subparagraph (1)(e) of Rule 0400-12-01-.03 exhibits the characteristic of ignitability, in accordance with subparagraph (3)(b) of Rule 0400-12-01-.02, then the mixture shall be managed as hazardous waste and not as used oil under this rule.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparts (iv) and (v) of part 1 of subparagraph (a) of paragraph (5) of Rule 0400-12-01-.11 Standards for the Management of Used Oil are amended by deleting them in their entirety and substituting instead the following:

(iv) This paragraph does not apply to transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor/re-refiner, or burner subject to the requirements of this rule. Except as provided in subparts (i) through (iii) of this part, this paragraph does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.

(v) Any transporter of used oil who transports quantities of used oil in excess of 55 gallons of used oil at any given time, or who transports more than 1,000 gallons of used oil in a calendar year, must meet the certification requirements of this subpart in order to transport used oil in the state of Tennessee. Certification of compliance with the following items must be demonstrated prior to commencement of used oil transportation activities by the transporter, as well as annually, as part of the used oil transporter's annual report.

(I) Each used oil hauler must demonstrate that each employee engaged in the hauling of used oil is in the possession of a current Commercial Driver's License. This must be accompanied by a signed certification by the employee stating that the employee has examined and is familiar with the Used Oil Management Standards for Transporters in Tennessee Rule 0400-12-01-.11.

(II) All vehicles used to transport used oil shall have Periodic Inspections as described by T.C.A. § 65-15-113 and Rule 1220-02-01-.20. The requirements of a Periodic Inspection are found in federal regulations at 49 CFR Parts 396.17 through 396.25, and Appendix G of 49 CFR Part 396. A copy of the Periodic Inspection report for each vehicle engaged in the transport of used oil shall be included in the initial Certification and

updated in subsequent annual reports. Each vehicle shall be in good mechanical condition and suitable for the transportation of used oil.

(III) All commercial transporters engaged in the transportation of used oils must maintain a minimum of $1,000,000 in liability insurance.

(IV) The transporter shall briefly describe the recordkeeping practices to demonstrate compliance with subparagraph (g) of this paragraph. Copies (examples only) of shipping papers shall be included.

(V) I. The transporter shall certify that all used oil is delivered to qualified customers or certified recyclers.

II. A. The terms "qualified customers" and "certified recyclers" shall mean transporters, transfer facilities, off-specification burners, reprocessors, marketers, and/or re-refiners of used oil, which are in possession of valid Installation Identification Numbers.

B. "Qualified customers" shall also include customers without Installation Identification Numbers which receive and burn only those used oils which qualify as "on-specification" used oils as defined in subparagraph (2)(b) of this rule. In such cases when the qualified customer receives a shipment of on-specification used oil and does not possess an Installation Identification Number, the transporter shall clearly indicate in the record that the shipment was "on-specification" used oil.

III. A. Supporting documentation of compliance with subitems I and II of this item shall include all information as required at part (g)2 of this paragraph.

B. This documentation shall be constructed and maintained in accordance with the recordkeeping requirements of subparagraph (g) of this paragraph and shall be available for inspection and furnished to the Department upon request.

(vi) (I) Certifications required by this paragraph, except for “drivers” identified in item (v)(I) of this part, shall contain the following wording:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that knowingly giving or causing to be given any false information constitutes a Class C misdemeanor.”

(II) The Certification for “drivers” referred to in item (v)(I) of this part shall contain the following wording:

“I certify that I have read and am familiar with the Used Oil Management Standards for Transporters in Rule 0400-12-01-.11. I am aware that knowingly giving or causing to be given any false information constitutes a Class C misdemeanor.”

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (e) of paragraph (5) of Rule 0400-12-01-.11 Standards for the Management of Used Oil are amended by deleting them in their entirety and substituting instead the following:

3. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in paragraph (4) of Rule 0400-12-01-.02. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII in paragraph (30) of Rule 0400-12-01-.02).

   (i) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in part (3)(e)3 of this rule, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed.

   (ii) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (f) of paragraph (5) of Rule 0400-12-01-.11 Standards for the Management of Used Oil is amended by deleting its introductory text and substituting instead the following, however, its associated parts remain unchanged:

(f) Used Oil Storage at Transfer Facilities [40 CFR 279.45]

Used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR part 112) in addition to the requirements of this subparagraph. Used oil transporters are also subject to the Underground Storage Tank standards (Rules 0400-18-01-.01 through -.11) for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subparagraph.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (d) of paragraph (6) of Rule 0400-12-01-.11 Standards for the Management of Used Oil is amended by deleting it in its entirety and substituting instead the following:

3. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in paragraph (4) of Rule 0400-12-01-.02. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII in paragraph (30) of Rule 0400-12-01-.02).

   (i) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed.

   (ii) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils

contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (d) of paragraph (6) of Rule 0400-12-01-.11 Standards for the Management of Used Oil is amended by deleting it in its entirety and substituting instead the following:

3. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in paragraph (4) of Rule 0400-12-01-.02. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII in paragraph (30) of Rule 0400-12-01-.02).

   (i) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in part (3)(e) of this rule, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed.

   (ii) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subitem II of item (I) of subpart (ii) of part 2 of subparagraph (f) of paragraph (6) of Rule 0400-12-01-.11 Standards for the Management of Used Oil is amended by deleting it in its entirety and substituting instead the following:

II. A method shown to be equivalent under subparagraph (3)(a) of Rule 0400-12-01-.01;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (b) of paragraph (1) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting the definition of “Universal Waste Handler” in its entirety and substituting instead in alphabetical order the following definition for “Universal Waste Handler” to read as follows:

“Universal Waste Handler”:

1. Means:

   (i) A generator (as defined in this subparagraph) of universal waste; or

   (ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

2. Does not mean:

   (i) A person who treats (except under the provisions of parts (2)(d)1, 3, or 4 of this rule, or parts (3)(d)1, 3, or 4 of this rule), disposes of, or recycles universal waste; or

(ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility (except under the provisions of part (4)(b)2) of this rule.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (c) of paragraph (1) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

(c) Applicability -- Household and Very Small Quantity Generator Waste and Non-Hazardous Waste [40 CFR 273.8]

1. Persons managing the wastes listed in subparts (i) through (iii) of this part may, at their option, manage them under the requirements of this rule:

(i) Household wastes that are exempt under subpart (1)(d)2(i) of Rule 0400-12-01-.02 and are also of the same type as the universal wastes defined at subparagraph (b) of this paragraph; and/or

(ii) Very small quantity generator wastes that are exempt under subparagraph (1)(e) of Rule 0400-12-01-.03 and are also of the same type as the universal wastes defined at subparagraph (b) of this paragraph; and/or

(iii) Non-hazardous wastes that are of the same type as the universal wastes defined at subparagraph (b) of this paragraph.

2. Persons who commingle the wastes described in subparts 1(i) and (ii) of this subparagraph together with universal waste regulated under this rule must manage the commingled waste under the requirements of this rule.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 5 of subparagraph (e) of paragraph (2) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

5. Universal waste lamps (i.e., each lamp), or a container or package in which such lamps are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste - Lamp(s)” or “Waste Lamp(s)” or “Used Lamp(s)” or “Universal Waste - Bulb(s)” or “Waste Bulb(s)” or “Used Bulb(s)”. Containers or packages destined for out-of-state shipment shall use the term “Lamps” in lieu of “Bulbs”.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (k) of paragraph (2) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

(k) Exports [40 CFR 273.20]

A small quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of paragraph (9) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 5 of subparagraph (e) of paragraph (3) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

5. Universal waste lamps (i.e., each lamp), or a container or package in which such lamps are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste - Lamp(s)” or “Waste Lamp(s)” or “Used Lamp(s)” or “Universal Waste - Bulb(s)” or “Waste Bulb(s)” or “Used Bulb(s)”. Containers or packages destined for out-

of-state shipment shall use the term “Lamps” in lieu of “Bulbs”.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Parts 1 and 2 of subparagraph (j) of paragraph (3) of Rule 0400-12-01-.12 Standards for Universal Waste Management are amended by deleting them in their entirety and substituting instead the following:

1. Receipt of Shipments

A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste received must include the following information:

(i) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent; (Pesticide collection programs operated under the authority of the Tennessee Department of Agriculture are exempt from the requirements of this subpart provided that the pesticides are received by a universal waste handler for proper management);

(ii) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, lamps); and

(iii) The date of receipt of the shipment of universal waste.

2. Shipments Off-site

A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste sent must include the following information:

(i) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

(ii) The quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats, lamps); and

(iii) The date the shipment of universal waste left the facility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (k) of paragraph (3) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

(k) Exports [40 CFR 273.40]

A large quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of paragraph (9) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (b) of paragraph (4) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

2. Prohibited from diluting or treating universal waste, except by responding to releases as provided in subparagraph (e) of this paragraph.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (g) of paragraph (4) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

(g) Exports [40 CFR 273.56]

A universal waste transporter transporting a shipment of universal waste to a foreign destination is subject to the requirements of paragraph (9) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (c) of paragraph (5) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

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

(i) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;

(ii) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, lamps); and

(iii) The date of receipt of the shipment of universal waste.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (6) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

(a) Imports [40 CFR 273.70]

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of paragraph (9) of Rule 0400-12-01-.03, immediately after the waste enters the United States, as indicated in parts 1 through 3 of this subparagraph:

1. A universal waste transporter is subject to the universal waste transporter requirements of paragraph (4) of this rule.

2. A universal waste handler is subject to the small or large quantity handler of universal waste requirements of paragraphs (2) or (3) of this rule, as applicable.

3. An owner or operator of a destination facility is subject to the destination facility requirements of paragraph (5) of this rule.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (b) of paragraph (7) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

2. The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, very small quantity generators, small businesses, government organizations, as well as large industrial facilities);

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Stacey Cothran (Solid/Hazardous Waste Management Industry)	X				
Pat Flood, P.E. (Commissioner's Designee, Dept. of Environment and Conservation)	X				
Dr. George Hyfantis, Jr. (Institution of Higher Learning)	X				
Alan M. Leiserson (Environmental Interests)	X				
Jared L. Lynn (Manufacturing experienced with Solid/Hazardous Waste)	X				
David Martin (Working in a field related to Agriculture)	X				
Jeff McCormick (Municipal Government)	X				
Richard "Ric" Morris (Single Facility with less than 5 Underground Storage Tanks)				X	
William "Will" Ownby (Manufacturing experienced with Underground Storage Tanks/Hazardous Waste)	X				
Brian Parnell (Petroleum Business with at least 15 Underground Storage Tanks)	X				
DeAnne Redman (Petroleum Management Business)	X				
The Honorable Bob Rial (County Government)				X	
Jimmy West (Commissioner's Designee, Dept. of Economic and Community Development)	X				
Mark Williams (Small Generator of Solid/Hazardous Materials representing Automotive Interests)	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by Underground Storage Tanks and Solid Waste Disposal Control Board on 08/05/2020 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *(10/03/19)*

Rulemaking Hearing(s) Conducted on: (add more dates). *(12/03/19)*

Date: 09/29/2020

Signature: Ellery R. Richardson
Ellery R. Richardson (Sep 28, 2020 11:10 CDT)

Name of Officer: Ellery R. Richardson

Title of Officer: Assistant General Counsel

Agency/Board/Commission: Underground Storage Tanks and Solid Waste Disposal Control Board

Rule Chapter Number(s): 0400-12-01

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

1/27/2021
Date

Department of State Use Only

Filed with the Department of State on: 2/12/2021

Effective on: 5/13/2021

Tre Hargett
Secretary of State

RECEIVED
2021 FEB 12 PM 3:22
SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

EPA Comments

Under section 3006 of the Resource Conservation and Recovery Act (RCRA), EPA may authorize qualified states to administer and enforce the RCRA hazardous waste program within the state. Tennessee is an authorized state. When the federal rules are amended to include more stringent requirements an authorized state is required to amend its rules to include the more stringent requirements and to have these amended rules evaluated by EPA in accordance with the standards and requirements of 40 CFR part 271. EPA Region 4 has evaluated the current and previous rulemakings to determine if these rulemakings will, when effective, be approved for continuing program authorization. As a result of this review, EPA Region 4 has made the following comments on these rules:

Comment: In subparagraph (1)(g) of Rule 0400-12-01-.01, the word “of” should be added between the word “submission” and the word “information.”

Response: The Board has added the missing word.

Comment: In subparagraph (2)(a) of Rule 0400-12-01-.01, in the definition of “Installation identification number” EPA wanted to confirm that the phrase “in this state” used in two places means the “in the State of Tennessee.”

Response: The Board confirms that “in this state” means “in the State of Tennessee.” To remove any confusion the Board is replacing the phrase “in this state” in the two places it appears in the definition with the phrase “in Tennessee.”

Comment: In subparagraph (2)(a) of Rule 0400-12-01-.01, the definition of “AES filing compliance date” has been established as December 31, 2017, and EPA recommends that the definition be changed to include that date.

Response: The Board agrees and is changing the definition of “AES filing compliance date” to mean December 31, 2017.

Comment: In subparagraph (2)(a) of Rule 0400-12-01-.01, EPA recommends in the definition of “airbag waste handler” that “ten” be changed to “10” for consistency.

Response: The Board agrees to change “ten” to “10” in the definition of “airbag waste handler” for consistency.

Comment: Subparagraph (2)(b) of Rule 0400-12-01-.01 contains EPA’s list of publications or materials that are referenced in Chapter 0400-12-01. EPA suggested Tennessee clarify that language to make it clearer to the reader that the EPA list is reprinted in the subparagraph.

Response: The Board agrees and has clarified the language in part (2)(b)2 of Rule 0400-12-01-.01 and in the two notes that follow to make it clearer that the notes reprint EPA language for the convenience of the reader.

Comment: In subpart (7)(a)1(ii) of Rule 0400-12-01-.01, EPA recommends that Tennessee substitute “June 26, 2018” for the phrase “the effective date of these rules.”

Response: The Board agrees and has made the substitution.

Comment: Regarding part (1)(a)1 of Rule 0400-12-01-.02, EPA points out that the federal analog includes a reference to the notification requirements of section 3010 of RCRA that the state rule does not include. EPA acknowledges that the Chapter 0400-12-01 requires notification in various rules and that it may not impact program authorization.

Response: To make the rules clearer, the Board will add to the end of the first sentence the phrase, “and which are subject to the notification requirements of this chapter.” As amended the part will read:

"This rule identifies those solid wastes which are subject to regulation as hazardous wastes under Rules 0400-12-01-.03 through 0400-12-01-.07 and 0400-12-01-.10 and which are subject to the notification requirements of this chapter."

Comment: Relative to the note added following (1)(b)5(i)(II) of Rule 0400-12-01-.02, EPA confirms that the first sentence accurately clarifies that this exclusion only applies to materials that are not reclaimed prior to their use or reuse and is consistent with the other exclusions in subpart (1)(b)5(i) of Rule 0400-12-01-.02. However, EPA does not think the second sentence of the note is needed since subpart (1)(b)1(i) of Rule 0400-12-01-.02 references the exclusions for secondary materials that are legitimately recycled.

Response: The Board agrees to retain the first sentence of the note and delete the second sentence since it is not needed.

Comment: In part (1)(d)10 of Rule 0400-12-01-.02, Tennessee replaces "notification requirements of section 3010 of RCRA" with "including notification." EPA asks if this substitution is sufficient in terms of directing the regulated community to the correct Tennessee notification requirements.

Response: Tennessee does not have a direct statutory reference to notification and has placed its notification requirements throughout the rules where needed and requires notification on forms provided by the Commissioner. However, the Board removed the phrase "including notification" from where it followed Rule 0400-12-01-.03 and added the phrase "including the notification requirements" after the list of rules the airbag waste handler and airbag waste transporter are exempted from to make it clearer that the exemption applies to any applicable notification requirements of all the listed rules.

Comment: Considering subpart (1)(f)1(iv) of Rule 0400-12-01-.02, subpart (1)(d)3(iv) of Rule 0400-12-01-.03, and subpart (2)(a)2(iii) of Rule 0400-12-01-.11 together, EPA points out that the rules are more stringent in the way mixtures of used oil and hazardous waste from very small quantity generators is regulated than similar mixtures of used oil and hazardous waste from small or large quantity generators. EPA asks if this is intended.

Response: It is the intent of the Board that the mixtures of used oil and very small quantity generator hazardous waste be regulated in the same manner as similar mixtures from small and large quantity generators. As a result, the Board is making the necessary revisions in all three rules to reflect this intent.

Comment: In item (5)(b)1(v)(XI) of Rule 0400-12-01-.02, EPA points out the office and mailing address has changed for exporters of Cathode Ray Tubes to send their annual reports to EPA and requested the item be revised to include the office and address change.

Response: The Board agrees to change the office and address.

Comment: In subpart (1)(a)1(i) of Rule 0400-12-01-.03, in the definition of "condition of exemption" the reference to the notification requirements for hazardous waste generators is too narrow in this context and needs to be changed to be broader to all notification requirements in the chapter.

Response: The Board agrees with EPA and will amend the phrase "or from any requirement for notification under paragraph (2) of this rule" to "or from any requirement for notification under this chapter."

Comment: In item (1)(a)2(i)(I) of Rule 0400-12-01-.03, EPA points out that Tennessee incorrectly substituted its analog for 260.10 for the federal 40 CFR part 261. The correct TN citation should be Rule 0400-12-01-.02.

Response: The Board has revised item (1)(a)2(i)(I) of Rule 0400-12-01-.03.

Comment: In items (1)(a)2(vii)(I) and (II) of Rule 0400-12-01-.03, EPA points out that Tennessee should have retained the reference to "section 3008 of RCRA" instead of replacing it with its Tennessee analog; adding reference to the Tennessee analog is appropriate, but EPA always retains its enforcement authority under 3008.

Response: The Board has added the phrase “Section 3008 of RCRA” to both items.

Comment: In Rule 0400-12-01-.03 at item (1)(a)2(vii)(II), subparagraph (1)(g) and (1)(h) (introductory text), parts (1)(h)2 through 6, EPA points out that Tennessee does not cite its analog to the notification requirements of section 3010 of RCRA.

Response: Tennessee does not have a direct statutory reference to notification and has placed its notification requirements through the rules where needed and requires notification on forms provided by the Commissioner. To all the places pointed out by EPA, the Board has added the phrase “including the notification requirements” after the list of rules to make it clearer that any notification requirements of the listed rules are included.

Comment: In items (1)(e)1(v)(I), (II), and (VII) of Rule 0400-12-01-.03, EPA suggests Tennessee include references to EPA analogs to Tennessee rules so Tennessee does not inadvertently limit how very small quantity generators may manage their hazardous waste.

Response: The Board added references to the federal rules so as to not unnecessarily limit hazardous waste management options for very small quantity generators.

Comment: In item (1)(e)1(v)(III) of Rule 0400-12-01-.03, EPA points out that the reference to “part 271 of this chapter” should be revised to read: “40 CFR part 271.”

Response: The Board has corrected the federal citation.

Comment: In item (1)(e)1(v)(V) of Rule 0400-12-01-.03, EPA points out that the phrase “of this chapter” should be removed after “40 CFR Parts 257.5 through 257.30.”

Response: The Board has removed the phrase.

Comment: In items (1)(f)1(iii)(I) and (II) of Rule 0400-12-01-.03, EPA points out that Tennessee needs to cite its analog to section 265.17(b) instead of the provision from 40 CFR part 262.

Response: The Board has revised the items to cite part (2)(h)2 of Rule 0400-12-01-.05.

Comment: In item (1)(h)1(ii)(I) of Rule 0400-12-01-.03, EPA identifies on the last line that “paragraph” should be “paragraphs.”

Response: The Board has corrected the typographical error.

Comment: In part (1)(i)4 of Rule 0400-12-01-.03, EPA points out that Tennessee is authorized to issue EPA identification numbers, so the reference to Administrator in the part should be to “the Administrator or the Commissioner.”

Response: The Board has added the phrase “or the Commissioner” at the end of the part.

Comment: In part (3)(b)1 of Rule 0400-12-01-.03, EPA points out that the Office of Solid Waste has been changed to the Office of Resource Conservation and Recovery and should be changed in the part and all places it appears in the note that follows.

Response: The Board has changed all references to the Office of Solid Waste to the Office of Resource Conservation and Recovery.

Comment: In subpart (3)(e)1(i) of Rule 0400-12-01-.03, item (3)(a)1(iv)(I) of Rule 0400-12-01-.04, subpart (5)(b)6(i) of Rule 0400-12-01-.05, and subparts (5)(b)6(i) and (5)(b)11(i) of Rule 0400-12-01-.06, EPA points out that because Tennessee adopts 40 CFR 262.25 verbatim at subparagraph (3)(f) of Rule 0400-12-01-.03, Tennessee need not keep the federal reference to 40 CFR 262.25(a). Tennessee should replace it with a reference to subparagraph (3)(f) of Rule 0400-12-01-.03.

Response: The Board has revised the citation in all of the rules identified.

Comment: In subpart (3)(e)1(iii) of Rule 0400-12-01-.03, EPA suggests that the phrase “EPA inspector or the Commissioner” should be changed to “EPA or authorized state inspector” for consistency.

Response: The Board has revised the subpart.

Comment: In subpart (3)(e)3(i) of Rule 0400-12-01-.03, EPA identifies a typographical error. The word “was” should be “waste.”

Response: The Board has corrected the typographical error.

Comment: EPA suggests that the bracketed language following the title of subparagraph (3)(f) of Rule 0400-12-01-.03 should be changed from “262.24” to “262.25.”

Response: The Board has changed the reference.

Comment: For consistency EPA suggests that the identification to the federal analog of subparagraph (4)(f) and paragraph (5) of Rule 0400-12-01-.03 be added as bracketed language.

Response: The Board agrees and added the identification to the federal analog.

Comment: In part (5)(b)3 of Rule 0400-12-01-.03, EPA points out that the federal analog to this part, 40 CFR 262.41(b), contains a sentence that is inadvertently missing from this part that requires large quantity generators that receive hazardous waste from very small quantity generators to file annual reports that include those quantities. EPA also points out the last sentence of the part is duplicative of part (5)(b)4 of Rule 0400-12-01-.03 and suggested that it be deleted.

Response: The Board intends for these amendments to be substantially equivalent to the federal regulations and has added the missing sentence. The Board is also deleting the duplicative sentence.

Comment: EPA points out that the title to paragraph (9) of Rule 0400-12-01-.03 should be updated to match EPA’s current title for 40 CFR 262 subpart H by changing “Transboundary Movements of Hazardous Waste for Recovery within the OECD” to read “Transboundary Movements of Hazardous Waste for Recovery and Disposal.”

Response: The Board agrees and has revised the title of the paragraph to match its analogous federal title.

Comment: In part (9)(a)2 of Rule 0400-12-01-.03, EPA points out that Tennessee appropriately kept the reference to the federal “RCRA” but could add “and/or the Tennessee Hazardous Waste Management Act.”

Response: The Board is adding “and/or the Tennessee Hazardous Waste Management Act” following “RCRA.”

Comment: In the definition of “Exporter, also known as primary exporter on the RCRA hazardous waste manifest” in subparagraph (9)(b) of Rule 0400-12-01-.03, EPA suggests that Tennessee amend the phrase “subpart B of part 262” to read “subpart B of 40 CFR part 262.”

Response: The Board has made the change to the definition.

Comment: In the definition of “recovery operations” in subparagraph (9)(b) of Rule 0400-12-01-.03, EPA points out that Tennessee failed to add the phrase “for RC14 (for transboundary shipments with Canada only)” to parts 11, 12, and 13.

Response: The Board has revised the definition.

Comment: In subpart (9)(c)2(i) of Rule 0400-12-01-.03, EPA suggests that Tennessee change the phrase “recovery operations or disposal” to read “recovery or disposal operations,” which is the same as the federal analog because both “recovery operations” and “disposal operations” are defined terms.

Response” The Board has revised the subpart.

Comment: In subparts (9)(c)5(i) and (ii) of Rule 0400-12-01-.03, EPA requests that Tennessee update addresses.

Response: The Board has updated the addresses.

Comments: In items (9)(d)2(i)(XI) and (9)(e)2(i)(XI) of Rule 0400-12-01-.03, EPA points out that because EPA implements this provision, Tennessee should have kept the federal references in this item instead of inserting its Tennessee-specific analogs. The Tennessee analogs would be covered by the “or the state equivalent” language.

Response: The Board has revised the items to restore the federal citations.

Comment: In item (9)(d)2(i)(XII) of Rule 0400-12-01-.03, EPA points out that Tennessee failed to add the phrase “or disposal” after “recovery.”

Response: The Board has revised the item to add the missing phrase.

Comment: In item (9)(d)9(i)(V) of Rule 0400-12-01-.03, EPA identified a typographical error: the word “per” should to be inserted between “established” and “subparagraph.”

Response: The Board has revised the item to correct the typographical error.

Comment: In subparts (9)(d)9(iii) and (9)(e)8(iv) of Rule 0400-12-01-.03, EPA points out that Tennessee appropriately kept “Administrator” but could have added the phrase “or the Commissioner.”

Response: The Board has revised the subparts to add the additional phrase.

Comment: In part (10)(h)3 of Rule 0400-12-01-.03, EPA points out that Tennessee replaced the federal reference to 40 CFR 265.16(e) with its analog to 262.16(e), which is not correct. The reference should be to Tennessee’s analog to 40 CFR 265.16(e).

Response: The Board has revised the part.

Comment: EPA notes that the bracketed language following the title of paragraph (11) of Rule 0400-12-01-.03 should be changed from “40 CFR Subpart L” to “40 CFR 262, Subpart L.”

Response: The Board has changed the reference.

Comment: In the note following subpart (3)(a)6(ii) of Rule 0400-12-01-.04, EPA points out that the word “either” following the word “sign” should be deleted.

Response: The Board has revised the note following subpart (3)(a)6(ii) of Rule 0400-12-01-.04.

Comment: In subpart (3)(b)2(iv) of Rule 0400-12-01-.04, EPA points out an incorrect reference. The phrase “subpart 1(iii) of this subparagraph” should read “subpart 2(iii) of this subparagraph.”

Response: The Board has corrected the subpart.

Comment: In subpart (2)(c)1(iv) of Rule 0400-12-01-.05, EPA points out the phrase “for shipments recycled or disposed of” is not included in the federal analog to this subpart and recommended that it be deleted.

Response: The Board has deleted the phrase from the subpart.

Comment: In item (29)(h)4(iv)(I) of Rule 0400-12-01-.05 and in item (32)(g)4(iv)(I) of Rule 0400-12-01-.06, EPA notes that the word “is” as missing in the first sentence of both items and recommends it be added after the word “container” and before the word “accepted.”

Response: The Board has corrected the items by adding the missing word.

Comment: In part (5)(b)4 of Rule 0400-12-01-.06, EPA notes that the word “foreign” as missing in the first sentence and recommends it be added after the word “the” and before the word “exporter.”

Response: The Board has corrected the part by adding the missing word.

Comment: In subparts (7)(a)1((viii), (ix), and (x) of Rule 0400-12-01-.09, EPA requests that the incorrect references used when the state analogs were substituted for the federal references be corrected.

Response: The Board has revised the subparts so that the federal references now include the correct state analogs.

Regulated Community Comments

Comment: In regard to subparagraph (1)(g) of Rule 0400-12-01-.01, a commenter is concerned about the broad authority this new subparagraph proposes to allow the Commissioner to require the submission from a person of any information “deemed necessary to determine compliance with the Act or these rules” and for that information to be submitted by the date specified and in accordance with the instructions accompanying the request. In addition, the commenter believes the Commissioner should have to obtain approval from the Board before seeking compliance-related information from a class or type of industry regulated under the Act or these rules.

Response: Tennessee Code Annotated section 68-212-107 gives the Commissioner authority to gather information for the purpose of developing or enforcing any rule or regulation authorized by Title 68, Chapter 212, Part 1, or enforce any requirement of Title 68, Chapter 212, Part 1 or order issued by the Commissioner or Board. The Commissioner is not required to seek approval of the Board prior to gathering the information. The Commissioner is limited to only requesting information deemed necessary to determine compliance with the Act or rules promulgated by the Board.

Comment: In regard to the new definition of “airbag waste” in subparagraph (2)(a) of Rule 0400-12-01-.01, a commenter acknowledges that the proposed definition mimics the federal definition; however, the commenter believes that the federal definition does not provide sufficient detail to be particularly useful to regulated entities. The commenter wants the definition to be modified, or additional definitions added, to distinguish "hazardous waste airbag modules" and "hazardous waste airbag inflators" from those that are not wastes or those that are non-hazardous solid wastes in the same manner as described in EPA's July 19, 2018 Memorandum on "Regulatory Status of Automotive Airbag lnflators and Fully Assembled Airbag Modules."

Response: The Board agrees that not all airbag modules or airbag inflators are wastes. While the Board declines to deviate from the federal language, the Board did add a note following the definition of “airbag waste” to remind the regulated community that not all airbag modules or airbag inflators are wastes and to encourage contact with the Division of Solid Waste Management for guidance.

Comment: In regard to the new definition of “conditionally exempt small quantity generator” being added to subparagraph (2)(a) of Rule 0400-12-01-.01, a commenter suggests that it is unnecessary, and that if it is being added to give the Department time to change the forms to reflect its new term “very small quantity generator,” the new term could be clarified on the forms’ website and with any distributed forms.

Response: The regulated community has been using the term “conditionally exempt small quantity generator” for over 30 years and may be confused by the new term for a few years after these amendments become effective. The Board believes the new definition will be helpful.

Comment: In regard to the new definition of “weekly” means at least once every seven calendar days added to subparagraph (2)(a) of Rule 0400-12-01-.01, a commenter points out that the federal regulations do not include a definition of "weekly" and state regulations have not included such a

definition in the 35 years of implementation of the hazardous waste management regulations. The commenter believes that the term "weekly" can be interpreted to mean either "once every seven calendar days" or "once each calendar week." The commenter believes it inappropriate to resolve this issue by simply adopting the more stringent interpretation as a definition. Instead, the Board should review the regulations and replace each use of the term "weekly" with the appropriate interpretation.

Response: The Board disagrees that the definition of “weekly” can be interpreted as the commenter believes to include “once each calendar week.” This definition was added to clarify for the regulated community that an inspection frequency of weekly means “once every seven calendar days” as opposed to once every seven business days or once each calendar week. This clarification is in keeping with the Commissioner’s longstanding interpretation of “weekly.” If inspections were intended to be once each calendar week, then the rules would use the term “calendar week” for the inspection frequency. In numerous places in the rules, the word “calendar” is added to the inspection frequency requirement when that is its intended meaning. For example, see subpart (28)(c)1(ii) of Rule 0400-12-01-.05 or subpart (31)(c)1(ii) of Rule 0400-12-01-.06 for an inspection frequency of “each calendar week.”

Comment: In regard to subparagraph (2)(b) of Rule 0400-12-01-.01, a commenter wants the language introducing the References to be clarified. The commenter finds the words "Here is a list" confusing.

Response: The Board agrees to make it clearer that the publications and materials identified in 40 CFR 260.11 and 40 CFR 270.6 are incorporated by reference into Chapter 0400-12-01 as they exist on the effective date of these amendments. The notes immediately following part (2)(b)2 of Rule 0400-12-01-.01 reprint 40 CFR 260.11 as amended in the Federal Register on November 28, 2016, (81 FR 85713 and 85806), and 40 CFR 270.6 as amended in the Federal Register on October 12, 2005 (70 FR 59576).

Comment: Regarding the note added to item (1)(b)5(i)(II) of Rule 0400-12-01-.02, a commenter is concerned about the lack of clarity with wording of the second sentence and recommends its rewording.

Response: The Board also received a comment from EPA regarding the second sentence. In response to the EPA comment that the second sentence is not needed, the Board has decided to delete the second sentence from the note to avoid confusion.

Comment: Regarding subpart (1)(d)2(vi) of Rule 0400-12-01-.02, a commenter makes multiple comments about the trivalent chromium exclusion amendments.

(a) The commenter is concerned that requiring a petitioner to pursue a regulatory amendment is overly burdensome and doubts that it is required for equivalency to federal regulations. The commenter recommends that petitions be processed in the same manner as variances are processed in accordance with [subparagraph (4)(a) of] Rule 0400-12-01-.01.

(b) In regard to the undefined phrase “exclusively (or nearly exclusively)” in subitems (1)(d)2(vi)(I)I and II of Rule 0400-12-01-.02, the commenter requests the rules include guidance as to its meaning.

(c) In regard to the undefined phrase “typically and frequently” in subitem (1)(d)2(vi)(I)III of Rule 0400-12-01-.02, the commenter requests the rules include guidance as the its meaning.

(d) In regard to subitem (1)(d)2(vi)(II)X of Rule 0400-12-01-.02, the commenter believes that this facility-specific exclusion should be deleted as unnecessary if the subpart (1)(d)2(vi) of Rule 0400-12-01-.02 is revised as suggested in (a) of this comment.

Response: (a) To determine what is necessary for equivalency to federal regulations, the Department, on behalf of the Board, sought a determination from EPA. EPA said in response that they have stated in preamble and interpretive letter discussions that any additions to the list of wastes that are exempt under 40 CFR 261.4(b)(6) will be implemented by a petition for rulemaking, however, the federal regulation does not specify or require a rulemaking process. So, when

states adopt analogs to 40 CFR 261.4(b)(6), it is likely that many of them similarly did not specify the process by which additional wastes could be approved in the text of their regulations either. EPA did state, however, that EPA's preference would be for authorized states to follow EPA's procedures and initiate rulemaking, though not strictly required. The Board has decided to not require the initiation of a rulemaking to exclude additional qualifying waste but, as the commenter suggests, to require petitions to be processed in the same manner as general variances.

(b) EPA does not provide the meaning of the phrase "exclusively (or nearly exclusively) in 40 CFR 261.4(b)(6)(i)(A) and (B)." Likewise, the Board is not providing guidance in the rule and believes it more appropriate for the generator or group of generators to make the case, based upon the facts at hand, that the waste to be considered for the exemption is exclusively (or nearly exclusively) trivalent chromium or the waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively).

(c) EPA does not provide a definition of the phrase "typically and frequently" in 40 CFR 261.4(b)(6)(i)(C). Likewise, the Board is not providing guidance in the rule and believes it more appropriate for the generator or group of generators to make the case, based upon the facts at hand, that the waste to be considered for exemption is "typically and frequently" managed in non-oxidizing environments.

(d) Including the facility-specific exemption at subitem (1)(d)2(vi)(II)X of Rule 0400-12-01-.02 may not be the only way to exclude those additional wastes under subpart (1)(d)2(vi) of Rule 0400-12-01-.02, but it remains a prudent practice. The Board will retain the subitem as written.

Comment: In regard to item (5)(b)1(v)(IX) of Rule 0400-12-01-.02, a commenter points out that the second sentence seems quite dated and suggested that it could be deleted or otherwise appropriately revised.

Response: Export requirements are administered by EPA and not the states because the exercise of foreign relations and international commerce powers is reserved to the federal government under the U.S. Constitution. However, EPA strongly encourages states to incorporate export requirements into their rules for the convenience of the regulated community and for completeness. The current 40 CFR 261.39(a)(xi) contains the language the commenter pointed out as dated, however, the Board believes it best to have the state analog to read the same as the current EPA language.

Comment: In regard to subparts (1)(a)2(i) and (vii) of Rule 0400-12-01-.03, commenters point out that items (1)(a)2(i)(I) and (II) distinguish between the "independent requirements" and "conditions for exemption" to which generators are subject, and that subpart (1)(a)2(vii) of Rule 0400-12-01-.03 describes the different enforcement responses applicable to violation of each. The commenters are concerned that a violation of any condition for exemption by a generator accumulating hazardous waste would subject the generator to penalties under the requirements for a higher-level generator and/or subject to the need for a RCRA permit even for minor concerns. A commenter requests a clarification of the Department's enforcement approach. Another commenter requests that the Department issue guidance to inspectors to ensure that there is fair and reasonable application of the rule.

Response: Effective March 2, 1981, part (4)(b)1 of Rule 1200-1-11-.03 allowed generators of hazardous waste to accumulate hazardous waste on-site without a permit or without interim status provided a set of conditions were met. Although this conditional exemption has been amended several times since March 2, 1981, the rules have consistently provided a conditional exemption for a generator to accumulate hazardous waste on-site without a permit or without interim status. A condition for exemption is a requirement that is contingent in nature. It is only necessary to meet the condition if the generator is using it to obtain an optional exemption from other requirements. The primary legal consequence of not complying with the condition for exemption is that the generator who accumulates waste on-site is not exempt from obtaining a permit or obtaining interim status, and therefore, can be cited with operating a non-exempt storage facility (unless it is meeting the conditions for exemption of another category). This has been the case since 1981, and these amendments only clarify the difference between an independent requirement and a

condition for exemption. As a result, there should be no significant change in the way the Department responds to violations of conditional exemptions, except possibly the use of more precise enforcement language.

Comment: In regard to part (1)(b)6 of Rule 0400-12-01-.03, a commenter suggests that “The” in the nineth line be changed to “the.”

Response: The Board will make the change.

Comment: In regard to part (1)(e)1 of Rule 0400-12-01-.03, a commenter points out that subparts (iii) and (iv) are improperly silent on how the hazardous wastes accumulated in excess of the relevant quantity limitations must ultimately be managed. Both subparts impose the relevant large quantity generator or small quantity generator on-site accumulation standards on the excessively accumulated wastes but somehow fail to specify how such wastes must be further managed. The commenter was concerned that this silence could lead to the mismanagement of hazardous waste and recommends that the Board specify how very small quantity generators must manage such excessively accumulated hazardous waste.

Response: In response to this comment, the Board is revising item (1)(a)2(i)(III) of Rule 0400-12-01-.03 to make it clear that the item applies to all generators transporting hazardous waste off-site, including very small quantity generators. The Board is also revising subitem (1)(a)2(i)(I)I of Rule 0400-12-01-.03 by adding sections C and D to make it clear which independent requirements apply to very small quantity generators if the quantity limits of subpart (1)(e)1(iii) or (iv) of Rule 0400-12-01-.03 are exceeded.

Comment: In regard to subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03, a commenter is concerned with ambiguity in the language regarding labeling and requests that the Board clarify that there are multiple ways of communicating the hazards contained in the storage unit and that it is not limited to the examples provided in the rules. The commenter also requested the Board provide additional examples such as use of a modified hazardous waste label, with check boxes for possible hazards.

Response: Subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03 requires, among other things, tanks or containers to be marked or labeled with the words “hazardous waste” and with an indication of the hazards of the contents. The Board confirms that these subparagraphs provided examples of acceptable ways a generator may indicate the hazards of the contents in tanks or containers, but the generator is not limited to those examples. The Board has no additional examples of how a generator may provide an indication of the hazards of the contents of tanks or containers. In regard to a modified hazardous waste label with check boxes, if it adequately indicates the hazards of the contents of a tank or container, then the Board sees no reason why it would not satisfy the conditional exemption criteria for labeling.

Comment: In regard to subparagraph (1)(f) of Rule 0400-12-01-.03 concerning satellite accumulation area (“SAA”) regulations for small and large quantity generators, a commenter points out that the EPA has not provided any regulatory text to define the phrase "under the control of the operator”; rather, EPA provided various examples of what would satisfy this condition. The commenter is concerned that other states that have already adopted the hazardous waste generator improvements rule have been using a stricter approach requiring continuous line of sight or a similar variant. In the commenter’s opinion, that makes little sense at secured facilities where SAAs for used aerosol cans are often located across a site due to their widespread use. The commenter requested the Board to concur that "under the control of the generator" is not limited to meaning direct line of sight on a near-continuous basis by the operator, for example, when a SAA drum is just outside a room or building door a few feet away from an operator but doesn't have direct line of sight to the operator while at the operator’s duty station.

Response: Following the lead of EPA, the Board has deliberately not proposed any regulatory text to define the term “under the control of the operator.” The condition that wastes accumulated under the satellite provision “be under the control of the operator of the process generating the waste” is met provided the generator demonstrates that the personnel responsible for generating or accumulating the waste have adequate control over the temporary storage of these wastes. The

Board recognizes that for many wastes, the person who first generates the waste may not be the same person responsible for the accumulation of all these wastes; rather another worker may have responsibility of overseeing the temporary storage of wastes. The goal of this condition is to ensure that this temporary accumulation of hazardous waste is performed responsibly and safely, with adequate oversight and control. For each satellite accumulation area, at a minimum, a generator must provide someone who is familiar with the operations generating the hazardous waste and is aware of and able to attend to the operations, if needed, while also providing some measure of controlled access.

Comment: In regard to part (1)(g)2 of Rule 0400-12-01-.03, a commenter points out a cross-reference error in the introductory language in the phrase “unless in compliance with the conditions for exemption for longer accumulation in subparts (iv) and (v) of this part” and the references should be to “parts 4 and 5 of this subparagraph.” The commenter also suggests that the Board include a reference to part 3 since it is a conditional exemption allowing a longer accumulation period, so that as amended the phrase should read: “unless in compliance with the conditions for exemption for longer accumulation in parts 3, 4, and 5 of this subparagraph.”

Response: The Board agrees and has made the change to part (1)(g)2 of Rule 0400-12-01-.03 as suggested.

Comment: In regard to item (1)(g)2(viii)(VI) of Rule 0400-12-01-.03 and subparagraph (12)(g) of Rule 0400-12-01-.03 concerning arrangements with local authorities, a commenter points out that many local responders are requesting that the arrangements of emergency plans be communicated electronically. The commenter requests concurrence that that arrangements with local authorities may be communicated electronically.

Response: Item (1)(g)2(viii)(VI) of Rule 0400-12-01-.03 requires a small generator to make arrangements with local authorities, unless a waiver is obtained pursuant to subitem III of that item. The Board concurs that the arrangements can be made electronically if allowed by the organization(s) needed in an emergency.

Comment: In regard to subpart (1)(h)1(viii) of Rule 0400-12-01-.03 concerning the closure requirements for large quantity generators, a commenter is concerned that an entire site may be considered a centralized accumulation area requiring closure, since various areas of a facility could be used for event-related (i.e., maintenance events, spill cleanups, etc.) short-term accumulation (i.e., less than 90 days), and that inspectors often require generators to collect soil samples despite the lack of evidence of a release. The commenter asked for guidance in light of the fact that the federal preamble suggests that simply removing the containers containing hazardous waste may suffice in meeting the closure performance standard in most cases.

Response: For the purposes of the conditions applicable to large quantity generators for closing a centralized accumulation area, these rules define clean closure to mean complying with the closure performance standards of item (1)(h)1(viii)(III) of Rule 0400-12-01-.03. The closure performance standards do not require mandatory collection of soil samples in every case. If a large quantity generator has been managing its hazardous waste in containers in accordance with the accumulation conditions of part (1)(h)1 of Rule 0400-12-01-.03, including compliance with proper accumulation standards, documented weekly inspections, and spill cleanup, then clean closure may consist of removing the containers from the accumulation area.

Comment: In regard to part (1)(h)6 of Rule 0400-12-01-.03, consolidation of hazardous waste received from very small quantity generators, a commenter supports this amendment but is requesting clarification as to how these types of transfers are to be handled in the Hazardous Waste Reports and at shipping and receiving sites.

Response: The very small quantity generator that accumulates hazardous waste in amounts less than or equal to the limits in subparts (1)(e)1(iii) and (iv) of Rule 0400-12-01-.03 and ships that hazardous waste to a large quantity generator in compliance with item (1)(e)1(v)(VIII) of Rule 0400-12-01-.03 is exempt from annually reporting these shipments. The large quantity generator consolidating hazardous waste from a very small quantity generator pursuant to part (1)(h)6 of Rule 0400-12-01-.03 is required by part (5)(b)3 of Rule 0400-12-01-.03 to submit annual reports that include the

quantities of hazardous waste received from very small quantity generators. The Commissioner will provide a source code in the annual report instructions that large quantity generators will use to identify the hazardous waste received from a very small quantity generator to differentiate from hazardous waste the large quantity generator generates on-site.

Comment: In regard to part (4)(c)2 of Rule 0400-12-01-.03, the commenter noted that the introductory text indicates the requirements of its subparts (i) through (v) must be complied with before transporting hazardous waste or offering hazardous waste for transportation off-site. The commenter requests that the Board clarify that the hazardous waste codes are not required to be on the containers until just before shipping the wastes off-site and not when they are being accumulated.

Response: The Board agrees with the commenter that although the generator must start the process of identifying the applicable hazardous waste codes when the wastes are first generated, that information is not required to be marked on the container until just before shipping the waste off-site.

Comment: In regard to paragraph (11) of Rule 0400-12-01-.03, a comment supports the adoption of this amendment.

Response: The Board appreciates the support for this amendment.

Comment: In regard to parts (12)(j)1 and 2 of Rule 0400-12-01-.03, a commenter questions the necessity of a generating facility that maintains its own spill response and fire-fighting teams and equipment to submit a copy of its contingency plan or associated quick reference guide to the Local Emergency Planning Committee.

Response: A large quantity generator is required to attempt to make arrangements with a local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee (LEPC) if it is the appropriate organization with which to make arrangements (i.e., it is the authority having jurisdiction). A generating facility that maintains its own spill response and fire-fighting teams and equipment may seek a waiver from the authority having jurisdiction that some or all of the outside organizations are not needed in the event of an emergency. Once a waiver is obtained in accordance with part (12)(g)3 of Rule 0400-12-010-.03, the Board agrees that it is not necessary for a generating facility that maintains its own spill response and fire-fighting teams and equipment to submit a copy of its contingency plan or associated quick reference guide to a local emergency response organization. The Board is adding part (12)(j)4 to Rule 0400-12-01-.03 to make this clearer.

Comment: In regard to part (12)(j)2 of Rule 0400-12-01-.03, a commenter points out that the rule requires a large quantity generator to provide a quick reference guide to local responders when the existing contingency plan is being amended, and that these rules when effective will require contingency plans be amended to include satellite accumulation areas. The commenter requests:

(a) Additional time to incorporate the satellite accumulation areas into the contingency plan; and

(b) That the Board consider exemptions comparable to those being proposed by Louisiana:

(i) In the case of satellite accumulation areas that are designed for managing small quantities of wastes at multiple locations throughout a facility, identification of general waste generation locations is acceptable; and

(ii) Short-term (i.e., temporary) central waste accumulation units used for no more than 90 days (unless an extension is granted) that are primarily event related (e.g., maintenance events, spill cleanups, etc.) need not be identified in the quick reference guide or contingency plan.

Response: (a) The Board is unsure why additional time is needed to incorporate the satellite accumulation

areas into the contingency plan, since EPA published this condition on November 28, 2016, and it became effective in non-authorized states on May 30, 2017. The commenter has known this condition would be adopted into these rules since that date.

(b) The commenter did not include any information as to whether EPA has evaluated these exemptions and found them acceptable to support hazardous waste program authorization. However, in regard to the suggested exemptions, the Board believes it best for the large quantity generator to work with the local emergency responders that may have a need for the information and include in the contingency plan and quick reference guide the information determined to be needed, if any. These arrangements are required to be included in the records required pursuant to part (12)(g)2 of Rule 0400-12-01-.03.

Comment: In regard to the proposed part (5)(b)10 of Rules 0400-12-01-.05 and 0400-12-01-.06, a commenter questions why the clarifying parenthetical notes in the previous parts (5)(b)10 in both rules are being removed and believed these notes provided useful information.

Response: The notes in the current parts (5)(b)10 of Rules 0400-12-01-.05 and 0400-12-01-.06 were based upon 40 CFR 264.71(j) and 265.71(j) as published February 7, 2014 (79 FR 7518). On January 3, 2018, EPA published amendments to 40 CFR 264.71(j) and 265.71(j) (83 FR 420) that deleted the previous regulatory language (including the language in the parenthetical notes) and substituted new regulatory language. The amendments to the proposed parts (5)(b)10 of Rules 0400-12-01-.05 and 0400-12-01-.06 are intended to be the state analogs to 40 CFR 264.71(j) and 265.71(j) as amended by EPA. The Board will retain the amendment as proposed.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The vast majority of this rulemaking substantially codifies existing federal law, which is included in this rulemaking to support continuing hazardous waste program authorization, and pursuant to Tenn. Code Ann. § 4-5-404 is exempt from this regulatory flexibility addendum. Other amendments in this rulemaking were required because existing state law requires the agency and the Commissioner to make annual reports to the legislature regarding hazardous waste generation and management. These other amendments include: a reference to Chapter 0400-01-40 when required documents are submitted electronically; requiring additional reports when needed to clarify generator status, types, and quantities of hazardous waste generated; to continue to require annual reports for episodic generation of hazardous waste; to maintain updated generator notification files; and shift the annual hazardous waste generator annual maintenance fee away from being generator status-based to being quantity-based in order to maintain the current level of fee collection. This regulatory flexibility addendum is applicable to these non-exempt amendments contained in this rulemaking.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from, the proposed rule.

Currently there are 2,813 generators of hazardous waste in Tennessee that have requested installation identification numbers from the Department. Of these 2,813 generators, 519 are large quantity generators, 566 are small quantity generators, and 1,679 are very small quantity generators. The Commissioner has issued 68 hazardous waste transporter permits, and there are 21 permitted hazardous waste treatment, storage, or disposal facilities (TSDFs) operating in Tennessee. The Board is unsure of the number of small businesses that are hazardous waste generators, transporters, or permitted TSDFs since this information in not required to be submitted. The type and amount of hazardous waste generated is not related to the number of full-time employees.

(2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

The only additional reporting that is not required by the existing rules is the report to gather information needed to accurately report annually to the legislature about hazardous waste generation and management in Tennessee. This additional report is already required by statute. There is no additional recordkeeping caused by this rulemaking, and any additional administrative cost is minimal.

(3) A statement of the probable effect on impacted small businesses and consumers.

This rulemaking makes many existing requirements easier to understand. For all generators of hazardous waste, including small businesses, it will be easier to comply with rules that are easier to understand. These amendments will not result in a significant impact on small business, and commenters on the proposed amendments did not identify any significant impact.

(4) A description of any less burdensome, less intrusive, or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

There are no alternative methods for achieving the purpose and objectives of these amendments. The type and amount of hazardous waste generated is not related to the number of full-time employees.

(5) A comparison of the proposed rule with any federal or state counterparts.

This rulemaking is primarily intended to make Tennessee's hazardous waste program comparable to our state counterparts and with the EPA, unless required otherwise by state law. Surrounding states must also develop a means by which required reports are submitted electronically and gather critical information about the types and quantities of hazardous waste generated. Surrounding states also fund a portion of their hazardous waste programs by collecting fees in some manner.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Exempting small businesses from all or any part of the requirements of this rulemaking is not possible since the number of full-time employees does not necessarily relate to the type or amount of hazardous waste generated.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The Department does not anticipate an impact on local governments from this rulemaking.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The primary purpose of this rulemaking is to incorporate the five federal rulemakings published from November 28, 2016, to November 30, 2018. Of these five federal rulemakings, all but the hazardous waste generator improvements rule are incorporated into Chapter 0400-12-01 essentially as written. These four are summarized as follows:

- As published on November 28, 2016, the federal regulations were amended regarding the export and import of hazardous wastes from and into the United States.
- As published on December 26, 2017, the federal regulations were amended to disallow claims of business confidentiality by any person with respect to export documentation of cathode ray tubes.
- As published on January 3, 2018, the federal regulations were amended to establish the methodology the agency will use to determine and revise the user fees applicable to the electronic and paper manifest system (e-Manifest system) that EPA is developing under the Hazardous Waste Electronic Manifest Establishment Act.
- As published on November 30, 2018, the federal regulations were amended to exempt the collection of airbag waste from hazardous waste requirements if certain conditions are met so that removal of defective airbag inflators by dealerships, salvage yards, and other locations for safe and environmentally sound disposal is expedited.

The federal hazardous waste generator improvements rule was published November 28, 2016, and it:

- Reorganizes the hazardous waste generator regulations to make them more user-friendly;
- Increases understanding of the hazardous waste generator requirements;
- Addresses gaps in the existing regulations;
- Provides greater flexibility for hazardous waste generators to manage their hazardous waste in a cost-effective and protective manner; and
- Makes technical corrections and conforming changes to address inadvertent errors.

Incorporating the federal hazardous waste generator improvements rule modifications into Chapter 0400-12-01, it is necessary and desirable to make the following modifications because of either existing state law or long standing policies of the Underground Storage Tanks and Solid Waste Disposal Control Board ("Board") as described in this paragraph. Tenn. Code Ann. § 68-212-118 requires the Board and the Commissioner to annually submit a written report to the Speaker of the Senate and the Speaker of the House of Representatives on hazardous waste generation and management in Tennessee. It has been the Board's longstanding interpretation for hazardous waste generators to keep records of inspections. Tenn. Code Ann. §§ 68-212-110 and 68-203-103 requires the Board, among other things, to establish a schedule of fees for hazardous waste generators and for the various services and functions performed.

This rulemaking also includes revisions that are necessary to update the hazardous waste rules to add a reference to Chapter 0400-01-40 when documents are submitted electronically; to revise the trivalent chromium evaluation criteria and add two additional waste sources that meet the trivalent chromium exclusion criteria; and to make various technical corrections and conforming changes to various parts of the rules.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

These rules are specifically mandated by federal or state law. These rules are being promulgated under the authority of Tenn. Code Ann. Title 68, Chapter 212, and Tenn. Code Ann. Title 4, Chapter 5, Part 2. The federal requirements adopted are compiled in 40 CFR Parts 260 through 266, 268, 270, and 273.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Generators of hazardous waste, hazardous waste transporters, and owners or operators of hazardous waste

treatment, storage, and disposal facilities. A representative of these entities and one corporation made comments on these rules and were generally supportive of adoption.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Board is not aware of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

There will be no fiscal impact resulting from this rulemaking.

(F) Identification of the appropriate agency representative or representatives possessing substantial knowledge and understanding of the rule;

Wayne Gregory
Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 253-5420
Wayne.gregory@tn.gov

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Horace Tipton
Office of General Counsel

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 253-5339
Horace.Tipton@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Economic Impact Statement [Tenn. Code Ann. § 4-33-104(b)]

(1) A description of the action proposed, the purpose of the action, the legal authority for the action and the plan for implementing the action.

This rulemaking incorporates five federal rulemakings into Tennessee's hazardous waste management rules as summarized in section (A) above. The main purpose of this rulemaking is to support continuing program authorization from EPA in a way that also complies with state law. Under section 3006 of the Resource Conservation and Recovery Act (RCRA), EPA may authorize qualified states to administer and enforce the RCRA hazardous waste program within the state. Tennessee is an authorized state. When the federal rules are amended to include more stringent requirements, an authorized state is required to amend its rules to include the more stringent requirements. Chapter 0400-12-01 is promulgated under the authority of Tenn. Code Ann. Title 68, Chapter 212, Part 1 and Title 68, Chapter

203, Part 1. Tennessee's hazardous waste program has existed since the early 1980's, and amendments contained in this rulemaking will be implemented within the existing hazardous waste management program.

(2) A determination that the action is the least-cost method for achieving the stated purpose.

The Board has determined that this rulemaking is the least-cost method for achieving the stated purpose above because it remains revenue neutral and is implemented within the established hazardous waste management program.

(3) A comparison of the cost-benefit relation of the action to nonaction.

To take no action would result in Tennessee's rules being misaligned with the federal regulations and surrounding states. It could possibly lead to Tennessee losing federal program authorization. Losing federal authorization will result in the regulated community in Tennessee having to comply separately with federal and state law, which would dramatically increase the cost of compliance by reporting twice and obtaining two permits when applicable. Tennessee would also no longer be competitive with other states that have federal program authorization when maintaining existing businesses or competing for new businesses.

(4) A determination that the action represents the most efficient allocation of public and private resources.

The Board has determined that this rulemaking, for the reasons stated in subsections (I)(1) through (3), is the most efficient allocation of public and private resources. The rulemaking is designed to comply with state law, support continuing program authorization from EPA, be revenue neutral, and be implemented within the existing hazardous waste program without increasing the cost of maintaining that program.

(5) A determination of the effect of the action on competition.

This rulemaking will not have a positive or negative impact on competition within Tennessee, but if Tennessee lost program authorization from EPA for the lack of taking this action then Tennessee would not be competitive with other states when attracting new business or retaining existing businesses.

(6) A determination of the effect of the action on the cost of living in the geographical area in which the action would occur.

This rulemaking will not impact the cost of living in any geographical area.

(7) A determination of the effect of the action on employment in the geographical area in which the action would occur.

This rulemaking will not impact employment in any geographical area.

(8) The source of revenue to be used for the action.

This rulemaking was promulgated using existing revenue.

(9) A conclusion as to the economic impact upon all persons substantially affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.

This rulemaking amends existing hazardous waste rules to make them, in many cases, easier to comply with, easier to understand, revenue neutral, and supports continuing program authorization which benefits the whole regulated community.

Department of State
Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: _____
Rule ID(s): _____
File Date: _____
Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Underground Storage Tanks and Solid Waste Disposal Control Board
Division:	Solid Waste Management
Contact Person:	Jackie Okoreeh-Baah
Address:	William R. Snodgrass TN Tower 312 Rosa L. Parks Avenue, 14th Floor Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-0825
Email:	Jackie.Okoreeh-Baah@tn.gov

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0400-12-01	Hazardous Waste Management
Rule Number	**Rule Title**
0400-12-01-.01	Hazardous Waste Management System: General
0400-12-01-.02	Identification and Listing of Hazardous Waste
0400-12-01-.03	Notification Requirements and Standards Applicable to Generators of Hazardous Waste
0400-12-01-.04	Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste
0400-12-01-.05	Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities
0400-12-01-.06	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
0400-12-01-.07	Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities
0400-12-01-.08	Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters
0400-12-01-.09	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

0400-12-01-.10	Land Disposal Restrictions
0400-12-01-.11	Standards for the Management of Used Oil
0400-12-01-.12	Standards for Universal Waste Management

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to https://sos.tn.gov/products/division-publications/rulemaking-guidelines.

Chapter 0400-12-01
Hazardous Waste Management

Amendments

Paragraph (1) of Rule 0400-12-01-.01 Hazardous Waste Management System: General is amended by adding four new subparagraphs following subparagraph (c) so the new subparagraphs (d) through (g) shall read as follows:

(d) Manifest copy submission requirements for certain interstate waste shipments.

1. In any case in which the state in which waste is generated, or the state in which waste will be transported to a designated facility, requires that the waste be regulated as a hazardous waste or otherwise be tracked through a hazardous waste manifest, the designated facility that receives the waste shall, regardless of the state in which the facility is located:

(i) Complete the facility portion of the applicable manifest;

(ii) Sign and date the facility certification;

(iii) Submit to the e-Manifest system a final copy of the manifest for data processing purposes; and

(iv) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of 40 CFR part 264.

2. Reserved.

(e) Applicability of electronic manifest system and user fee requirements to facilities receiving state-only regulated waste shipments.

1. For purposes of this subparagraph, “state-only regulated waste” means:

(i) A non-RCRA waste that a state regulates more broadly under its state regulatory program, or

(ii) A RCRA hazardous waste that is federally exempt from manifest requirements, but not exempt from manifest requirements under state law.

2. In any case in which a state requires a RCRA manifest to be used under state law to track the shipment and transportation of a state-only regulated waste to a receiving facility, the facility receiving such a waste shipment for management shall:

(i) Comply with the provisions of subparagraph (5)(b) of Rule 0400-12-01-.06 (use of the manifest) and subparagraph (5)(c) of Rule 0400-12-01-.06 (manifest discrepancies); and

(ii) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified subpart FF of 40 CFR part 264.

(f) Electronic Reporting

This chapter requires the submission of forms developed by the Commissioner in order for a person to comply with certain requirements, including, but not limited to, notifying of hazardous waste generation, making reports, submitting monitoring results, and applying for permits. The Commissioner may make these forms available electronically and, if submitted electronically, then that electronic submission shall comply with the requirements of Chapter 0400-01-40.

(g) Additional Information

The Commissioner may require the submission of information as deemed necessary to determine compliance with the Act or these rules. The information required by the Commissioner shall be submitted by the date specified by the Commissioner and in accordance with the instructions accompanying the request.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (2) of Rule 0400-12-01-.01 Hazardous Waste Management System: General is amended by modifying the definitions for “Hazardous waste code”, "Installation identification number", “Small quantity generator”, “Treatability Study”, “Universal Waste”, Universal Waste Handler”, “Universal Waste Transfer Facility”, and “Universal Waste Transporter” to read as follows while remaining in alphabetical order:

"Hazardous waste code" or “Hazardous waste number” or “EPA hazardous waste number” means the code assigned by the Department or EPA to each hazardous waste listed in paragraph (4) of Rule 0400-12-01-.02~~(4)~~ and to each characteristic identified in paragraph (3) of Rule 0400-12-01-.02~~(3)~~, and any derivation of such codes or number which may be assigned by the Department or EPA to an individual waste or class of wastes.

"Installation identification number" ~~(“EPA Identification Number”)~~ or “EPA identification number” means the number assigned to each generator, transporter, and treatment, storage, or disposal facility by the Department or EPA. For generators and facilities in ~~this state~~ Tennessee, and for transporters who pick up hazardous waste from, or deliver hazardous waste to, locations in ~~this state~~ Tennessee, references in these rules to their installation identification number or EPA identification number shall mean the number assigned by the Department. For other generators, transporters, and facilities, such references shall mean the number assigned by EPA or an authorized state program.

"Small Quantity Generator" ~~means~~ is a generator who generates ~~less than 1000 kg of hazardous waste~~ the following amounts in a calendar month:

1. Greater than 100 kilograms (220 lbs) but less than 1,000 kilograms (2200 lbs) of non-acute hazardous waste; and

2. Less than or equal to 1 kilogram (2.2 lbs) of acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or listed in part (4)(d)5 of Rule 0400-12-01-.02; and

3. Less than or equal to 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or listed in part (4)(d)5 of Rule 0400-12-01-.02.

"Treatability ~~Study~~ study" means a study in which a hazardous waste is subjected to a treatment process to determine: (1) Whether the waste is amenable to the treatment process, (2) what pretreatment (if any) is required, (3) the optimal process conditions needed to achieve the desired treatment, (4) the efficiency of a treatment process for a specific waste or wastes, or (5) the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of parts (1)(d)5 and 6 of Rule 0400-12-01-.02~~(1)(d)5 and 6~~ exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and

health effects studies. A "treatability study" is not a means to commercially treat or dispose of hazardous waste.

"Universal ~~Waste~~ waste" means any of the hazardous wastes listed in subparagraph (1)(a) of Rule 0400-12-01-.12~~(1)(a)~~ that are managed under the universal waste requirements of Rule 0400-12-01-.12.

"Universal ~~Waste Handler~~ waste handler":

1. Means:

   (i) A generator (as defined in this subparagraph) of universal waste; or

   (ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

2. Does not mean:

   (i) A person who treats (except under the provisions of part (2)(d)1 or 3 of Rule 0400-12-01-.12~~(2)(d)1 or 3~~, or part (3)(d)1 or 3 of Rule 0400-12-01-.12~~(3)(d)1 or 3~~), disposes of, or recycles universal waste; or

   (ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal ~~Waste Transfer Facility~~ waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ~~ten~~ 10 days or less.

"Universal ~~Waste Transporter~~ waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (2) of Rule 0400-12-01-.01 Hazardous Waste Management System: General is further amended by adding following definitions in alphabetical order to read as follows:

"Acute hazardous waste" means hazardous wastes that meet the listing criteria in subpart (2)(b)1(ii) of Rule 0400-12-01-.02 and therefore are either listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or are listed in part (4)(d)5 of Rule 0400-12-01-.02.

"AES filing compliance date" means December 31, 2017.

"Airbag waste" means any hazardous waste airbag modules or hazardous waste airbag inflators.

(Note for the definition of "airbag waste": Pursuant to paragraph (1) of Rule 0400-12-01-.02, certain airbag modules and airbag inflators being legitimately used, reused, or reclaimed may not be wastes and, therefore, not hazardous wastes. If unsure, a person is encouraged to contact the Department's Division of Solid Waste Management for guidance.)

"Airbag waste collection facility" means any facility that receives airbag waste from airbag handlers subject to regulation under part (1)(d)10 of Rule 0400-12-01-.02 and accumulates the waste for more than 10 days.

"Airbag waste handler" means any person, by site, who generates airbag waste that is subject to regulation under this chapter.

"Central accumulation area" means any on-site hazardous waste accumulation area with hazardous waste accumulating in units subject to either subparagraph (1)(g) of Rule 0400-12-01-.03 (for small quantity generators) or subparagraph (1)(h) of Rule 0400-12-01-.03 (for large quantity generators). A central accumulation area at an eligible academic entity that chooses to operate under paragraph (10) of Rule 0400-12-01-.03 is also subject to subparagraph (10)(l) of Rule 0400-12-01-.03 when accumulating unwanted material and/or hazardous waste.

"Conditionally exempt small quantity generator" or "CESQG" means very small quantity generator as defined in this subparagraph.

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

"Large quantity generator" is a generator who generates any of the following amounts in a calendar month:

1. Greater than or equal to 1,000 kilograms (2200 lbs) of non-acute hazardous waste; or

2. Greater than 1 kilogram (2.2 lbs) of acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or listed in part (4)(d)5 of Rule 0400-12-01-.02; or

3. Greater than 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or listed in part (4)(d)5 of Rule 0400-12-01-.02.

"Non-acute hazardous waste" means all hazardous wastes that are not acute hazardous waste, as defined in this subparagraph.

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

"Very small quantity generator" is a generator who generates less than or equal to the following amounts in a calendar month:

1. 100 kilograms (220 lbs) of non-acute hazardous waste; and

2. 1 kilogram (2.2 lbs) of acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or listed in part (4)(d)5 of Rule 0400-12-01-.02; and

3. 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or listed in part (4)(d)5 of Rule 0400-12-01-.02.

"Weekly" means at least once every seven calendar days.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (b) of paragraph (2) of Rule 0400-12-01-.01 Hazardous Waste Management System: General is amended by deleting it in its entirety and substituting instead the following:

(b) References [40 CFR 260.11 and 40 CFR 270.6]

1. ~~Here is a list of publications/materials referred to in these rules and where they may be obtained as set forth by EPA~~ When used in this chapter, the publications or materials identified in 40 CFR 260.11 and 40 CFR 270.6 are incorporated by reference.

2. ~~These materials are listed~~ The publications or materials identified in 40 CFR 260.11 and 40 CFR 270.6 are incorporated as they exist on the effective date of these ~~regulations~~ rules.

(Note: 40 CFR 260.11 ~~provides that~~ is reprinted here as amended in the Federal Register (81 FR 85713 and 85806) on November 28, 2016:

(a) When used in parts 260 through 268 and 278 of this chapter, the following publications are incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW. (3403T), Washington, DC 20460, libraryhq@epa.gov; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The following materials are available for purchase from the American Society for Testing and Materials, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959.

(1) ASTM D–93–79 or D–93–80, “Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester,” IBR approved for §261.21.

(2) ASTM D–1946–82, “Standard Method for Analysis of Reformed Gas by Gas Chromatography,” IBR approved for §§264.1033, 265.1033.

(3) ASTM D 2267–88, “Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography,” IBR approved for §264.1063.

(4) ASTM D 2382–83, “Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method),” IBR approved for §§264.1033, 265.1033.

(5) ASTM D 2879–92, “Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope,” IBR approved for §265.1084.

(6) ASTM D–3278–78, “Standard Test Methods for Flash Point for Liquids by Setaflash Closed Tester,” IBR approved for §261.21(a).

(7) ASTM E 168–88, “Standard Practices for General Techniques of Infrared Quantitative Analysis,” IBR approved for §264.1063.

(8) ASTM E 169–87, “Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis,” IBR approved for §264.1063.

(9) ASTM E 260–85, “Standard Practice for Packed Column Gas Chromatography,” IBR approved for §264.1063.

(10) ASTM E 926–88, “Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals,” Test Method C—Bomb, Acid Digestion Method.

(c) The following materials are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; or for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

(1) “APTI Course 415: Control of Gaseous Emissions,” EPA Publication EPA–450/2–81–005, December 1981, IBR approved for §§264.1035 and 265.1035.’

(2) Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material SGT–HEM; Non-polar Material) by Extraction and Gravimetry:

(i) Revision A, EPA-821-R-98-002, February 1999, IBR approved for Part 261, appendix IX.

(ii) Revision B, EPA-821-R-10-001, February 2010, IBR approved for Part 261, appendix IX.

(3) The following methods as published in the test methods compendium known as “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA Publication SW–846, Third Edition. A suffix of “A” in the method number indicates revision one (the method has been revised once). A suffix of “B” in the method number indicates revision two (the method has been revised twice). A suffix of “C” in the method number indicates revision three (the method has been revised three times). A suffix of “D” in the method number indicates revision four (the method has been revised four times).

(i) Method 0010, dated September 1986 and in the Basic Manual, IBR approved for part 261, appendix IX.

(ii) Method 0020, dated September 1986 and in the Basic Manual, IBR approved for part 261, appendix IX.

(iii) Method 0030, dated September 1986 and in the Basic Manual, IBR approved for part 261, appendix IX.

(iv) Method 1320, dated September 1986 and in the Basic Manual, IBR approved for part 261, appendix IX.

(v) Method 1311, dated September 1992 and in Update I, IBR approved for part 261, appendix IX, and §§261.24, 268.7, 268.40.

(vi) Method 1330A, dated September 1992 and in Update I, IBR approved for part 261, appendix IX.

(vii) Method 1312 dated September 1994 and in Update III, IBR approved for part 261, appendix IX and § 278.3(b)(1).

(viii) Method 0011, dated December 1996 and in Update III, IBR approved for part 261, appendix IX, and part 266, appendix IX.

(ix) Method 0023A, dated December 1996 and in Update III, IBR approved for part 261, appendix IX, part 266, appendix IX, and §266.104.

(x) Method 0031, dated December 1996 and in Update III, IBR approved for part 261, appendix IX.

(xi) Method 0040, dated December 1996 and in Update III, IBR approved for part 261, appendix IX.

(xii) Method 0050, dated December 1996 and in Update III, IBR approved for part 261, appendix IX, part 266, appendix IX, and §266.107.

(xiii) Method 0051, dated December 1996 and in Update III, IBR approved for part 261, appendix IX, part 266, appendix IX, and §266.107.

(xiv) Method 0060, dated December 1996 and in Update III, IBR approved for part 261, appendix IX, §266.106, and part 266, appendix IX.

(xv) Method 0061, dated December 1996 and in Update III, IBR approved for part 261, appendix IX, §266.106, and part 266, appendix IX.

(xvi) Method 9071B, dated April 1998 and in Update IIIA, IBR approved for part 261, appendix IX.

(xvii) Method 1010A, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX.

(xviii) Method 1020B, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX.

(xix) Method 1110A, dated November 2004 and in Update IIIB, IBR approved for §261.22 and part 261, appendix IX.

(xx) Method 1310B, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX.

(xxi) Method 9010C, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX and §§268.40, 268.44, 268.48.

(xxii) Method 9012B, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX and §§268.40, 268.44, 268.48.

(xxiii) Method 9040C, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX and §261.22.

(xxiv) Method 9045D, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX.

(xxv) Method 9060A, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX, and §§264.1034, 264.1063, 265.1034, 265.1063.

(xxvi) Method 9070A, dated November 2004 and in Update IIIB, IBR approved for part 261, appendix IX.

(xxvii) Method 9095B, dated November 2004 and in Update IIIB, IBR approved, part 261, appendix IX, and §§264.190, 264.314, 265.190, 265.314, 265.1081, 267.190(a), 268.32.

(d) The following materials are available for purchase from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269–9101.

(1) "Flammable and Combustible Liquids Code" (NFPA 30), 1977 or 1981~~)~~, IBR approved for §§ 262.16(b), 264.198(b), 265.198(b), ~~367~~ 267.202(b).

(2) [Reserved]

(e) The following materials are available for purchase from the American Petroleum Institute, 1220 L Street, Northwest, Washington, DC 20005.

(1) API Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks," IBR approved for §265.1084.

(2) [Reserved]

(f) The following materials are available for purchase from the Environmental Protection Agency, Research Triangle Park, NC.

(1) "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised", October 1992, EPA Publication No. EPA–450/R–92–019, IBR approved for part 266, appendix IX.

(2) [Reserved]

(g) The following materials are available for purchase from the ~~Organisation~~ Organization for Economic ~~Co-operation~~ Cooperation and Development (OECD), Environment ~~Direcorate~~ Directorate, 2 rue ~~Andre~~ André Pascal, 75775 Paris Cedex 16, France.

(1) ~~OECD Green List of Wastes (revised May 1994), Amber List of Wastes and Red List of Wastes (both revised May 1993) as set forth in Appendix 3, Appendix 4 and Appendix 5, respectively, to the OECD Council Decision C(92)39/FINAL (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations), IBR approved for 262.89 of this chapter~~ Guidance Manual for the Control of Transboundary Movements of Recoverable Wastes, copyright 2009, Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure and Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure, IBR approved for §§ 262.82(a), 262.83(b),(d), and (g), and 262.84(b) and (d) of this chapter.

(2) [Reserved])

(Note: 40 CFR 270.6 ~~provides that~~ is reprinted here as published in the Federal Register (70 FR 59576) on October 12, 2005:

(a) When used in part 270 of this chapter, the following publications are incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register. Copies

may be inspected at the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (3403T), Washington, DC 20460, libraryhq@epa.gov; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The following materials are available for purchase from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605–6000 or (800) 553–6847; or for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800:

(1) "APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA–450/2–81–005, December 1981, IBR approved for §§270.24 and 270.25.

(2) [Reserved])

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (a) of paragraph (7) of Rule 0400-12-01-.01 Hazardous Waste Management System: General is amended by deleting it in its entirety and substituting instead the following:

1. Purpose, Scope, and Applicability

Except as provided under subparts (i) and (ii) of this part, any information which is supplied to the Department by persons who are subject to these rules and which is designated as proprietary information (as defined in subpart 2(viii) of this subparagraph) shall be handled by the Department as specified in this paragraph to assure that its confidentiality is maintained. Unless it is claimed or designated as proprietary, any information supplied to the Department under or relating to these rules shall be available for public review at any time during the State's normal business hours.

(i) (I) After the effective date of these rules, no claim of proprietary information or business confidentiality may be asserted by any person with respect to information entered on a Hazardous Waste Manifest (EPA Form 8700-22), a Hazardous Waste Manifest Continuation Sheet (EPA Form 8700-22A), or an electronic manifest format that may be prepared and used in accordance with subpart (3)(a)1(iii) of Rule 0400-12-01-.03.

~~(ii)~~(II) The Department will make any electronic manifest that is prepared and used in accordance with subpart (3)(a)1(iii) of Rule 0400-12-01-.03, or any paper manifest that is submitted to the system under item (5)(b)1(ii)(V) of Rule 0400-12-01-.05 or item (5)(b)1(ii)(V) of Rule 0400-12-01-.06 available to the public under this paragraph when the electronic or paper manifest is a complete and final document. Electronic manifests and paper manifests submitted to the system are considered by the Department to be complete and final documents and publicly available information after 90 days have passed since the delivery to the designated facility of the hazardous waste shipment identified in the manifest.

(ii) (I) After June 26, 2018, no claim of proprietary information or business confidentiality may be asserted by any person with respect to information contained in cathode ray tube export documents prepared, used and submitted under subpart (5)(b)1(v) of Rule 0400-12-01-.02 and part (5)(d)1 of Rule 0400-12-01-.02, and with respect to information contained in hazardous waste export, import, and transit documents prepared,

used and submitted under subparagraphs (9)(c), (d), and (e) of Rule 0400-12-01-.03, subparagraph (3)(a) of Rule 0400-12-01-.04, subparagraphs (2)(c) and (5)(b) of Rule 0400-12-01-.05, and subparagraphs (2)(c) and (5)(b) of Rule 0400-12-01-.06, whether submitted electronically into EPA's Waste Import Export Tracking System or in paper format.

(II) EPA will make any cathode ray tube export documents prepared, used and submitted under subpart (5)(b)1(v) of Rule 0400-12-01-.02 and part (5)(d)1 of Rule 0400-12-01-.02, and any hazardous waste export, import, and transit documents prepared, used and submitted under subparagraphs (9)(c), (d), and (e) of Rule 0400-12-01-.03, subparagraph (3)(a) of Rule 0400-12-01-.04, subparagraphs (2)(c) and (5)(b) of Rule 0400-12-01-.05, and subparagraphs (2)(c) and (5)(b) of Rule 0400-12-01-.06 available to the public under this paragraph when these electronic or paper documents are considered by EPA to be final documents. These submitted electronic and paper documents related to hazardous waste exports, imports and transits and cathode ray tube exports are considered by EPA to be final documents on March 1 of the calendar year after the related cathode ray tube exports or hazardous waste exports, imports, or transits occur.

(Note: See 40 CFR 260.2(b) for additional requirements.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (a) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

1. This rule identifies those solid wastes which are subject to regulation as hazardous wastes under Rules 0400-12-01-.03 through 0400-12-01-.07 and 0400-12-01-.10 and which are subject to the notification requirements of this chapter. In this rule:

(i) Paragraph (1) defines the terms "solid waste" and "hazardous waste", identifies those wastes which are excluded from regulation under Rules 0400-12-01-.03 through 0400-12-01-.07, 0400-12-01-.09 and 0400-12-01-.10 and establishes special management requirements for hazardous waste produced by ~~conditionally exempt~~ very small quantity generators and hazardous waste which is recycled.

(ii) Paragraph (2) sets forth the criteria used by the Board to identify characteristics of hazardous waste and to list particular hazardous wastes.

(iii) Paragraph (3) identifies characteristics of hazardous waste.

(iv) Paragraph (4) lists particular hazardous wastes.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (II) of subpart (i) of part 5 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(II) Used or reused as effective substitutes for commercial products; or

(Note: This item only addresses hazardous secondary materials that are used or reused as effective substitutes for commercial products without first being reclaimed.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (vii) of part 1 of subparagraph (d) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(vii) Spent sulfuric acid used to produce virgin sulfuric acid, ~~unless~~ provided it is not accumulated speculatively as defined in subpart (a)3(viii) of this paragraph.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subitem V of item (III) of subpart (ix) of part 1 of subparagraph (d) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

V. Prior to operating pursuant to this exclusion, the plant owner or operator prepares and submits to the Commissioner a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Commissioner for reinstatement. The Commissioner may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (vi) of part 2 of subparagraph (d) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(vi) (I) Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in paragraph (4) of this rule due to the presence of chromium, which do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator ~~demonstrates to the satisfaction of the Director, by submitting an evaluation request and supporting documentation,~~ or by waste generators by petitioning the Commissioner for a general variance in accordance with subparagraph (4)(a) of Rule 0400-12-01-.01 that:

I. The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

II. The waste is generated from an industrial process ~~is~~ which uses trivalent chromium exclusively (or nearly exclusively), and the process does not ~~contain more than minimal amounts of hexavalent chromium~~[4] generate hexavalent chromium; and

III. The waste is typically and frequently managed ~~by the waste generator~~ in non-oxidizing environments.

~~(II) The waste generator shall also submit to the Department a Chromium Evaluation Review Fee identified in Rule 0400-12-01-.08(11) prior to the~~

~~[4] Hexavalent chromium concentrations below 5 mg/l currently are considered minimal.~~

~~Director's review of the submitted documentation.~~

~~(III) This exemption shall be effective only after approval in writing by the Director. Waste generators who obtain this exemption shall:~~

~~I. Annually recertify the accuracy of the information in a letter to the Director that there has been no change in the waste stream or the process generating the waste since the Director determined that waste satisfies the conditions for the exemption;~~

~~II. Submit all recertifications as required by subitem I of this item by March 1 of each succeeding year following the Director's determination that the waste satisfies the conditions of the exemption; and~~

~~III. Submit a new evaluation and review fee to the Director within 30 days, if a change in the waste stream or the process generating the waste has occurred since the Director's determination~~.

~~(IV)~~(II) Specific wastes which meet the standard in ~~item~~ subitems (I)I through III of this subpart (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:

I. Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

II. Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; shearling.

III. Buffing dust generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

IV. Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

V. Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

VI. Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

VII. Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

VIII. Wastewater treatment sludges from the production of TiO_2 pigment using chromium-bearing ores by the chloride process.

IX. Spent leather personal protective equipment (for example, used foot wear, gloves and aprons manufactured by the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries), provided these spent materials do not contain or are not mixed with a waste that meets a listing description in paragraph (4) of this rule.

X. Off-Gas residues, ventilation system pre-filters, enclosure pre-filters, ceramic filters, and HEPA filter enclosures generated at Nuclear Fuel Services, Inc., located in Erwin, Tennessee, from Highly Enriched Uranium (HEU) processing operations regulated by the Nuclear Regulatory Commission (NRC) that are contaminated with chromium that is exclusively (or nearly exclusively) trivalent chromium, which is not hazardous waste for any other characteristic, and provided the generator:

I. Disposes of the waste at a properly authorized radiological disposal facility;

II. Annually recertifies the accuracy of the information in a letter to the Commissioner that there has been no change in the waste streams or the process generating the wastes since the effective date of this exemption;

III. Submits all re-certifications as required by subitem II of this item by March 1 of each succeeding year following the effective date of this exemption; and

IV. Submits a new petition and fee to the Commissioner for review within 30 days of a change in the waste stream(s) or the process generating the waste(s) which may impact the waste(s) continuing to meet the criteria of item (i) of this subpart.

(III) A waste generator or waste generators submitting a petition in accordance with item (I) of this subpart must pay the fee required by paragraph (11) of Rule 0400-12-01-.08.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Parts 4 and 5 of subparagraph (d) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

4. Samples

(i) Except as provided in ~~subpart~~ subparts (ii) and (iv) of this part, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of these rules when:

(I) The sample is being transported to a laboratory for the purpose of testing; or

(II) The sample is being transported back to the sample collector after testing; or

(III) The sample is being stored by the sample collector before transport to a laboratory for testing; or

(IV) The sample is being stored in a laboratory before testing; or

(V) The sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

(VI) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until the conclusion of a court case or enforcement action where further testing of the sample may be necessary).

(ii) In order to qualify for the exemption in items (i)(I) and (II) of this part a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(I) Comply with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

(II) Comply with the following requirements if the sample collector determines that DOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

I. Assure that the following information accompanies the sample:

A. The sample collector's name, mailing address, and telephone number;

B. The laboratory's name, mailing address, and telephone number;

C. The quantity of the sample;

D. The date of shipment; and

E. A description of the sample.

II. Package the sample so that it does not leak, spill, or vaporize from its packaging.

(iii) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subpart (i) of this part.

(iv) In order to qualify for the exemption in items (i)(I) and (II) of the part, the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed 25 kg (55.12 lbs.).

5. Treatability Study Samples

(i) Except as provided in ~~subpart~~ subparts (ii) and (iv) of this part, persons who generate or collect samples for the purpose of conducting treatability studies as defined in subparagraph (2)(a) of Rule 0400-12-01-.01~~(2)(a),~~ are not subject to any requirement of ~~Rule~~ Rules 0400-12-01-.02, 0400-12-01-.03, and 0400-12-01-.04, or to the notification requirement of paragraph (2) of Rule 0400-12-01-.03, nor are such samples included in the quantity determinations of ~~paragraph (e) of this rule and~~ subparagraph (1)(d) of Rule 0400-12-01-.03~~(4)(e)6~~ when:

(I) The sample is being collected and prepared for transportation by the generator or sample collector; or

(II) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(III) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

(ii) The exemption in subpart (i) of this part is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(I) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream; and

(II) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of hazardous waste, and 1 kg of acute hazardous waste; and

(III) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of subitem I or II of this part are met.

I. The transportation of each sample shipment complies with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

II. If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

A. The name, mailing address, and telephone number of the originator of the sample;

B. The name, address, and telephone number of the facility that will perform the treatability study;

C. The quantity of the sample;

D. The date of shipment; and

E. A description of the sample, including its Hazardous Waste Code.

(IV) The sample is shipped to a laboratory or testing facility which is exempt under part 6 of this subparagraph or has an appropriate permit or interim status.

(V) The generator or sample collector maintains the following records for a period ending ~~3~~ three years after completion of the treatability study:

I. Copies of the shipping documents;

II. A copy of the contract with the facility conducting the treatability study;

III. Documentation showing:

A. The amount of waste shipped under this exemption;

B. The name, address, and Installation Identification Number of the laboratory or testing facility that received the waste;

C. The date the shipment was made; and

D. Whether or not unused samples and residues were returned to the generator.

(VI) The generator reports the information required under subitem (V)III of this subpart in its annual report.

(iii) The Commissioner may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Commissioner may grant requests on a case-by-case basis for quantity limits in excess of those specified in items (ii)(I) and (II) of this part and subpart 6(iv) of this subparagraph, for up to an additional 5000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste and 1 kg of acute hazardous waste:

(I) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(II) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when: There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(III) The additional quantities and timeframes allowed in items (I) and (II) of this subpart are subject to all the provisions in subpart (i) and items (III) through (VI) of subpart (ii) of this part. The generator or sample collector must apply to the Commissioner and provide in writing the following information:

I. The reason why the generator or sample collector requires additional time or quantity of sample for treatability study evaluation and the additional time or quantity needed;

II. Documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from

the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results on each treatability study;

III. A description of the technical modifications or change in specifications which will be evaluated and the expected results;

IV. If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

V. Such other information that the Commissioner considers necessary.

(iv) In order to qualify for the exemption in item (i)(I) of this part, the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source, must additionally not exceed 25 kg (55.12 lbs.).

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (d) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by adding two new parts immediately following part 8 to read as follows:

9. Reserved.

10. Airbag waste.

(i) Airbag waste at the airbag waste handler or during transport to an airbag waste collection facility or designated facility is not subject to regulation under Rules 0400-12-01-.03, 0400-12-01-.04, 0400-12-01-.05, 0400-12-01-.06, 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10, including the notification requirements, provided that:

(I) The airbag waste is accumulated in a quantity of no more than 250 airbag modules or airbag inflators, for no longer than 180 days;

(II) The airbag waste is packaged in a container designed to address the risk posed by the airbag waste and labeled “Airbag Waste-Do Not Reuse”;

(III) The airbag waste is sent directly to either:

I. An airbag waste collection facility in the United States under the control of a vehicle manufacturer or their authorized representative, or under the control of an authorized party administering a remedy program in response to a recall under the National Highway Traffic Safety Administration, or

II. A designated facility as defined in subparagraph (2)(a) of Rule 0400-12-01-.01;

(IV) The transport of the airbag waste complies with all applicable U.S. Department of Transportation regulations in 49 CFR part 171 through 180 during transit;

(V) The airbag waste handler maintains at the handler facility for no less than three years records of all off-site shipments of airbag waste and all confirmations of receipt from the receiving facility. For each shipment, these records must, at a minimum, contain the name of the transporter and date of the shipment; name and address of receiving facility; and the type and quantity of airbag waste (i.e., airbag modules or airbag inflators) in the shipment. Confirmations of receipt must include the name and address of the receiving facility; the type and quantity of the airbag waste (i.e., airbag modules and airbag inflators) received; and the date which it was received. Shipping records and confirmations of receipt must be made available for inspection and may be satisfied by routine business records (e.g., electronic or paper financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt).

(ii) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it becomes subject to all applicable hazardous waste regulations, and the facility receiving airbag waste is considered the hazardous waste generator for the purposes of the hazardous waste regulations and must comply with the requirements of Rule 0400-12-01-.03.

(iii) Reuse in vehicles of defective airbag modules or defective airbag inflators subject to a recall under the National Highway Traffic Safety Administration is considered sham recycling and prohibited under part (1)(b)7 of Rule 0400-12-01-.02.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (e) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(e) [Reserved] ~~Special Requirements For Hazardous Waste Generated By Conditionally Exempt Small Quantity Generators [40 CFR 261.5]~~

~~1. A generator is a conditionally exempt small quantity generator in a calendar month if he generates no more than 100 kilograms of hazardous waste in that month.~~

~~2. Except for those wastes identified in parts 5, 6, 7, and 10 of this subparagraph, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under Rules 0400-12-01-.03 through .10, provided the generator complies with the requirements of parts 6, 7 and 10 of this subparagraph.~~

~~3. When making the quantity determinations of this rule and Rule 0400-12-01-.03, the generator must include all hazardous waste that it generates, except hazardous waste that:~~

~~(i) Is exempt from regulation under parts (d)3 through 6 subparts (f)1(iii), subpart (g)1(i), or subparagraph (h) of this paragraph; or~~

~~(ii) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in Rule 0400-12-01-.01(2)(a); or~~

~~(iii) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under subpart (f)3(ii) of this paragraph; or~~

~~(iv) Is used oil managed under the requirements of subpart (f)1(iv) of this paragraph and Rule 0400-12-01-.11; or~~

~~(v) Is spent lead acid batteries managed under the requirements of Rule 0400-12-01-.09(7); or~~

(vi) Is universal waste managed under Rule 0400-12-01-.02(1)(j) and Rule 0400-12-01-.12; or

(vii) Is a hazardous waste that is an unused commercial chemical product (listed in Paragraph (4) of this rule or exhibiting one or more characteristics in paragraph (3) of this rule) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to paragraph (12) of Rule 0400-12-01-.03. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in paragraph (12) of Rule 0400-12-01-.03.

(viii) Is managed immediately upon generation in a collection system (sewer system) where the wastewaters will mix with sanitary wastes at any point before reaching a publicly owned treatment works (POTW).

4. In determining the quantity of hazardous waste generated, a generator need not include:

(i) Hazardous waste when it is removed from on-site storage; or

(ii) Hazardous waste produced by on-site treatment (including reclamation) of his hazardous waste, so long as the hazardous waste that is treated was counted once; or

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

5. If a generator generates acute hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acute hazardous waste are subject to full regulation under Chapter 0400-12-01:

(i) A total of one kilogram of acute hazardous wastes listed in subparagraph (4)(b) or part (4)(d)5 of this rule.

(ii) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous wastes listed in subparagraph (4)(b) or part (4)(d)5 of this rule.

(Comment: "Full regulation" means those regulations applicable to generators of 1000 kg or greater of hazardous waste in a calendar month.)

6. In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in subparts 5(i) or (ii) of this subparagraph to be excluded from full regulation under this subparagraph, the generator must comply with the following requirements:

(i) The generator must perform the hazardous waste determination of Rule 0400-12-01-.03(1)(b) and keep records thereof as required by Rule 0400-12-01-.03(5)(a)3;

(ii) The generator may accumulate acute hazardous waste on-site. If he accumulates at any time acute hazardous wastes in quantities greater than those set forth in subparts 5(i) or 5(ii) of this subparagraph, all of those accumulated wastes are subject to regulation under Chapter 0400-12-01. The time period of Rule 0400-12-01-.03(4)(e)2, for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.

(iii) A conditionally exempt small quantity generator may either treat or dispose of his acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or disposal facility, either of which, if located in the U.S., is:

(I) Permitted under Rule 0400-12-01-.07;

(II) In interim status under Rule 0400-12-01-.05 and 0400-12-01-.07;

(III) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under 40 CFR Part 271;

(IV) Permitted, licensed, or registered by a State to manage municipal solid waste and, if managed in a municipal solid waste landfill, is subject to 40 CFR Part 258;

(V) Permitted, licensed, or registered by a State to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR Parts 257.5 through 257.30; or

(VI) A facility which:

I. Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

II. Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or

(VII) For universal waste managed under Rule 0400-12-01-.12, a universal waste handler or destination facility subject to the requirements of Rule 0400-12-01-.12.

7. In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this subparagraph, the generator must comply with the following requirements:

(i) The conditionally exempt small quantity generator must perform the hazardous waste determination of Rule 0400-12-01-.03(1)(b) and keep records thereof as required by Rule 0400-12-01-.03(5)(a)3.

(ii) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If he accumulates at any time more than a total of 1000 kilograms of his hazardous wastes, all of those accumulated wastes are subject to regulation under the special provisions of Rule 0400-12-01-.03 applicable to generators of greater than 100 kg and less than 1000 kg of hazardous waste in a calendar month as well as the requirements of Rule 0400-12-01-.04 through 0400-12-01-.10. The time period of Rule 0400-12-01-.03(4)(e)6 for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes exceed 1000 kilograms;

(iii) A conditionally exempt small quantity generator may either treat or dispose of his hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or disposal facility, either of which, if located in the U.S., is:

(I) Permitted under Rule 0400-12-01-.07;

(II) In interim status under Rules 0400-12-01-.05 and 0400-12-01-.07;

(III) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under 40 CFR Part 271;

(IV) Permitted, licensed, or registered by a State to manage municipal solid waste and, if managed in a municipal solid waste landfill, is subject to 40

CFR Part 258;

(V) Permitted, licensed, or registered by a State to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR Parts 257.5 through 257.30; or

(VI) A facility which:

I. Beneficially uses or reuses or legitimately recycles or reclaims its waste; or

II. Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or

(VII) For universal waste managed under Rule 0400-12-01-.12, a universal waste handler or destination facility subject to the requirements of Rule 0400-12-01-.12.

(iv) Management of Containers with Liquids

(I) A container holding hazardous waste volatile liquids must always be closed during storage, except when it is necessary to add or remove waste.

(II) A container holding hazardous waste liquids must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(III) The facility may take reasonable measures that deviate from this standard if required for safety due to the intrinsic nature of the container's contents.

8. Hazardous waste subject to the reduced requirements of this subparagraph may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this subparagraph, unless the mixture meets any of the characteristics of hazardous waste identified in paragraph (3) of this rule.

9. If any person mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this subparagraph, the mixture is subject to full regulation.

10. If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to Rule 0400-12-01-.11 provided the resultant mixture does not exhibit the characteristic of ignitability, corrosivity or reactivity in accordance with subparagraphs (3)(b), (c) or (d) of this rule.

(i) Any material derived from such non-hazardous mixture by processing, blending, or other treatment is also regulated under part (2)(a)5 of Rule 0400-12-01-.11; and

(ii) If the resultant mixture exhibits the characteristic of ignitability, corrosivity or reactivity, in accordance with subparagraphs (3)(b), (c) or (d) of this rule, and if the resultant hazardous waste mixture exceeds the quantity limitations identified in this subparagraph, then the mixture is no longer conditionally exempt under this subparagraph and is subject to regulation under Rules 0400-12-01-.03 through .10.

(NOTE: Any used oil that is not recycled is a solid waste subject to a hazardous waste determination per Rule 0400-12-01-.03(1)(b).)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 1 of subparagraph (f) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(ii) The following recyclable materials are not subject to the requirements of this subparagraph but are regulated under paragraphs (3), (6), (7), (8), (13) and (14) of Rule 0400-12-01-.09 and all applicable provisions in Rules 0400-12-01-.07 and 0400-12-01-.10:

(I) Recyclable materials used in a manner constituting disposal (See paragraph (3) of Rule 0400-12-01-.09~~(3)~~);

(II) Hazardous wastes burned (as defined in part (8)(a)1 of Rule 0400-12-01-.09~~(8)(a)1~~) in boilers and industrial furnaces that are not regulated under paragraph (15) of Rule 0400-12-01-.05 or paragraph (15) of Rule 0400-12-01-.06 (See paragraph (8) of Rule 0400-12-01-.09);

(III) Recyclable materials from which precious metals are reclaimed (See paragraph (6) of Rule 0400-12-01-.09~~(6)~~); and

(IV) Spent lead-acid batteries that are being reclaimed (See paragraph (7) of Rule 0400-12-01-.09~~(7)~~).

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (iii) of part 1 of subparagraph (f) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(I) Industrial ethyl alcohol that is reclaimed, except that~~, unless provided otherwise in an international agreement as specified in Rule 0400-12-01-.03(6)(i)~~ exports and imports of such recyclable materials must comply with the requirements of paragraph (9) of Rule 0400-12-01-.03:

I. A person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, must comply with the requirements applicable to a primary exporter in ~~Rule 0400-12-01-.03(6)(d), (g)1(i) through (iv) and (vi), (g)2, and (h)~~ subparagraph (6)(d), subparts (6)(g)1(i) through (iv) and (vi), part (6)(g)2 and subparagraph (6)(h) of Rule 0400-12-01-.03, export such materials only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in paragraph (6) of Rule 0400-12-01-.03~~(6)~~, and provide a copy of the EPA Acknowledgment of Consent to the shipment to the transporter transporting the shipment for export;

II. Transporters transporting a shipment for export may not accept a shipment if he knows the shipment does not conform to the EPA Acknowledgment of Consent, must ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment and must ensure that it is delivered to the facility designated by the person initiating the shipment.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iv) of part 1 of subparagraph (f) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(iv) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to the requirements of Rule 0400-12-01-.01 through ~~.06~~ 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10, but is regulated under Rule 0400-12-01-.11. Used oil that is recycled includes any used oil which is reused, following its original use, for any purpose (including the purpose for which the oil was originally used). Such term includes, but is not limited to, oil which is re-refined, reclaimed, burned for energy recovery, or reprocessed.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (v) of part 1 of subparagraph (f) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(v) ~~(Reserved) [40 CFR 261.6(a)(5)]~~ Hazardous waste that is exported or imported for purpose of recovery is subject to the requirements of paragraph (9) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (f) of paragraph (1) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

3. (i) Owners and operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of paragraphs (1) through (12), (27), (28), and (29) of Rule 0400-12-01-.05 and paragraphs (1) through (12), (30), (31), and (32) of Rule 0400-12-01-.06, and under Rules 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10, and the notification requirements under subparagraphs (2)(b) and (d) of Rule 0400-12-01-.07~~(2)(b) and (d)~~, except as provided in part 1 of this subparagraph. (The recycling process itself is exempt from regulation except as provided in part 4 of this subparagraph.)

(ii) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in part 1 of this subparagraph:

(I) Such owners or operators must notify the ~~Division Director~~ Commissioner of their activities using forms provided by the ~~Department~~ Commissioner and completed per accompanying instructions;

(II) Such owners or operators must comply with subparagraph (5)(b) and (c) of Rule 0400-12-01-.05~~(5)(b) and (c)~~ (dealing with the use of the manifest and manifest discrepancies);

(III) ~~Rule 0400-12-01-.02(1)(f)~~ Part 4 of this subparagraph; and

(IV) Subparagraph (5)(f) of Rule 0400-12-01-.05 (annual reporting requirements).

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 1 of subparagraph (b) of paragraph (2) of Rule 0400-12-01-.02 Identification and Listing of Hazardous is amended by deleting it in its entirety and substituting instead the following:

(iii) It contains any of the toxic constituents listed in paragraph ~~(5)~~ (30) Appendix VIII of this rule and, after considering the following factors, the Commissioner concludes that the waste is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed:

(I) The nature of the toxicity presented by the constituent;

(II) The concentration of the constituent in the waste;

(III) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in item (VII) ~~below~~ of this subpart;

(IV) The persistence of the constituent or any toxic degradation product of the constituent;

(V) The potential for the constituent or any toxic degradation product of the constituent to degrade into non-harmful constituents and the rate of degradation;

(VI) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems;

(VII) The plausible types of improper management to which the waste could be subjected;

(VIII) The quantities of the waste generated at individual generation sites or on a regional or national basis;

(IX) The nature and severity of the human health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent;

(X) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent; and

(XI) Such other factors as may be appropriate.

(Note: Substances will be listed ~~on~~ in paragraph (30) Appendix VIII of this rule only if they have been shown in scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms.)

(Note: Wastes listed in accordance with these criteria will be designated Toxic wastes.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.02 Identification and Listing of Hazardous is amended by deleting it in its entirety and substituting instead the following:

3. For purposes of this paragraph, the Commissioner will consider a sample obtained using any of the applicable sampling methods specified in paragraph ~~(5)~~ (30) Appendix I of this rule to be a representative sample within the meaning of Rule 0400-12-01-.01.

(Comment: Since the ~~appendix~~ paragraph (30) Appendix I of this rule sampling methods are not being formally adopted by the Board, a person who desires to employ an alternative sampling method is not required to demonstrate the equivalency of his method under the procedures set forth in paragraph (3) of Rule 0400-12-01-.01~~(3)~~.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (a) of paragraph (4) of Rule 0400-12-01-.02 Identification and Listing of Hazardous is amended by deleting it in its entirety and substituting instead the following:

2. The Board will indicate its basis for listing the classes or types of wastes listed in this paragraph by employing one or more of the following Hazard Codes:

Ignitable Waste (I)

Corrosive Waste (C)

Reactive Waste (R)

Toxicity Characteristic Waste (E)

Acute Hazardous Waste (H)

Toxic Waste (T)

Paragraph ~~(5)~~ (30) Appendix VII of this rule identifies the constituent which caused the Board to list the waste as a Toxicity Characteristic Waste (E) or Toxic Waste (T) in subparagraphs (b) and (c) of this paragraph.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (b) of paragraph (4) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

1. The following solid wastes are listed hazardous wastes from non-specific sources unless they are excluded under subparagraphs (3)(a) and (c) of Rule 0400-12-01-.01~~(3)~~ and listed in ~~paragraph (5)~~ Appendix IX to 40 CFR part 261.

Industry and Hazardous Waste Code	Hazardous Waste	Hazard Code
Generic:		
F001	The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(T)
F002	The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane, and 1,1,2-trichloroethane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(T)
F003	The following spent non-halogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(I)*
F004	The following spent non-halogenated solvents: Cresols and cresylic acid, and nitrobenzene; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent	(T)

	solvent mixtures.	
F005	The following spent non-halogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(I,T)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.	(T)
F007	Spent cyanide plating bath solutions from electroplating operations.	(R, T)
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process.	(R, T)
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.	(R, T)
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process.	(R, T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.	(R, T)
F012	Quenching waste water treatment sludges from metal heat treating operations where cyanides are used in the process.	(T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in 40 CFR 258.40 or the state equivalent, Rule 1200-01-11-.06(14)(b) or Rule 1200-01-11-.05(14)(b). For the purposes of this listing, motor vehicle manufacturing is defined in item 2(iv)(I) of this subparagraph and item 2(iv)(II) of this subparagraph describes the recordkeeping requirements for motor vehicle manufacturing facilities.	(T)
F020	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol.).	(H)
F021	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives.	(H)
F022	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions.	(H)
F023	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (This listing does not include wastes from equipment used only for the production or use of Hexachlorophene from highly purified 2,4,5-trichlorophenol.).	(H)
F024	Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by	(T)

	free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in subparagraph (b) or (c) of this paragraph.).	
F025	Condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution.	(T)
F026	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions.	(H)
F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing Hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.).	(H)
F028	Residues resulting from the incineration or thermal treatment of soil contaminated with Hazardous Waste Codes F020, F021, F022, F023, F026, and F027.	(T)
F032	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with subparagraph (f) of this paragraph or potentially cross-contaminated wastes that are otherwise currently regulated as hazardous wastes (i.e., F034 or F035), and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol	(T)
F034	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol	(T)
F035	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol	(T)
F037	Petroleum refinery primary oil/water/solids separation sludge-Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in subpart 2(ii) of this subparagraph (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and K051 wastes are not included in this listing. This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under item (1)(d)1(xii)(I) of this rule, if those residuals are to be disposed of.	(T)
F038	Petroleum refinery secondary (emulsified) oil/water/solids separation sludge-Any sludge and/or float generated from the physical and/or chemical separation of oil/water/solids in process wastewaters and oily cooling wastewaters from petroleum refineries. Such wastes include, but are not limited to, all sludges and floats generated in: induced air flotation (IAF)	

	units, tanks and impoundments, and all sludges generated in DAF units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges and floats generated in aggressive biological treatment units as defined in subpart 2(ii) of this paragraph (including sludges and floats generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and F037, K048, and K051 wastes are not included in this listing. This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under item (1)(d)1(xii)(I) of this rule, if those residuals are to be disposed of.	
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under this paragraph. (Leachate resulting from the disposal of one or more of the following Hazardous Wastes and no other Hazardous Wastes retains its Hazardous Waste Code(s): F020, F021, F022, F026, F027, and/or F028.).	(T)

* (I, T,) should be used to specify mixtures that are ignitable and contain toxic constituents.
(R, T) should be used to specify mixtures that are reactive and contain toxic constituents.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

The first sentence (introductory text) of part 1 of subparagraph (c) of paragraph (4) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following, without changing the remainder of the part:

1. The following solid wastes are listed hazardous wastes from specific sources unless they are excluded under subparagraphs (3)(a) and (c) of Rule 0400-12-01-.01~~(3)~~ and listed in ~~paragraph (5)~~ Appendix IX ~~of this rule~~ of 40 CFR part 261.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

The introductory text of part 5 of subparagraph (d) of paragraph (4) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting the phrase “and are subject to the small quantity exclusion defined in part (1)(e)5 and 6 of this rule” at the end of the sentence, without changing the remainder of the part, so that, as amended, the introductory text shall read:

5. The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates referred to in parts 1 through 4 of this subparagraph, are identified as acute hazardous wastes (H)~~ and are subject to the small quantity exclusion defined in part (1)(e)5 and 6 of this rule~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

The introductory text of part 6 of subparagraph (d) of paragraph (4) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting the phrase “and are subject to the small quantity exclusion defined in parts (1)(e) 1 and 7 of this rule” at the end of the sentence, without changing the remainder of the part, so that, as amended, the introductory text shall read:

6. The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in parts 1 through 4 of this subparagraph, are identified as toxic wastes (T), unless otherwise designated~~ and are subject to the small quantity generator exclusion defined in parts (1)(e) 1 and 7 of this rule~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (II) of subpart (v) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(II) Notifications must be submitted ~~by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 1200 Pennsylvania Ave., N.W., Washington, D.C. In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export CRTs."~~ electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Items (IV), (V) and (VI) of subpart (v) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste are amended by deleting them in their entirety and substituting instead the following:

(IV) EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of item (I) of this subpart. ~~Where a claim of confidentiality is asserted with respect to any notification information required by item (I) of this subpart, EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.~~

(V) The export of CRTs is prohibited unless ~~the receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, EPA will forward an Acknowledgment of Consent to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, EPA will notify the exporter in writing. EPA will also notify the exporter of any responses from transit countries~~ all of the following occur:

I. The receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, EPA will forward an Acknowledgment of Consent to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, EPA will notify the exporter in writing. EPA will also notify the exporter of any responses from transit countries.

II. On or after the AES filing compliance date, the exporter or a U.S. authorized agent must:

A. Submit Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b).

B. Include the following items in the EEI, along with the other information required under 15 CFR 30.6:

(A) EPA license code;

(B) Commodity classification code per 15 CFR 30.6(a)(12);

(C) EPA consent number;

(D) Country of ultimate destination per 15 CFR 30.6(a)(5);

(E) Date of export per 15 CFR 30.6(a)(2);

(F) Quantity of waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

(G) EPA net quantity reported in units of kilograms, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

(VI) When the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change using the allowable methods listed in item (II) of this subpart, except for changes to the telephone number in subitem (I)I of this subpart and decreases in the quantity indicated pursuant to subitem (I)III of this subpart. The shipment cannot take place until consent of the receiving country to the changes has been obtained (except for changes to information about points of entry and departure and transit countries pursuant to subitems ~~IV and VIII~~ (I)IV and VIII of this subpart) and the exporter of CRTs receives from EPA a copy of the Acknowledgment of Consent to Export CRTs reflecting the receiving country's consent to the changes.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (IX) of subpart (v) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(IX) Exporters must keep copies of notifications and Acknowledgments of Consent to Export CRTs for a period of three years following receipt of the Acknowledgment. Exporters may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in the CRT exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce a notification or Acknowledgement for inspection under this section if the CRT exporter can demonstrate that the inability to produce such copies is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the CRT exporter bears no responsibility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (XI) of subpart (v) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(XI) ~~Annual~~ Prior to one year after the AES filing compliance date, annual

reports must be ~~submitted to the office specified in item (II) of this subpart~~ sent to the following mailing address: Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Hand-delivered annual reports on used CRTs exported during 2016 should be sent to: Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, William Jefferson Clinton South Building, Room 6144, 1200 Pennsylvania Ave. NW., Washington, DC 20004. Subsequently, annual reports must be submitted to the office listed using the allowable methods specified in item (II) of this subpart. Exporters must keep copies of each annual report for a period of at least three years from the due date of the report. Exporters may satisfy this recordkeeping requirement by retaining electronically submitted annual reports in the CRT exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that a copy is readily available for viewing and production if requested by any EPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce an annual report for inspection under this subpart if the CRT exporter can demonstrate that the inability to produce the annual report is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the CRT exporter bears no responsibility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (d) of paragraph (13) of Rule 0400-12-01-.02 Identification and Listing of Hazardous Waste is amended by adding part 7 so that the new part shall read as follows:

7. Personnel training. All employees must be thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Rule 0400-12-01-.03 Notification Requirements and Standards Applicable to Generators of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

0400-12-01-.03 Notification Requirements and Standards Applicable to Generators of Hazardous Waste

(1) General [40 CFR 262 Subpart A]

(a) 1. Terms used in this rule. [40 CFR 262.1]

As used in this rule:

(i) "Condition for exemption" means any requirement in subparagraphs (e), (f), (g), and (h) of this paragraph, subpart 2(vi) of this subparagraph, paragraph (10) of this rule, or paragraph (11) of this rule that states an event, action, or standard that must occur or be met in order to obtain an exemption from any applicable requirement in Rules 0400-12-01-.05 through 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10, or from any requirement for notification under this chapter.

(ii) "Independent requirement" means a requirement of this rule that states an event, action, or standard that must occur or be met; and that applies without relation to, or irrespective of, the purpose of obtaining a conditional exemption from a storage facility permit, interim status, and operating requirements under

subparagraphs (e), (f), (g), and (h) of this paragraph, paragraph (10) of this rule, or paragraph (11) of this rule.

2. Purpose, Scope, and Applicability [40 CFR 262.10 and 262.70]

~~1.~~(i) ~~These regulations~~ The regulations in this rule establish standards for generators of hazardous waste ~~in Tennessee~~ as defined by subparagraph (2)(a) of Rule 0400-12-01-.01.

(I) A person who generates a hazardous waste as defined by Rule 0400-12-01-.02 is subject to all the applicable independent requirements listed below:

I. Independent requirements of a very small quantity generator.

A. Parts (b)1 through 4 of this paragraph (hazardous waste determination and recordkeeping);

B. Subparagraph (d) of this paragraph (generator category determination);

C. If the quantity limits of subpart (e)1(iii) of this paragraph are exceeded, the very small quantity generator must obtain an EPA identification number and comply with the manifesting, pre-transportation, recordkeeping, and transboundary shipment requirements outlined in sections III.D, III.E, III.F, and III.H of this item; and

D. If the quantity limits of subpart (e)1(iv) of this paragraph are exceeded, the very small quantity generator must obtain an EPA identification number and comply with the manifesting, pre-transportation, recordkeeping, and transboundary shipment requirements outlined in sections II.D, II.E, II.F, II.G, and II.I of this item.

II. Independent requirements of a small quantity generator.

A. Subparagraph (b) of this paragraph (hazardous waste determination and recordkeeping);

B. Subparagraph (d) of this paragraph (generator category determination);

C. Subparagraph (i) of this paragraph (EPA identification numbers) and paragraph (2) of this rule (notification requirements);

D. Paragraph (3) of this rule (manifest requirements applicable to small and large quantity generators);

E. Paragraph (4) of this rule (pre-transport requirements applicable to small and large quantity generators);

F. Subparagraph (5)(a) of this rule (recordkeeping);

G. Subparagraph (5)(e) of this rule (recordkeeping for small quantity generators);

H. Paragraph (6) of this rule (hazardous waste reduction plan); and

I. Paragraph (9) of this rule (transboundary movements of hazardous waste for recovery or disposal).

III. Independent requirements of a large quantity generator.

A. Subparagraph (b) of this paragraph (hazardous waste determination and recordkeeping);

B. Subparagraph (d) of this paragraph (generator category determination);

C. Subparagraph (i) of this paragraph (EPA identification numbers) and paragraph (2) of this rule (notification requirements);

D. Paragraph (3) of this rule (manifest requirements applicable to small and large quantity generators);

E. Paragraph (4) of this rule (pre-transport requirements applicable to small and large quantity generators);

F. Paragraph (5) of this rule (recordkeeping and reporting applicable to small and large quantity generators), except subparagraph (5)(e) of this rule;

G. Paragraph (6) of this rule (hazardous waste reduction plan); and

H. Paragraph (9) of this rule (transboundary movements of hazardous waste for recovery or disposal).

(II) A generator that accumulates hazardous waste on site is a person that stores hazardous waste; such generator is subject to the applicable requirements of Rules 0400-12-01-.05 through 0400-12-01-.09 and paragraph (2) of this rule, unless it is one of the following:

I. A very small quantity generator that meets the conditions for exemption in subparagraph (e) of this paragraph;

II. A small quantity generator that meets the conditions for exemption in subparagraphs (f) and (g) of this paragraph; or

III. A large quantity generator that meets the conditions for exemption in subparagraphs (f) and (h) of this paragraph.

(III) A generator, including a very small quantity generator, shall not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility, as defined in subparagraph (2)(a) of Rule 0400-12-01-.01, or not otherwise authorized to receive the generator's hazardous waste.

~~2.~~(ii) ~~Rule 0400-12-01-.02(1)(e)3 and 4 must be used~~ Determining generator category. A generator must use subparagraph (d) of this paragraph to determine ~~the applicability of~~ which provisions of this rule ~~that are dependent on calculations of~~ are applicable to the generator based on the quantity of hazardous waste generated per calendar month.

~~3.~~(iii) [Reserved] ~~A generator who treats, stores, or disposes of hazardous waste on-site must only comply with the following portions of this rule with respect to that~~

~~waste: subparagraph (b) of this paragraph for determining whether or not he has a hazardous waste, paragraph (2) for notifying and subparagraph (c) of this paragraph for obtaining an installation identification number, subparagraph (4)(e) for accumulation of hazardous waste, parts (5)(a)3 and 4 for recordkeeping, subparagraph (5)(b) for annual reporting, and subparagraph (5)(e) for additional reporting; and if applicable, Rule 0400-12-01-.02(1)(d)2(ii)(II) for farmers.~~

~~(Note: A generator who treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in Rules 0400-12-01-.05, .06, .07, .09 and .10.)~~

~~4.~~(iv) Any person who exports or imports ~~wastes that are considered hazardous under U.S. national procedures to or from the countries listed in subparagraph (7)(i) of this rule for recovery must comply with paragraph (9) of this rule. A waste is considered hazardous under U.S. national procedures if the waste meets the definition of hazardous waste in subparagraph (1)(c) of Rule 0400-12-01-.02 and is subject to either the manifesting requirements at paragraph (3) of this rule, the universal waste management standards of Rule 0400-12-01-.12, or the export requirements in the spent lead-acid battery management standards of part (7)(a)1 of Rule 0400-12-01-.09~~ hazardous wastes must comply with subparagraph (i) of this paragraph and paragraph (9) of this rule.

~~5.~~(v) Any person who imports hazardous waste into the state from a foreign country must comply with the standards applicable to generators established in this rule.

~~6.~~(vi) A farmer who generates waste pesticides which are hazardous wastes and who complies with all of the requirements of item (1)(d)2(ii)(II) of Rule 0400-12-01-.02~~(1)(d)2(ii)(II)~~ is not required to comply with other standards in this rule or Rules 0400-12-01-.05~~, .06,~~ through 0400-12-01-.07 or 0400-12-01-.10 with respect to such pesticides.

~~7.~~(vii) (I) ~~A person who generates a hazardous waste as defined by Rule 0400-12-01-.02~~ A generator's violation of an independent requirement is subject to ~~the compliance requirements and penalties prescribed in~~ penalty and injunctive relief under section 3008 of RCRA, and T.C.A. §§ ~~68-212-111 through~~ 68-212-114 and 68-212-115 of the Act ~~if he does not comply with the requirements of this rule~~.

(II) A generator's noncompliance with a condition for exemption in this rule is not subject to penalty or injunctive relief under section 3008 of RCRA T.C.A. §§ 68-212-114 and 68-212-115 as a violation of a Rule 0400-12-01-.03 condition for exemption. Noncompliance by any generator with an applicable condition for exemption from storage permit and operations requirements means that the facility is a storage facility operating without an exemption from the permit, interim status, and operations requirements in Rules 0400-12-01-.05 through 0400-12-01-.09, including the notification requirements. Without an exemption, any violations of such storage requirements are subject to penalty and injunctive relief under section 3008 of RCRA and T.C.A. § 68-212-114 and T.C.A. § 68-212-115.

~~8.~~(viii) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in this rule.

~~(Note: The provisions of subparagraph (4)(e) are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of subparagraph (4)(e) only apply to owners or operators who are shipping hazardous waste which they generated at that facility.)~~

~~9. A generator who is a conditionally - exempt small quantity generator as defined in Rule 0400-12-01-.02(1)(e) is subject to the requirements of paragraphs (2) through (6) of this rule only to the extent set forth in Rule 0400-12-01-.02(1)(e).~~

~~10.~~(ix) Persons responding to an explosives or munitions emergency in accordance with subitem (1)(b)2(vii)(I)IV or item (1)(b)2(vii)(IV) of Rule 0400-12-01-.05~~(1)(b)2(vii)(I)IV or (IV)~~ or subitem (1)(b)2(vii)(I)IV or item (1)(b)2(vii)(IV) of Rule 0400-12-01-.06~~(1)(b)2(vii)(I)IV or (IV)~~ and item (1)(b)5(i)(IV) or subpart (1)(b)5(iii) of Rule 0400-12-01-.07~~(1)(b)5(i)(IV) or (iii)~~ are not required to comply with the standards of this rule.

(x) Reserved.

~~11.~~(xi) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of paragraph ~~(12)~~ (10) of this rule are not subject to (for purposes of this ~~part~~ subpart, the terms "laboratory" and "eligible academic entity" shall have the meaning as defined in paragraph ~~(12)~~ (10) of this rule):

~~(i)~~(I) The independent requirements of subparagraph (b) of this paragraph ~~and part (4)(e)5 of this rule,~~ or the regulations in subparagraph (f) of this paragraph for large quantity generators and small quantity generators, except as provided in paragraph ~~(12)~~ (10) of this rule; and

~~(ii)~~(II) The conditions of ~~Rule 0400-12-01-.02(1)(e)2~~ subparagraph (e) of this paragraph, for ~~conditionally exempt~~ very small quantity generators, except as provided in paragraph ~~(12)~~ (10) of this rule.

(b) Hazardous Waste Determination and recordkeeping [40 CFR 262.11]

A person who generates a solid waste, as defined in subparagraph (1)(b) of Rule 0400-12-01-.02~~(1)(b)~~, must ~~determine if~~ make an accurate determination as to whether that waste is a hazardous waste ~~using~~ in order to ensure wastes are properly managed according to applicable hazardous waste management regulations. A hazardous waste determination is made using the following ~~method~~ steps:

1. The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the hazardous waste management regulatory classification of the waste may change.

~~1.~~2. ~~He should first~~ A person must determine ~~if~~ whether the solid waste is excluded from regulation under subparagraph (1)(d) of Rule 0400-12-01-.02~~(1)(d)~~.

~~2.~~3. ~~He must then~~ If the waste is not excluded under subparagraph (1)(d) of Rule 0400-12-01-.02, the person must then use knowledge of the waste to determine ~~if~~ whether the waste ~~is listed as a hazardous waste in~~ meets any of the listing descriptions under paragraph (4) of Rule 0400-12-01-.02~~(4)~~. Acceptable knowledge that may be used in making an accurate determination as to whether the waste is listed may include waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information. If the waste is listed, the person may file a delisting petition under 40 CFR 260.20 and 260.22 to demonstrate to the EPA Administrator that the waste from this particular site or operation is not a hazardous waste.

~~(Note: Even if the waste is listed, the generator still has an opportunity under 40 CFR 260.22 to demonstrate to the EPA Regional Administrator that the waste from his particular facility or operation is not a hazardous waste.)~~

~~3.~~4. ~~For purposes of compliance with Rule 0400-12-01-.10, or if the waste is not listed in Rule 0400-12-01-.02(4), the generator must then~~ The person then must determine whether the waste ~~is identified in Rule 0400-12-01-.02(3) by either: (i)Testing the waste according to the methods set forth in Rule 0400-12-01-.02, or according to an equivalent method approved by the Commissioner under Rule 0400-12-01-.01(3)(b); or (ii) Applying~~ exhibits one or more hazardous characteristics as identified in paragraph (3) of Rule 0400-12-01-.02 by following the procedures in subpart (i) or (ii) of this part, or a combination of both.

(i) The person must apply knowledge of the hazard characteristic of the waste in light of the materials or the processes used to generate the waste. Acceptable knowledge may include process knowledge (e.g., information about chemical feedstocks and other inputs to the production process); knowledge of products, by-products, and intermediates produced by the manufacturing process; chemical or physical characterization of wastes; information on the chemical and physical properties of the chemicals used or produced by the process or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents. A test other than a test method set forth in paragraph (3) of Rule 0400-12-01-.02, or an equivalent test method approved by the EPA Administrator under 40 CFR 260.21, may be used as part of a person's knowledge to determine whether a solid waste exhibits a characteristic of hazardous waste. However, such tests do not, by themselves, provide definitive results. Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at subparagraph (2)(a) of Rule 0400-12-01-.01.

(ii) When available knowledge is inadequate to make an accurate determination, the person must test the waste according to the applicable methods set forth in paragraph (3) of Rule 0400-12-01-.02 or according to an equivalent method approved by the EPA Administrator under 40 CFR 260.21 and in accordance with the following:

(I) Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at subparagraph (2)(a) of Rule 0400-12-01-.01.

(II) Where a test method is specified in paragraph (3) of Rule 0400-12-01-.02, the results of the regulatory test, when properly performed, are definitive for determining the regulatory status of the waste.

~~4.~~5. If the waste is determined to be hazardous, the generator must refer to Rules 0400-12-01-.02, 0400-12-01-.05, 0400-12-01-.06, 0400-12-01-.09, 0400-12-01-.10, and 0400-12-01-.12 for possible exclusions or restrictions pertaining to management of the specific waste.

~~5. This subparagraph does not apply to individual wastewaters streams as described in part (2)(a)2 of this rule in cases where the generator makes a hazardous waste determination on the conglomerate flow. A proper determination of the conglomerate flow must include both an evaluation of the hazardous waste characteristics of the conglomerate flow as defined in Rule 0400-12-01-.02(3) as well as an evaluation of the facility's wastewater generating processes to confirm the presence or absence of listed hazardous wastewaters as defined in Rule 0400-12-01-.02(4) in the wastewater.~~

~~(Comment: This provision does not supercede any applicable exclusion from recordkeeping, notification, or reporting requirements for hazardous waste otherwise specified in this rule.)~~

6. Recordkeeping for small and large quantity generators. A small or large quantity generator must maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, as defined by subparagraph (1)(c) of Rule 0400-12-01-.02. Records must be maintained for at least

three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal. These records must comprise the generator's knowledge of the waste and support the generator's determination, as described in parts 3 and 4 of this subparagraph. The records must include, but are not limited to, the following types of information: the results of any tests, sampling, waste analyses, or other determinations made in accordance with this subparagraph; records documenting the tests, sampling, and analytical methods used to demonstrate the validity and relevance of such tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and records which explain the knowledge basis for the generator's determination, as described at subpart (4)(i) of this subparagraph. The periods of record retention referred to in this part are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Commissioner.

7. Identifying hazardous waste numbers for small and large quantity generators. If the waste is determined to be hazardous, small quantity generators and large quantity generators must identify all applicable hazardous waste numbers (EPA hazardous waste codes) in paragraphs (3) and (4) of Rule 0400-12-01-.02. Prior to shipping the waste off site, the generator also must mark its containers with all applicable hazardous waste numbers (EPA hazardous waste codes) according to subparagraph (4)(c) of this rule.

(c) [Reserved] [40 CFR 262.12]

(d) Generator category determination. [40 CFR 262.13]

A generator must determine its generator category. A generator's category is based on the amount of hazardous waste generated each month and may change from month to month. This subparagraph sets forth procedures to determine whether a generator is a very small quantity generator, a small quantity generator, or a large quantity generator for a particular month, as defined in subparagraph (2)(a) of Rule 0400-12-01-.01.

1. Generators of either acute hazardous waste or non-acute hazardous waste. A generator who either generates acute hazardous waste or non-acute hazardous waste in a calendar month shall determine its generator category for that month by doing the following:

(i) Counting the total amount of hazardous waste generated in the calendar month;

(ii) Subtracting from the total any amounts of waste exempt from counting as described in parts 3 and 4 of this subparagraph; and

(iii) Determining the resulting generator category for the hazardous waste generated using Table 1 of part 2 of this subparagraph.

2. Generators of both acute and non-acute hazardous wastes. A generator who generates both acute hazardous waste and non-acute hazardous waste in the same calendar month shall determine its generator category for that month by doing the following:

(i) Counting separately the total amount of acute hazardous waste and the total amount of non-acute hazardous waste generated in the calendar month;

(ii) Subtracting from each total any amounts of waste exempt from counting as described in parts 3 and 4 of this subparagraph;

(iii) Determining separately the resulting generator categories for the quantities of acute and non-acute hazardous waste generated using Table 1 of this part; and

(iv) Comparing the resulting generator categories from subpart (iii) of this part and applying the more stringent generator category to the accumulation and

management of both non-acute hazardous waste and acute hazardous waste generated for that month.

Table 1 Generator Categories Based on Quantity of Waste Generated in a Calendar Month			
Quantity of acute hazardous waste generated in a calendar month	Quantity of non-acute hazardous waste generated in a calendar month	Quantity of residues from a cleanup of acute hazardous waste generated in a calendar month	Generator category
> 1 kg.....	Any amount.....	Any amount.....	Large quantity generator
Any amount.....	≥ 1,000 kg.....	Any amount.....	Large quantity generator
Any amount.....	Any amount.....	> 100 kg ……..	Large quantity generator
≤ 1 kg….....	> 100 kg and < 1,000 kg ….	≤ 100 kg ……..	Small quantity generator
≤ 1 kg….....	≤ 100 kg ……..	≤ 100 kg ……..	Very Small quantity generator

3. When making the monthly quantity-based determinations ~~of~~ required by this rule ~~and Rule 0400-12-01-.03~~, the generator must include all hazardous waste that it generates, except hazardous waste that:

   (i) Is exempt from regulation under parts (1)(d)3 through 6 of Rule 0400-12-01-.02, subpart (1)(f)1(iii) of Rule 0400-12-01-.02, subpart (1)(g)1(i) of Rule 0400-12-01-.02, or subparagraph (1)(h) of Rule 0400-12-01-.02 ~~of this paragraph~~; ~~or~~

   (ii) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in subparagraph (2)(a) of Rule 0400-12-01-.01~~(2)(a)~~; ~~or~~

   (iii) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under subpart (1)(f)3(ii) of ~~this paragraph~~ Rule 0400-12-01-.02;

   (iv) Is used oil managed under the requirements of subpart (1)(f)1(iv) of ~~this paragraph~~ Rule 0400-12-01-.02 and Rule 0400-12-01-.11; ~~or~~

   (v) Is spent lead-acid batteries managed under the requirements of paragraph (7) of Rule 0400-12-01-.09~~(7)~~; ~~or~~

   (vi) Is universal waste managed under subparagraph (1)(j) of Rule 0400-12-01-.02~~(1)(j)~~ and Rule 0400-12-01-.12; ~~or~~

   (vii) Is a hazardous waste that is an unused commercial chemical product (listed in paragraph (4) of ~~this rule~~ Rule 0400-12-01-.02 or exhibiting one or more characteristics in paragraph (3) of ~~this rule~~ Rule 0400-12-01-.02) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to ~~paragraph (12) of Rule 0400-12-01-.03~~ subparagraph (10)(n) of this rule. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in ~~paragraph (12) of Rule 0400-12-01-.03~~ subparagraph (10)(a) of this rule;

   (viii) Is managed as part of an episodic event in compliance with the conditions of paragraph (11) of this rule; or

   ~~(viii)~~(ix) Is managed immediately upon generation in a collection system (sewer system) where the wastewaters will mix with sanitary wastes at any point before reaching a publically owned treatment works (POTW).

4. In determining the quantity of hazardous waste generated in a calendar month, a generator need not include:

(i) Hazardous waste when it is removed from on-site ~~storage~~ accumulation, so long as the hazardous waste was previously counted once; ~~or~~

(ii) Hazardous waste ~~produced~~ generated by on-site treatment (including reclamation) of ~~his~~ the generator's hazardous waste, so long as the hazardous waste that is treated was previously counted once; ~~or~~ and

(iii) Hazardous waste spent materials that are generated, reclaimed, and subsequently reused on site, so long as such spent materials have been previously counted once.

5. Based on the generator category as determined under this subparagraph, the generator must meet the applicable independent requirements listed in part (a)1 of this paragraph. A generator's category also determines which of the provisions of subparagraphs (e), (f), (g), or (h) of this paragraph must be met to obtain an exemption from the storage facility permit, interim status, and operating requirements when accumulating hazardous waste.

6. Mixing hazardous wastes with solid wastes

(i) Very small quantity generator wastes.

(I) Hazardous wastes generated by a very small quantity generator may be mixed with solid wastes. Very small quantity generators may mix a portion or all of its hazardous waste with solid waste and remain subject to subparagraph (e) of this paragraph even though the resultant mixture exceeds the quantity limits identified in the definition of very small quantity generator at subparagraph (2)(a) of Rule 0400-12-01-.01, unless the mixture exhibits one or more of the characteristics of hazardous waste identified in paragraph (3) of Rule 0400-12-01-.02.

(II) If the resulting mixture exhibits a characteristic of hazardous waste, this resultant mixture is a newly-generated hazardous waste. The very small quantity generator must count both the resultant mixture amount plus the other hazardous waste generated in the calendar month to determine whether the total quantity exceeds the very small quantity generator calendar month quantity limits identified in the definition of generator categories found in subparagraph (2)(a) of Rule 0400-12-01-.01. If so, to remain exempt from the permitting, interim status, and operating standards, the very small quantity generator must meet the conditions for exemption applicable to either a small quantity generator or a large quantity generator. The very small quantity generator must also comply with the applicable independent requirements for either a small quantity generator or a large quantity generator.

(III) If a very small quantity generator's wastes are mixed with used oil, the mixture is subject to Rule 0400-12-01-.11. Any material produced from such a mixture by processing, blending, or other treatment is also regulated under Rule 0400-12-01-.11.

(ii) Small quantity generator and large quantity generator wastes.

(I) Hazardous wastes generated by a small quantity generator or large quantity generator may be mixed with solid waste. These mixtures are subject to the following: the mixture rule in item (1)(c)1(ii)(IV) of Rule 0400-12-01-.02, subparts (1)(c)2(ii) and (iii) of Rule 0400-12-01-.02, and item (1)(c)7(ii)(I) of Rule 0400-12-01-.02; the prohibition of dilution rule at part (1)(c)1 of Rule 0400-12-01-.10; the land disposal restriction requirements of subparagraph (3)(a) of Rule 0400-12-01-.10 if a characteristic hazardous waste is mixed with a solid waste so that it no

longer exhibits the hazardous characteristic; and the hazardous waste determination requirement at subparagraph (b) of this paragraph.

(II) If the resulting mixture is found to be a hazardous waste, this resultant mixture is a newly-generated hazardous waste. A small quantity generator must count both the resultant mixture amount plus the other hazardous waste generated in the calendar month to determine whether the total quantity exceeds the small quantity generator calendar monthly quantity limits identified in the definition of generator categories found in subparagraph (2)(a) of Rule 0400-12-01-.01. If so, to remain exempt from the permitting, interim status, and operating standards, the small quantity generator must meet the conditions for exemption applicable to a large quantity generator. The small quantity generator must also comply with the applicable independent requirements for a large quantity generator.

(e) Conditions for exemption for a very small quantity generator. [40 CFR 262.14]

1. Provided that the very small quantity generator meets all the conditions for exemption listed in this subparagraph, hazardous waste generated by the very small quantity generator is not subject to the requirements of Rules 0400-12-01-.03 (except for subparagraphs (a) through (e) of this paragraph, part (5)(b)6, subparagraph (5)(d), and paragraph (11), if applicable) through 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10, and the notification requirements of paragraph (2) of this rule, and the very small quantity generator may accumulate hazardous waste on site without complying with such requirements. The conditions for exemption are as follows:

(i) In a calendar month the very small quantity generator generates less than or equal to the amounts specified in the definition of “very small quantity generator” in subparagraph (2)(a) of Rule 0400-12-01-.01;

(ii) The very small quantity generator complies with parts (b)1 through 4 of this paragraph;

(iii) If the very small quantity generator accumulates at any time greater than 1 kilogram (2.2 lbs) of acute hazardous waste or 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in subparagraph (4)(b) or part (4)(d)5 of Rule 0400-12-01-.02, all quantities of that acute hazardous waste are subject to the following additional conditions for exemption:

(I) Such waste is held on site for no more than 90 days beginning on the date when the accumulated wastes exceed the amounts provided in this subpart; and

(II) The conditions for exemption in parts (h)1 through 7 of this paragraph.

(iv) If the very small quantity generator accumulates at any time 1,000 kilograms (2,200 lbs) or greater of non-acute hazardous waste, all quantities of that hazardous waste are subject to the following additional conditions for exemption:

(I) Such waste is held on site for no more than 180 days, or 270 days if applicable, beginning on the date when the accumulated waste exceed the amounts provided in this subpart;

(II) The quantity of waste accumulated on site never exceeds 6,000 kilograms (13,200 lbs); and

(III) The conditions for exemption in subparts (g)2(ii) of this paragraph.

(v) A very small quantity generator that accumulates hazardous waste in amounts less than or equal to the limits in subparts (iii) and (iv) of this part must either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:

(I) Permitted under Rule 0400-12-01-.07 or under 40 CFR part 270;

(II) In interim status under Rules 0400-12-01-.05 and 0400-12-01-.07 or under 40 CFR parts 265 and 270;

(III) Authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR part 271 ~~of this chapter~~;

(IV) Permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to 40 CFR Part 258;

(V) Permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, is subject to the requirements in 40 CFR Parts 257.5 through 257.30 ~~of this chapter~~;

(VI) A facility which:

I. Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

II. Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation;

(VII) For universal waste managed under Rule 0400-12-01-.12, a universal waste handler or destination facility subject to the requirements of Rule 0400-12-01-.12 or 40 CFR part 273;

(VIII) A large quantity generator under the control of the same person as the very small quantity generator provided the following conditions are met:

I. The very small quantity generator and the large quantity generator are under the control of the same person as defined in subparagraph (2)(a) of Rule 0400-12-01-.01. "Control," for the purposes of this item, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person as defined in subparagraph (2)(a) of Rule 0400-12-01-.01 shall not be deemed to "control" such generators; and

II. The very small quantity generator marks its container(s) of hazardous waste with:

A. The words "Hazardous Waste" and

B. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR

part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

(IX) Reserved;

(X) Reserved; or

(XI) For airbag waste, an airbag waste collection facility or a designated facility subject to the requirements of part (1)(d)10 of Rule 0400-12-01-.02.

2. The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

3. A very small quantity generator experiencing an episodic event may generate and accumulate hazardous waste in accordance with paragraph (11) of this rule in lieu of subparagraphs (f), (g), and (h) of this paragraph.

(f) Satellite accumulation area regulations for small and large quantity generators. [40 CFR 262.15]

1. A generator may accumulate as much as 55 gallons of non-acute hazardous waste or either (i) one quart of liquid acute hazardous waste listed in subparagraph (4)(b) or part (4)(d)5 of Rule 0400-12-01-.02 or (ii) 1 kg (2.2 lbs) of solid acute hazardous waste listed in subparagraph (4)(b) or part (4)(d)5 of Rule 0400-12-01-.02 in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with the requirements of Rules 0400-12-01-.05 through 0400-12-01-.07 and 0400-12-01-.09, provided that all of the conditions for exemption in this subparagraph are met. A generator may comply with the conditions for exemption in this subparagraph instead of complying with the conditions for exemption in part (g)2 or (h)1 of this paragraph, except as required in subparts (vii) and (viii) of this part. The conditions for exemption for satellite accumulation are:

(i) If a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must immediately transfer the hazardous waste from this container to a container that is in good condition and does not leak, or immediately transfer and manage the waste in a central accumulation area operated in compliance with part (g)2 or (h)1 of this paragraph.

(ii) The generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(iii) Special standards for incompatible wastes.

(I) Incompatible wastes, or incompatible wastes and materials, (see appendix V in paragraph (53) of Rule 0400-12-01-.05 for examples) must not be placed in the same container, unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

(II) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V in paragraph (53) of Rule 0400-12-01-.05 for examples), unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

(III) A container holding a hazardous waste that is incompatible with any waste or other materials accumulated nearby in other containers must be separated from the other materials or protected from them by any practical means.

(iv) A container holding hazardous waste must be closed at all times during accumulation, except:

(I) When adding, removing, or consolidating waste; or

(II) When temporary venting of a container is necessary

I. For the proper operation of equipment, or

II. To prevent dangerous situations, such as build-up of extreme pressure.

(v) A generator must mark or label its container with the following:

(I) The words “Hazardous Waste” and

(II) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

(vi) A generator who accumulates either acute hazardous waste listed in subparagraph (4)(b) or part (4)(d)5 of Rule 0400-12-01-.02 or non-acute hazardous waste in excess of the amounts listed in this part at or near any point of generation must do the following:

(I) Comply within three consecutive calendar days with the applicable central accumulation area regulations in part (g)2 or (h)1 of this paragraph, or

(II) Remove the excess from the satellite accumulation area within three consecutive calendar days to either:

I. A central accumulation area operated in accordance with the applicable regulations in part (g)2 or (h)1 of this paragraph;

II. An on-site interim status or permitted treatment, storage, or disposal facility, or

III. An off-site designated facility; and

(III) During the three-consecutive-calendar-day period the generator must continue to comply with subparts (i) through (v) of this part. The generator must mark or label the container(s) holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(vii) All satellite accumulation areas operated by a small quantity generator must meet the preparedness and prevention regulations of subpart (g)2(viii) of this paragraph and the emergency procedures of subpart (g)2(ix) of this paragraph.

(viii) All satellite accumulation areas operated by a large quantity generator must meet the Preparedness, Prevention, and Emergency Procedures in paragraph (12) of this rule.

(Note: The term operator, as used in this part, refers to an individual or individuals responsible for the equipment or processes generating the hazardous waste and does not refer to a company or entity as a whole.)

2. [Reserved]

(g) Conditions for exemption for a small quantity generator that accumulates hazardous waste. [40 CFR 262.16]

A small quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Rules 0400-12-01-.05 through 0400-12-01-.07, and 0400-12-01-.09, including the notification requirements, provided that all the conditions for exemption listed in this subparagraph are met:

1. Generation. The generator generates in a calendar month no more than the amounts specified in the definition of "small quantity generator" in subparagraph (2)(a) of Rule 0400-12-01-.01.

2. Accumulation. The generator accumulates hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in parts 3, 4, and 5 of this subparagraph. The following accumulation conditions also apply:

(i) Accumulation limit. The quantity of hazardous waste accumulated on site never exceeds 6,000 kilograms (13,200 pounds);

(ii) Accumulation of hazardous waste in containers

(I) Condition of containers. If a container holding hazardous waste is not in good condition, or if it begins to leak, the small quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this subparagraph.

(II) Compatibility of waste with container. The small quantity generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(III) Management of containers.

I. A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

II. A container holding hazardous waste must not be opened, handled, or accumulated in a manner that may rupture the container or cause it to leak.

(IV) Inspections.

I. At least weekly, the small quantity generator must inspect central accumulation areas. The small quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See item (I) of this subpart for remedial action required if deterioration or leaks are detected.

II. The small quantity generator must record inspections required by subitem I of this item in an inspection log or summary. The small quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(V) Special conditions for accumulation of incompatible wastes.

I. Incompatible wastes, or incompatible wastes and materials, (see appendix V of paragraph (53) of Rule 0400-12-01-.05 for examples) must not be placed in the same container, unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

II. Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of paragraph (53) of Rule 0400-12-01-.05 for examples), unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

III. A container accumulating hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(iii) Accumulation of hazardous waste in tanks.

(I) [Reserved]

(II) A small quantity generator of hazardous waste must comply with the following general operating conditions:

I. Treatment or accumulation of hazardous waste in tanks must comply with part (2)(h)2 of Rule 0400-12-01-.05.

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

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

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

(III) I. Except as noted in item (IV) of this subpart, a small quantity generator that accumulates hazardous waste in tanks must inspect, where present:

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

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

C. The level of waste in the tank at least once each operating day to ensure compliance with subitem (II)III of this subpart;

D. The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

E. The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation). The generator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule that ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

II. The small quantity generator must record inspections required by subitem I of this item in an inspection log or summary. The small quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(IV) I. A small quantity generator accumulating hazardous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly, where applicable, the areas identified in subitems (III)I A through E of this subpart. Use of the alternate inspection schedule must be documented in the generator's operating record. This documentation must include a description of the established workplace practices at the generator.

II. The small quantity generator must record inspections required by subitem I of this item in an inspection log or summary. The small quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(V) [Reserved]

(VI) A small quantity generator accumulating hazardous waste in tanks must, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the small quantity generator can demonstrate, in accordance with part (1)(c)3 or 4 of Rule 0400-12-01-.02, that any solid waste removed from its tank is not a hazardous waste, then it must manage such waste in accordance with all applicable provisions of this rule and Rules 0400-12-01-.04, 0400-12-01-.05, and 0400-12-01-.10.

(VII) A small quantity generator must comply with the following special conditions for accumulation of ignitable or reactive waste:

I. Ignitable or reactive waste must not be placed in a tank, unless:

A. The waste is treated, rendered, or mixed before or immediately after placement in a tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under subparagraph (3)(b) or (d) of Rule 0400-12-01-.02 and part (2)(h)2 of Rule 0400-12-01-.05 is complied with; or

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

C. The tank is used solely for emergencies.

II. A small quantity generator which treats or accumulates ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's “Flammable and Combustible Liquids Code” (1977 or 1981) (incorporated by reference, see subparagraph (2)(b) of Rule 0400-12-01-.01).

III. A small quantity generator must comply with the following special conditions for incompatible wastes:

A. Incompatible wastes, or incompatible wastes and materials, (see appendix V of paragraph (53) of Rule 0400-12-01-.05 for examples) must not be placed in the same tank, unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

B. Hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material, unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

(iv) Accumulation of hazardous waste on drip pads. If the waste is placed on drip pads, the small quantity generator must comply with the following:

(I) Paragraph (23) of Rule 0400-12-01-.05 (except part (23)(f)3 of Rule 0400-12-01-.05);

(II) The small quantity generator must remove all wastes from the drip pad at least once every 90 days. Any hazardous wastes that are removed from the drip pad at least once every 90 days are then subject to the 180-day

accumulation limit in this part and subparagraph (f) of this paragraph if hazardous wastes are being managed in satellite accumulation areas prior to being moved to the central accumulation area; and

(III) The small quantity generator must maintain on site at the facility the following records readily available for inspection:

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

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

III. The records of inspections required by part (23)(e)2 of Rule 0400-12-01-.05, as incorporated by reference by item (I) of this subpart, in an inspection log or summary. The small quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(v) Accumulation of hazardous waste in containment buildings. If the waste is placed in containment buildings, the small quantity generator must comply with paragraph (30) of Rule 0400-12-01-.05. The generator must label its containment buildings with the words “Hazardous Waste” in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on site and also in a conspicuous place provide an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).The generator must also maintain:

(I) The professional engineer certification that the building complies with the design standards specified in subparagraph (30)(b) of Rule 0400-12-01-.05. This certification must be in the generator's files prior to operation of the unit; and

(II) The following records by use of inventory logs, monitoring equipment, or any other effective means:

I. A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that the generator is consistent with maintaining the 90 day limit, and documentation that the procedures are complied with; or

II. Documentation that the unit is emptied at least once every 90 days.

(III) Inventory logs or records with the information required by subitems (II)I and II of this subpart and required by subpart (30)(b)3(iv) of Rule 0400-

12-01-.05, as incorporated by reference by this subpart, must be maintained on site and readily available for inspection.

(vi) Labeling and marking of containers and tanks.

(I) Containers. A small quantity generator must mark or label its containers with the following:

I. The words “Hazardous Waste”;

II. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

III. The date upon which each period of accumulation begins clearly visible for inspection on each container.

(II) Tanks. A small quantity generator accumulating hazardous waste in tanks must do the following:

I. Mark or label its tanks with the words “Hazardous Waste”;

II. Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

III. Use inventory logs, monitoring equipment, or other records to demonstrate that hazardous waste has been emptied within 180 days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 180 days of first entering; and

IV. Keep inventory logs or records with the information required by subitem III of this item on site and readily available for inspection.

(vii) Land disposal restrictions. A small quantity generator must comply with all the applicable requirements under Rule 0400-12-01-.10.

(viii) Preparedness and prevention.

(I) Maintenance and operation of facility. A small quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of

hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

(II) Required equipment. All areas where hazardous waste is either generated or accumulated must be equipped with the things in subitems I through IV of this item (unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). A small quantity generator may determine the most appropriate locations to locate equipment necessary to prepare for and respond to emergencies.

I. An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

II. A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

III. Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

IV. Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

(III) Testing and maintenance of equipment. All communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(IV) Access to communications or alarm system.

I. Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under item (II) of this subpart.

II. In the event there is just one employee on the premises while the facility is operating, the employee must have immediate access (e.g., direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under item (II) of this subpart.

(V) Required aisle space. The small quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to

any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

(VI) Arrangements with local authorities.

I. The small quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee if it is determined to be the appropriate organization with which to make arrangements.

A. A small quantity generator attempting to make arrangements with its local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals.

B. As part of this coordination, the small quantity generator shall attempt to make arrangements, as necessary, to familiarize the organizations identified in this subitem with the layout of the facility, the properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes as well as the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.

C. Where more than one police or fire department might respond to an emergency, the small quantity generator shall attempt to make arrangements designating primary emergency authority to a specific fire or police department and arrangements with any others to provide support to the primary emergency authority.

II. A small quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

III. A facility possessing 24-hour response capabilities may seek a waiver from the authority having jurisdiction (AHJ) over the fire code within the facility's state or locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the waiver is documented in the operating record.

(ix) Emergency procedures. The small quantity generator must comply with the following conditions for those areas of the generator facility where hazardous waste is generated and accumulated:

(I) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the

facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in item (IV) of this subpart. This employee is the emergency coordinator.

(II) The small quantity generator must post the following information next to telephones or in areas directly involved in the generation and accumulation of hazardous waste:

I. The name and emergency telephone number of the emergency coordinator;

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

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

(III) The small quantity generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies;

(IV) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

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

II. In the event of a spill, the small quantity generator is responsible for containing the flow of hazardous waste to the extent possible and, as soon as is practicable, cleaning up the hazardous waste and any contaminated materials or soil. Such containment and cleanup can be conducted either by the small quantity generator or by a contractor on behalf of the small quantity generator;

III. In the event of a fire, explosion, or other release that could threaten human health outside the facility, or when the small quantity generator has knowledge that a spill has reached surface water, the small quantity generator must immediately notify the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include the following information:

A. The name, address, and U.S. EPA identification number of the small quantity generator;

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

C. Quantity and type of hazardous waste involved in the incident;

D. Extent of injuries, if any; and

E. Estimated quantity and disposition of recovered materials, if any.

3. Transporting over 200 miles. A small quantity generator who must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on site for 270 days or

less without a permit or without having interim status provided that the generator complies with the conditions of part 2 of this subparagraph.

4. Accumulation time limit extension. A small quantity generator who accumulates hazardous waste for more than 180 days (or for more than 270 days if it must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more) is subject to the requirements of Rules 0400-12-01-.05 through 0400-12-01-.08 and 0400-12-01-.10 unless it has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by the Commissioner if hazardous wastes must remain on site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Commissioner on a case-by-case basis.

5. Rejected load. A small quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of subparagraph (5)(c) of Rule 0400-12-01-.05 or subparagraph (5)(c) of Rule 0400-12-01-.06 may accumulate the returned waste on site in accordance with parts 1 through 4 of this subparagraph. Upon receipt of the returned shipment, the generator must:

(i) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

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

6. A small quantity generator experiencing an episodic event may accumulate hazardous waste in accordance with paragraph (11) of this rule in lieu of subparagraph (h) of this paragraph.

(h) Conditions for exemption for a large quantity generator that accumulates hazardous waste. [40 CFR 262.17]

A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Rules 0400-12-01-.05 through 0400-12-01-.07, and 0400-12-01-.09, including the notification requirements, provided that all of the following conditions for exemption are met:

1. Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in parts 2 through 5 of this subparagraph. The following accumulation conditions also apply:

(i) Accumulation of hazardous waste in containers. If the hazardous waste is placed in containers, the large quantity generator must comply with the following:

(I) Air emission standards. The applicable requirements of paragraphs (27), (28), and (29) of Rule 0400-12-01-.05;

(II) Condition of containers. If a container holding hazardous waste is not in good condition, or if it begins to leak, the large quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this part;

(III) Compatibility of waste with container. The large quantity generator must use a container made of or lined with materials that will not react with,

and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired;

(IV) Management of containers.

I. A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

II. A container holding hazardous waste must not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

(V) Inspections.

I. At least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See item (II) of this subpart for remedial action required if deterioration or leaks are detected.

II. The large quantity generator must record inspections required by subitem I of this item in an inspection log or summary. The large quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(VI) Special conditions for accumulation of ignitable and reactive wastes.

I. Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's property line unless a written approval is obtained from the authority having jurisdiction over the local fire code allowing hazardous waste accumulation to occur within this restricted area. A record of the written approval must be maintained as long as ignitable or reactive hazardous waste is accumulated in this area.

II. The large quantity generator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to the following: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the large quantity generator must confine smoking and open flame to specially designated locations. “No Smoking” signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(VII) Special conditions for accumulation of incompatible wastes.

I. Incompatible wastes, or incompatible wastes and materials, (see appendix V of paragraph (53) of Rule 0400-12-01-.05 for examples) must not be placed in the same container, unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

II. Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of paragraph (53) of Rule 0400-12-01-.05 for examples), unless part (2)(h)2 of Rule 0400-12-01-.05 is complied with.

III. A container holding a hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(ii) Accumulation of hazardous waste in tanks.

(I) If the waste is placed in tanks, the large quantity generator must comply with the applicable requirements of paragraph (10) of Rule 0400-12-01-.05, except part (10)(h)3 of Rule 0400-12-01-.05 (closure and post-closure care) and subparagraph (10)(k) of Rule 0400-12-01-.05 (waste analysis and trial tests), as well as the applicable requirements of paragraphs (27), (28), and (29) of Rule 0400-12-01-.05.

(II) The large quantity generator must record inspections required by item (I) of this subpart which required compliance with subparagraph (10)(f) of Rule 0400-12-01-.05 in an inspection log or summary. The large quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(iii) Accumulation of hazardous waste on drip pads. If the hazardous waste is placed on drip pads, the large quantity generator must comply with the following:

(I) Paragraph (23) of Rule 0400-12-01-.05;

(II) The large quantity generator must remove all wastes from the drip pad at least once every 90 days. Any hazardous wastes that are removed from the drip pad are then subject to the 90-day accumulation limit in this part and subparagraph (f) of this paragraph, if the hazardous wastes are being managed in satellite accumulation areas prior to being moved to a central accumulation area; and

(III) The large quantity generator must maintain on site at the facility the following records readily available for inspection:

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

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

III. The records of inspections required by part (23)(e)2 of Rule 0400-12-01-.05, as incorporated by reference by item (I) of this subpart, in an inspection log or summary. The large quantity generator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a

notation of the observations made, and the date and nature of any repairs or other remedial actions.

(iv) Accumulation of hazardous waste in containment buildings. If the waste is placed in containment buildings, the large quantity generator must comply with paragraph (30) of Rule 0400-12-01-.05. The generator must label its containment building with the words “Hazardous Waste” in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on site, and also in a conspicuous place provide an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704). The generator must also maintain:

(I) The professional engineer certification that the building complies with the design standards specified in subparagraph (30)(b) of Rule 0400-12-01-.05. This certification must be in the generator's files prior to operation of the unit; and

(II) The following records by use of inventory logs, monitoring equipment, or any other effective means:

I. A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that the generator is consistent with respecting the 90-day limit, and documentation that the procedures are complied with; or

II. Documentation that the unit is emptied at least once every 90 days.

(III) Inventory logs or records with the information required by subitems (II)I and (II)II of this subpart and required by subpart (30)(b)3(iv) of Rule 0400-12-01-.05, as incorporated by reference by this subpart, must be maintained on site and readily available for inspection.

(v) Labeling and marking of containers and tanks

(I) Containers. A large quantity generator must mark or label its containers with the following:

I. The words “Hazardous Waste”;

II. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

III. The date upon which each period of accumulation begins clearly visible for inspection on each container.

(II) Tanks. A large quantity generator accumulating hazardous waste in tanks must do the following:

I. Mark or label its tanks with the words “Hazardous Waste”;

II. Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

III. Use inventory logs, monitoring equipment, or other records to demonstrate that hazardous waste has been emptied within 90 days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 90 days of first entering; and

IV. Keep inventory logs or records with the information required by subitem III of this item on site and readily available for inspection.

(vi) Emergency procedures. The large quantity generator complies with the standards in paragraph (12) of this rule, Preparedness, Prevention and Emergency Procedures for Large Quantity Generators.

(vii) Personnel training.

(I) I. Facility personnel must successfully complete a program of classroom instruction, online training (e.g., computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with this part. The large quantity generator must ensure that this program includes all the elements described in the document required under item (IV) of this subpart.

II. This program must be directed by a person trained in hazardous waste management procedures and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

III. At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:

A. Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

B. Key parameters for automatic waste feed cut-off systems;

C. Communications or alarm systems;

D. Response to fires or explosions;

E. Response to ground-water contamination incidents; and

F. Shutdown of operations.

IV. For facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the large quantity generator is not required to provide separate emergency response training pursuant to this subpart, provided that the overall facility training meets all the conditions of exemption in this subpart.

(II) Facility personnel must successfully complete the program required in item (I) of this subpart within six months after the date of their employment or assignment to the facility, or to a new position at the facility, whichever is later. Employees must not work in unsupervised positions until they have completed the training standards of item (I) of this subpart.

(III) Facility personnel must take part in an annual review of the initial training required in item (I) of this subpart.

(IV) The large quantity generator must maintain the following documents and records at the facility:

I. The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

II. A written job description for each position listed under subitem I of this item. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;

III. A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under subitem I of this item;

IV. Records that document that the training or job experience, required under items (I), (II), and (III) of this subpart, has been given to, and completed by, facility personnel.

(V) Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

(viii) Closure. A large quantity generator accumulating hazardous wastes in containers, tanks, drip pads, and containment buildings, prior to closing a unit at the facility, or prior to closing the facility, must meet the following conditions:

(I) Notification for closure of a waste accumulation unit. A large quantity generator must perform one of the following when closing a waste accumulation unit:

I. Place a notice in the operating record within 30 days after closure identifying the location of the unit within the facility; or

II. Meet the closure performance standards of item (III) of this subpart for container, tank, and containment building waste accumulation units or item (IV) of this subpart for drip pads and notify the Commissioner following the procedures in subitem (II)II of this subpart for the waste accumulation unit.

If the waste accumulation unit is subsequently reopened, the generator may remove the notice from the operating record.

(II) Notification for closure of the facility.

I. Notify the Commissioner using a form provided by the Commissioner no later than 30 days prior to closing the facility. The form must be completed according to the instructions accompanying it.

II. Notify the Commissioner using a form provided by the Commissioner and completed according to the instructions accompanying it within 90 days after closing the facility that it has complied with the closure performance standards of items (III) or (IV) of this subpart. If the facility cannot meet the closure performance standards of items (III) or (IV) of this subpart, notify the Commissioner using a form provided by the Commissioner and completed according to the instructions accompanying it that it will close as a landfill under subparagraph (14)(k) of Rule 0400-12-01-.05 in the case of a container, tank, or containment building unit(s), or for a facility with drip pads, notify using a form provided by the Commissioner and completed according to the instructions accompanying it that it will close under the standards of part (23)(f)2 of Rule 0400-12-01-.05.

III. A large quantity generator may request additional time to clean close, but it must notify Commissioner using a form provided by the Commissioner and completed according to the instructions accompanying it within 75 days after the date provided in subitem I of this item to request an extension and provide an explanation as to why the additional time is required.

(Note: For the purpose of this subpart, to clean close means complying with the closure performance standards of item (III) of this subpart for container, tank, and containment building waste accumulation units or item (IV) of this subpart for drip pads.)

(III) Closure performance standards for container, tank systems, and containment building waste accumulation units.

I. At closure, the generator must close the waste accumulation unit or facility in a manner that:

A. Minimizes the need for further maintenance by controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment,

the post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground, surface waters, or to the atmosphere,

B. Removes or decontaminates all contaminated equipment, structures, and soil and any remaining hazardous waste residues from waste accumulation units including containment system components (pads, liners, etc.), contaminated soils and subsoils, bases, and structures and equipment contaminated with waste, unless part (1)(c)4 of Rule 0400-12-01-.02 applies.

II. Any hazardous waste generated in the process of closing either the generator's facility or unit(s) accumulating hazardous waste must be managed in accordance with all applicable standards of this rule and Rules 0400-12-01-.04, 0400-12-01-.05, and 0400-12-01-.10, including removing any hazardous waste contained in these units within 90 days of generating it and managing these wastes in a RCRA Subtitle C or equivalent hazardous waste permitted treatment, storage, and disposal facility or interim status facility.

III. If the generator demonstrates that any contaminated soils and wastes cannot be practicably removed or decontaminated as required in section B of this subitem, then the waste accumulation unit is considered to be a landfill, and the generator must close the waste accumulation unit and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (subparagraph (14)(k) of Rule 0400-12-01-.05). In addition, for the purposes of closure, post-closure, and financial responsibility, such a waste accumulation unit is then considered to be a landfill, and the generator must meet all of the requirements for landfills specified in paragraphs (7) and (8) of Rule 0400-12-01-.05.

(IV) Closure performance standards for drip pad waste accumulation units. At closure, the generator must comply with the closure requirements of item (II) of this subpart, section (III)I A of this subpart, subitem (III)II of this subpart, and parts (23)(k)1 and 2 of Rule 0400-12-01-.05.

(V) The closure requirements of this subpart do not apply to satellite accumulation areas.

(ix) Land disposal restrictions. The large quantity generator must comply with all applicable requirements under Rule 0400-12-01-.10.

2. Accumulation time limit extension. A large quantity generator who accumulates hazardous waste for more than 90 days is subject to the requirements of Rules 0400-12-01-.05 through 0400-12-01-.10, including the notification requirements, unless it has been granted an extension to the 90-day period. Such extension may be granted by the Commissioner 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 Commissioner on a case-by-case basis.

3. Accumulation of F006. A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006~~,~~ may accumulate F006 waste on site for more than 90 days, but not more than 180 days, without being subject to Rules 0400-12-01-.05

through 0400-12-01-07 and 0400-12-01-.09, including the notification requirements, provided that it complies with all of the following additional conditions for exemption:

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

(ii) The F006 waste is legitimately recycled through metals recovery;

(iii) No more than 20,000 kilograms of F006 waste is accumulated on site at any one time; and

(iv) The F006 waste is managed in accordance with the following:

(I) I. If the F006 waste is placed in containers, the large quantity generator must comply with the applicable conditions for exemption in subpart 1(i) of this subparagraph; and/or

II. If the F006 is placed in tanks, the large quantity generator must comply with the applicable conditions for exemption of subpart 1(ii) of this subparagraph; and/or

III. If the F006 is placed in containment buildings, the large quantity generator must comply with paragraph (30) of Rule 0400-12-01-.05~~,~~ and ~~has~~ must have placed its professional engineer certification that the building complies with the design standards specified in subparagraph (30)(b) of Rule 0400-12-01-.05 in the facility's files prior to operation of the unit. The large quantity generator must maintain the following records:

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

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

(II) The large quantity generator is exempt from all the requirements in paragraphs (7) and (8) of Rule 0400-12-01-.05, except for those referenced in subpart 1(viii) of this subparagraph.

(III) The date upon which each period of accumulation begins is clearly marked and must be clearly visible for inspection on each container;

(IV) While being accumulated on site, each container and tank is labeled or marked clearly with:

I. The words “Hazardous Waste”; and

II. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard

Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

(V) The large quantity generator complies with the requirements in subparts 1(vi) and (vii) of this subparagraph.

4. F006 transported over 200 miles. A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on site for more than 90 days, but not more than 270 days, without being subject to Rules 0400-12-01-.05 through 0400-12-01-.07 and 0400-12-01-.09, including the notification requirements, if the large quantity generator complies with all of the conditions for exemption of subparts 3(i) through (iv) of this subparagraph.

5. F006 accumulation time extension. A large quantity generator accumulating F006 in accordance with parts 3 and 4 of this subparagraph who accumulates F006 waste on site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on site is an operator of a storage facility and is subject to the requirements of Rules 0400-12-01-.05 through 0400-12-01-.08, including the notification requirements, unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by the ~~Director~~ Commissioner if F006 waste must remain on site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the ~~Director~~ Commissioner on a case-by-case basis.

6. Consolidation of hazardous waste received from very small quantity generators. Large quantity generators may accumulate on site hazardous waste received from very small quantity generators under control of the same person (as defined in subparagraph (2)(a) of Rule 0400-12-01-.01) without a storage permit or interim status and without complying with the requirements of Rules 0400-12-01-.05 through 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10, including the notification requirements, provided that they comply with the following conditions. "Control," for the purposes of this part, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person shall not be deemed to "control" such generators.

(i) The large quantity generator notifies the Commissioner at least 30 days prior to receiving the first shipment from a very small quantity generator(s) using a form provided by the Commissioner and completed according to the instructions accompanying it; and

(I) Identifies on the form the name(s) and site address(es) for the very small quantity generator(s) as well as the name and business telephone number for a contact person for the very small quantity generator(s); and

(II) Submits an updated notification form provided by the Commissioner within 30 days after a change in the name or site address for the very small quantity generator.

(ii) The large quantity generator maintains records of shipments for three years from the date the hazardous waste was received from the very small quantity generator. These records must identify the name, site address, and contact information for the very small quantity generator and include a description of the

hazardous waste received, including the quantity and the date the waste was received.

(iii) The large quantity generator complies with the independent requirements identified in subitem (a)2(i)(I)III of this paragraph and the conditions for exemption in this part for all hazardous waste received from a very small quantity generator. For purposes of the labeling and marking regulations in subpart 1(v) of this subparagraph, the large quantity generator must label the container or unit with the date accumulation started (i.e., the date the hazardous waste was received from the very small quantity generator). If the large quantity generator is consolidating incoming hazardous waste from a very small quantity generator with either its own hazardous waste or with hazardous waste from other very small quantity generators, the large quantity generator must label each container or unit with the earliest date any hazardous waste in the container was accumulated on site.

7. Rejected load. A large quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of subparagraph (5)(c) of Rule 0400-12-01-.05 or subparagraph (5)(c) of Rule 0400-12-01-.06 may accumulate the returned waste on site in accordance with ~~subparts (i) and (ii)~~ parts 1 and 2 of this ~~part~~ subparagraph. Upon receipt of the returned shipment, the generator must:

(i) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

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

~~(c)~~(i) ~~Installation Identification Numbers~~ EPA identification numbers for small quantity generators and large quantity generators. [40 CFR ~~262.12~~ 262.18]

1. A generator must not treat, store, dispose of, transport, or offer for transportation~~,~~ hazardous waste without having received an ~~installation~~ EPA identification number from the Commissioner.

2. A generator who has not received an ~~installation~~ EPA identification number may obtain one by ~~notifying~~ applying to the ~~Department~~ Commissioner pursuant to paragraph (2) of this rule. Upon ~~receipt of the notification,~~ receiving the request, the ~~Department~~ Commissioner will assign an ~~installation~~ EPA identification number to the generator.

3. A generator must not offer ~~his~~ its hazardous waste to transporters who do not have a valid hazardous waste permit from the Department to transport hazardous waste in Tennessee (see paragraph (2) of Rule 0400-12-01-.04~~(2)~~), or to treatment, storage, or disposal facilities that have not received an ~~installation~~ EPA identification number.

4. A recognized trader must not arrange for import or export of hazardous waste without having received an EPA identification number from the Administrator or the Commissioner.

(2) Notification

(a) Applicability

1. Each person who ~~generates a hazardous waste as defined in Rule 0400-12-01-.02(1)(c)~~ meets the definition, in subparagraph (2)(a) of Rule 0400-12-01-.01, of large quantity generator or small quantity generator must notify the ~~Department~~ Commissioner, describing ~~his~~ the hazardous wastes and ~~his~~ the generator's activities regarding them~~,~~ according to subparagraphs (b) through (e) of this paragraph, except as parts 2~~, 3, and 4~~

and 3 of this subparagraph, ~~and Rules~~ parts (1)(d)1, 2, 4, 5, 7, and 8 of Rule 0400-12-01-.02, ~~(1)(d)1, 2, 4, 5, and 7, (e) and (g)~~ and subparagraph (1)(g) of Rule 0400-12-01-.02 provide otherwise.

2. A person shall not be required to notify with regard to each individual hazardous waste stream generated which is piped along with other wastes to an on-site wastewater treatment facility or piped to a publicly owned treatment works (POTW) for treatment. However, if the conglomerate waste stream delivered by the collection system to the on-site wastewater treatment facility or to the POTW is a hazardous waste as defined in subparagraph (1)(c) of Rule 0400-12-01-.02, then the generator must notify with regard to that waste stream and file an annual report in accordance with subparagraph (5)(b) of this rule.

~~3. A generator shall not be required to notify with regard to a hazardous waste if he has already notified the Department with regard to that waste under emergency rules promulgated earlier under the Act.~~

~~4.~~ 3. A generator shall not be required to notify with regard to those hazardous wastes generated by analytical laboratory operations which are properly (i.e., in accordance with safe disposal procedures and local sewer use ordinances) discharged to the collection sewer system of a publicly-owned treatment works.

(Comment: This exclusion from notification requirements is not intended to encourage the discharge of hazardous waste to a sewer nor does it exclude the laboratory from having to comply with federal, state, or local pretreatment or sewer use requirements.)

~~5. Small quantity generators who generate more than 100 kilograms (220 pounds) of hazardous wastes in a calendar month must notify according to this paragraph.~~

(b) Existing Generators

Except as subparagraph (a) of this paragraph provides otherwise, a person who is a generator of a waste on the effective date of the regulations established under Rule 0400-12-01-.02 which identify that waste as a hazardous waste subject to the requirements of this paragraph~~,~~ must notify the ~~Department~~ Commissioner within 90 days of that date. Such notification must be submitted on generator notification forms provided by the ~~Department~~ Commissioner. The form must be completed according to the instructions accompanying it.

(c) New Generators

Except as subparagraphs (a) and (e) of this paragraph provide otherwise, a person who becomes a generator of a waste after the effective date of regulations established under Rule 0400-12-01-.02 which identify that waste as a hazardous waste subject to the requirements of this paragraph, must notify the ~~Department~~ Commissioner within 90 days after the date of initial generation. Such notification must be submitted on generator notification forms provided by the ~~Department~~ Commissioner. The form must be completed according to the instructions accompanying it.

(d) Changes in Generator Data

1. ~~The generator~~ Small and large quantity generators shall be responsible for maintaining an up-to-date notification file by:

(i) Re-notifying the ~~Department in writing~~ Commissioner of ~~significant~~ the following changes in the information submitted within 30 days after such changes~~.~~ by revising or submitting the appropriate notification forms, completed according to the instructions for completing the form:

(I) Change in ownership of the person generating the hazardous waste;

(Note: See part (5)(b)2 of this rule for additional requirements for the submission of an annual report due to a change of ownership.)

(II) Change in mailing address, but not the site location;

(Note: A change in site location makes the generator subject to subparagraph (c) of this paragraph.)

(III) Change in the mailing point of contact; and

(IV) Generating a new hazardous waste stream; and

(Note: The Department shall, upon request, grant up to 60 days additional time in cases where retesting of the waste is deemed necessary.) ~~Such changes shall include, but not be limited to, changes in ownership or operation of the generating facility or operation, or other reported administrative data.~~

(ii) Reviewing the most current notification information on file with the Commissioner, as made available by the Commissioner with the annual report, correcting inaccurate data or supplying all the information needed to ensure the Commissioner is maintaining an accurate notification file. The updated or corrected information shall be returned to the Commissioner by March 1st following the receipt of the notification information on file or as instructed otherwise by the Commissioner.

2. A generator planning to cease operating and close the facility, or to cease operating at one site and move to another site, shall notify the Commissioner 30 days prior to ceasing to operate, submit a final annual report in accordance with part (5)(b)2 of this rule, and pay any applicable fees.

3. If ceasing to operate and close the facility, or ceasing to operate at one site to move to another site was not foreseen, the generator shall notify the Commissioner within 30 days of ceasing to operate, submit a final annual report in accordance with part (5)(b)2 of this rule, and pay any applicable fees.

(e) Special Cases

Except as subparagraph (a) of this paragraph provides otherwise:

1. Persons who generate hazardous wastes at more than one location in Tennessee shall file notification for each such generating location.

2. A group of generating installations located at a single site under the ownership or operation of one person may file a single notification.

~~3. Generators who operate on a job shop basis shall file notification on their current operations, indicating on the form that they are a job shop type of operation and generally describing their capabilities and operations and the types of wastes they characteristically produce.~~

(3) ~~The~~ Manifest Requirements Applicable to Small and Large Quantity Generators [40 CFR 262 Subpart B]

(a) General Requirements [40 CFR 262.20]

1. (i) A generator who transports, or offers for transport~~,~~ a hazardous waste for offsite treatment, storage or disposal or a treatment, storage, and disposal facility ~~who~~ that offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control Number 2050-0039) on EPA Form 8700-22, and, if

necessary, EPA Form 8700-22A~~, according to the instructions included in Appendix I in subparagraph (13)(a) of this rule~~.

(ii) The revised Manifest form and procedures in subparagraph (2)(a) of Rule 0400-12-01-.01, subparagraph (1)(g) of Rule 0400-12-01-.02, subparagraphs (3)(a), (3)(b), (3)(h), (4)(c), (4)(e), (6)(e), and (7)(a) ~~and Appendix I of subparagraph (13)(a)~~ of this rule shall become effective September 5, 2006.

(iii) Electronic manifest.

In lieu of using the manifest form specified in subpart (i) of this part, a person required to prepare a manifest under subpart (i) of this part may prepare and use an electronic manifest, provided that the person:

(I) Complies with the requirements in subparagraph (e) of this paragraph for use of electronic manifests, and

(II) Complies with the requirements of 40 CFR 3.10 for the reporting of electronic documents to EPA.

2. A generator must designate on the Manifest one facility which is permitted to handle the waste described on the Manifest.

3. A generator may also designate on the Manifest one alternate facility which is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.

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

5. The requirements of this paragraph do not apply to hazardous waste produced by generators of greater than 100 kg but less than 1000 kg in a calendar month where:

(i) The waste is reclaimed under a contractual agreement pursuant to which:

(I) The type of waste and frequency of shipments are specified in the agreement;

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

(ii) The generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.

6. The requirements of this paragraph and part (4)(c)2 of this rule do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding part (1)(a)1 of Rule 0400-12-01-.04~~(1)(a)1~~, the generator or transporter must comply with the requirements for transporters set forth in subparagraphs (4)(a) and (b) of Rule 0400-12-01-.04~~(4)(a) and (b)~~ in the event of a discharge of hazardous waste on a public or private right-of-way.

(b) Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests [40 CFR 262.21]

1. The Manifest to be used must be issued by EPA or approved by the EPA Director of the Office of ~~Solid Waste~~ Resource Conservation and Recovery as set forth in 40 CFR 262.21.

(Note: 40 CFR 262.21 provides that:

(a) (1) A registrant may not print, or have printed, the manifest for use or distribution unless it has received approval from the EPA Director of the Office of ~~Solid Waste~~ Resource Conservation and Recovery to do so under paragraphs (c) and (e) of this section.

(2) The approved registrant is responsible for ensuring that the organizations identified in its application are in compliance with the procedures of its approved application and the requirements of this section. The registrant is responsible for assigning manifest tracking numbers to its manifests.

(b) A registrant must submit an initial application to the EPA Director of the Office of ~~Solid Waste~~ Resource Conservation and Recovery that contains the following information:

(1) Name and mailing address of registrant;

(2) Name, telephone number and email address of contact person;

(3) Brief description of registrant's government or business activity;

(4) EPA identification number of the registrant, if applicable;

(5) Description of the scope of the operations that the registrant plans to undertake in printing, distributing, and using its manifests, including:

(i) A description of the printing operation. The description should include an explanation of whether the registrant intends to print its manifests in-house (i.e., using its own printing establishments) or through a separate (i.e., unaffiliated) printing company. If the registrant intends to use a separate printing company to print the manifest on its behalf, the application must identify this printing company and discuss how the registrant will oversee the company. If this includes the use of intermediaries (e.g., prime and subcontractor relationships), the role of each must be discussed. The application must provide the name and mailing address of each company. It also must provide the name and telephone number of the contact person at each company.

(ii) A description of how the registrant will ensure that its organization and unaffiliated companies, if any, comply with the requirements of this section. The application must discuss how the registrant will ensure that a unique manifest tracking number will be pre-printed on each manifest. The application must describe the internal control procedures to be followed by the registrant and unaffiliated companies to ensure that numbers are tightly controlled and remain unique. In particular, the application must describe how the registrant will assign manifest tracking numbers to its manifests. If computer systems or other infrastructure will be used to maintain, track, or assign numbers, these should be indicated. The application must also indicate how the printer will pre-print a unique number on each form (e.g., crash or press numbering). The application also must explain the other quality procedures to be followed by each establishment and printing company to ensure that all required print specifications are consistently achieved and that printing

violations are identified and corrected at the earliest practicable time.

(iii) An indication of whether the registrant intends to use the manifests for its own business operations or to distribute the manifests to a separate company or to the general public (e.g., for purchase).

(6) A brief description of the qualifications of the company that will print the manifest. The registrant may use readily available information to do so (e.g., corporate brochures, product samples, customer references, documentation of ISO certification), so long as such information pertains to the establishments or company being proposed to print the manifest.

(7) Proposed unique three-letter manifest tracking number suffix. If the registrant is approved to print the manifest, the registrant must use this suffix to pre-print a unique manifest tracking number on each manifest.

(8) A signed certification by a duly authorized employee of the registrant that the organizations and companies in its application will comply with the procedures of its approved application and the requirements of this Section and that it will notify the EPA Director of the Office of ~~Solid Waste~~ Resource Conservation and Recovery of any duplicated manifest tracking numbers on manifests that have been used or distributed to other parties as soon as this becomes known.

(c) EPA will review the application submitted under paragraph (b) of this section and either approve it or request additional information or modification before approving it.

(d) (1) Upon EPA approval of the application under paragraph (c) of this section, EPA will provide the registrant an electronic file of the manifest, continuation sheet, and manifest instructions and ask the registrant to submit three fully assembled manifests and continuation sheet samples, except as noted in paragraph (d)(3) of this section. The registrant's samples must meet all of the specifications in paragraph (f) of this section and be printed by the company that will print the manifest as identified in the application approved under paragraph (c) of this section.

(2) The registrant must submit a description of the manifest samples as follows:

(i) Paper type (i.e., manufacturer and grade of the manifest paper);

(ii) Paper weight of each copy;

(iii) Ink color of the manifest's instructions. If screening of the ink was used, the registrant must indicate the extent of the screening; and

(iv) Method of binding the copies.

(3) The registrant need not submit samples of the continuation sheet if it will print its continuation sheet using the same paper type, paper weight of each copy, ink color of the instructions, and binding method as its manifest form samples.

(e) EPA will evaluate the forms and either approve the registrant to print them as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant

cannot use or distribute its forms until EPA approves them. An approved registrant must print the manifest and continuation sheet according to its application approved under paragraph (c) of this section and the manifest specifications in paragraph (f) of this section. It also must print the forms according to the paper type, paper weight, ink color of the manifest instructions and binding method of its approved forms.

(f) Paper manifests and continuation sheets must be printed according to the following specifications:

(1) The manifest and continuation sheet must be printed with the exact format and appearance as EPA Forms 8700–22 and 8700–22A, respectively. However, information required to complete the manifest may be pre-printed on the manifest form.

(2) A unique manifest tracking number assigned in accordance with a numbering system approved by EPA must be pre-printed in Item 4 of the manifest. The tracking number must consist of a unique three-letter suffix following nine digits.

(3) The manifest and continuation sheet must be printed on 8 1/2 x 11-inch white paper, excluding common stubs (e.g., top- or side-bound stubs). The paper must be durable enough to withstand normal use.

(4) The manifest and continuation sheet must be printed in black ink that can be legibly photocopied, scanned, and faxed, except that the marginal words indicating copy distribution must be printed with a distinct ink color or with another method (e.g., white text against black background in text box, or, black text against grey background in text box) that clearly distinguishes the copy distribution notations from the other text and data entries on the form.

(5) The manifest and continuation sheet must be printed as ~~six-copy~~ five-copy forms. Copy-to-copy registration must be exact within 1/32nd of an inch. Handwritten and typed impressions on the form must be legible on all ~~six~~ five copies. Copies must be bound together by one or more common stubs that reasonably ensure that they will not become detached inadvertently during normal use.

(6) Each copy of the manifest and continuation sheet must indicate how the copy must be distributed, as follows:

(i) Page 1 (top copy): “Designated facility to ~~destination State (if required)”~~ EPA’s e-Manifest system.

(ii) Page 2: “Designated facility to generator~~ State (if required)~~”.

(iii) Page 3: “Designated facility ~~to generator~~ copy”.

(iv) Page 4: ~~“Designated facility's~~ “Transporter copy”.

(v) Page 5: ~~“Transporter's copy”.~~ (bottom copy): “Generator's initial copy”.

~~(vi) Page 6 (bottom copy): “Generator's initial copy”.~~

(7) The instructions ~~in the appendix to 40 CFR part 262~~ for the manifest form (EPA Form 8700-22) and the manifest continuation sheet (EPA Form 8700-22A) shall be printed in accordance with the content that is currently approved under OMB Control Number 2050-0039 and

published to the e-Manifest program's website. The instructions must appear legibly on the back of the copies of the manifest and continuation sheet as provided in this paragraph (f). The instructions must not be visible through the front of the copies when photocopied or faxed.

(i) Manifest Form 8700–22.

(A) The “Instructions for Generators” on Copy ~~6~~ 5;

(B) The “Instructions for International Shipment Block” and “Instructions for Transporters” on Copy ~~5~~ 4; and

(C) The “Instructions for Treatment, Storage, and Disposal Facilities” on Copy ~~4~~ 3.

(ii) Manifest Form 8700–22A.

(A) The “Instructions for Generators” on Copy ~~6~~ 5;

(B) The “Instructions for Transporters” on Copy ~~5~~ 4; and

(C) The “Instructions for Treatment, Storage, and Disposal Facilities” on Copy ~~4~~ 3.

(8) The designated facility copy of each manifest and continuation sheet must include in the bottom margin the following warning in prominent font: “If you received this manifest, you have responsibilities under the e-Manifest Act. See instructions on reverse side.”

(g) (1) A generator may use manifests printed by any source so long as the source of the printed form has received approval from EPA to print the manifest under paragraphs (c) and (e) of this section. A registered source may be a:

(i) State agency;

(ii) Commercial printer;

(iii) Hazardous waste generator, transporter or TSDF; or

(iv) Hazardous waste broker or other preparer who prepares or arranges shipments of hazardous waste for transportation.

(2) A generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under these states' authorized programs. Generators also must determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.

(h) (1) If an approved registrant would like to update any of the information provided in its application approved under paragraph (c) of this section (e.g., to update a company phone number or name of contact person), the registrant must revise the application and submit it to the EPA Director of the Office of ~~Solid Waste~~ Resource Conservation and Recovery, along with an indication or explanation of the update, as soon as practicable after the change occurs. The Agency either will approve or

deny the revision. If the Agency denies the revision, it will explain the reasons for the denial, and it will contact the registrant and request further modification before approval.

(2) If the registrant would like a new tracking number suffix, the registrant must submit a proposed suffix to the EPA Director of the Office of ~~Solid Waste~~ Resource Conservation and Recovery, along with the reason for requesting it. The Agency will either approve the suffix or deny the suffix and provide an explanation why it is not acceptable.

(3) If a registrant would like to change the paper type, paper weight, ink color of the manifest instructions, or binding method of its manifest or continuation sheet subsequent to approval under paragraph (e) of this section, then the registrant must submit three samples of the revised form for EPA review and approval. If the approved registrant would like to use a new printer, the registrant must submit three manifest samples printed by the new printer, along with a brief description of the printer's qualifications to print the manifest. EPA will evaluate the manifests and either approve the registrant to print the forms as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its revised forms until EPA approves them.

(i) If, subsequent to its approval under paragraph (e) of this section, a registrant typesets its manifest or continuation sheet instead of using the electronic file of the forms provided by EPA, it must submit three samples of the manifest or continuation sheet to the registry for approval. EPA will evaluate the manifests or continuation sheets and either approve the registrant to print them as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its typeset forms until EPA approves them.

(j) EPA may exempt a registrant from the requirement to submit form samples under paragraph (d) or (h)(3) of this section if the Agency is persuaded that a separate review of the registrant's forms would serve little purpose in informing an approval decision (e.g., a registrant certifies that it will print the manifest using the same paper type, paper weight, ink color of the instructions and binding method of the form samples approved for some other registrant). A registrant may request an exemption from EPA by indicating why an exemption is warranted.

(k) An approved registrant must notify EPA by phone or email as soon as it becomes aware that it has duplicated tracking numbers on any manifests that have been used or distributed to other parties.

(l) If, subsequent to approval of a registrant under paragraph (e) of this section, EPA becomes aware that the approved paper type, paper weight, ink color of the instructions, or binding method of the registrant's form is unsatisfactory, EPA will contact the registrant and require modifications to the form.

(m) (1) EPA may suspend and, if necessary, revoke printing privileges if we find that the registrant:

(i) Has used or distributed forms that deviate from its approved form samples in regard to paper weight, paper type, ink color of the instructions, or binding method; or

(ii) Exhibits a continuing pattern of behavior in using or distributing manifests that contain duplicate Manifest Tracking Numbers.

(2) EPA will send a warning letter to the registrant that specifies the date by which it must come into compliance with the requirements. If the registrant does not come in compliance by the specified date, EPA will send a second letter notifying the registrant that EPA has suspended or revoked its printing privileges. An approved registrant must provide information on its printing activities to EPA if requested.)

(c) Number of Copies [40 CFR 262.22]

The manifest consists of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and another copy to be returned to the generator.

(d) Use of the Manifest [40 CFR 262.23]

1. The generator shall:

~~(i) Ensure, before signing the manifest that, in accordance with subparagraph (13)(a) of this rule, under the title Appendix I "Generators", the Transporter Company name (item 6) and the U.S. EPA Identification Number are the same as the transporter company name and the U.S. EPA Identification Number on the Tennessee Hazardous Waste Transporter Permit (copies are permitted) accompanying the motor vehicle transporter; and~~

~~(ii)~~(i) Sign the manifest certification by hand; ~~and~~

~~(iii)~~(ii) Obtain the handwritten signature of the initial transporter (Transporter 1) and date of acceptance on the manifest; and

~~(iv)~~(iii) Retain one copy, in accordance with part (5)(a)1 of this rule.

2. The generator must give the transporter the remaining copies of the manifest.

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

4. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this subparagraph to:

(i) The next non-rail transporter, if any; or

(ii) The designated facility if transported solely by rail; or

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

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

6. 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 part (5)(c)6 of Rule 0400-12-01-.05~~(5)(c)6~~ or part (5)(c)6 of Rule 0400-12-01-.06~~(5)(c)6~~), the generator must:

(i) Sign either:

(I) Item 20 of the new manifest if a new manifest is used for the returned shipment; or

(II) Item 18c of the original manifest if the original manifest is used for the returned shipment;

(ii) Provide the transporter a copy of the manifest;

(iii) Within ~~thirty (~~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

(iv) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.

(Note: See parts (3)(a)5 and 6 of Rule 0400-12-01-.04~~(3)(a)5 and 6~~ for special provisions for rail or water (bulk shipment) transporters.)

(e) Use of the electronic manifest [40 CFR 262.24]

1. Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with subpart (a)1(iii) of this paragraph, and used in accordance with this subparagraph in lieu of EPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

(i) Any requirement in these regulations to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of ~~40 CFR 262.25(a)~~ subparagraph (f) of this paragraph.

(ii) Any requirement in these regulations to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the system.

(iii) Any requirement in these regulations for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector ~~or the Commissioner~~.

(iv) No generator may be held liable for the inability to produce an electronic manifest for inspection under this subparagraph if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.

2. A generator may participate in the electronic manifest system either by accessing the electronic manifest system from its own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for off-site transportation.

3. Restriction on use of electronic manifests. A generator may ~~prepare~~ use an electronic manifest for the tracking of hazardous waste shipments involving any RCRA hazardous waste only if it is known at the time the manifest is originated that all waste handlers

named on the manifest participate in the use of the electronic manifest, ~~system~~ except that:

(i) A generator must sign by hand and retain a paper copy of the manifest signed by hand by the initial transporter, in lieu of executing the generator copy electronically, thereby enabling the transporter and subsequent ~~was~~ waste handlers to execute the remainder of the manifest copies electronically.

(ii) Reserved.

4. Requirement for one printed copy. To the extent the Hazardous Materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR 177.817, a generator originating an electronic manifest must also provide the initial transporter with one printed copy of the electronic manifest.

5. Special procedures when electronic manifest is unavailable. If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator must obtain and complete a paper manifest and if necessary, a continuation sheet (EPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions ~~in paragraph (13) of this rule~~, and use these paper forms from this point forward in accordance with the requirements of subparagraph (d) of this paragraph.

6. Special procedures for electronic signature methods undergoing tests. If a generator has prepared an electronic manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the generator shall also sign with an ink signature the generator/offeror certification on the printed copy of the manifest provided under part 4 of this subparagraph.

7. Reserved. ~~Imposition of user fee. A generator who is a user of the electronic manifest may be assessed a user fee by EPA for the origination of each electronic manifest.~~

~~(Note: In accordance with 40 CFR 262.24, EPA shall maintain and update from time to time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to 40 CFR Part 262.)~~

8. Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. Generators may participate electronically in the post-receipt data corrections process by following the process described in part (5)(b)12 of Rule 0400-12-01-.06, which applies to corrections made to either paper or electronic manifest records.

(f) Electronic manifest signatures [40 CFR ~~262.24~~ 262.25]

Electronic signature methods for the e-Manifest system shall:

1. Be a legally valid and enforceable signature under applicable EPA and other Federal requirements pertaining to electronic signatures; and

2. Be a method that is designed and implemented in a manner that EPA considers to be as cost-effective and practical as possible for the users of the manifest.

(g) ~~(RESERVED)~~ [Reserved] [40 CFR 262.26]

(h) Waste Minimization Certification [40 CFR 262.27]

A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the Uniform Hazardous Waste Manifest:

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

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

(4) Pre-transport Requirements Applicable to Small and Large Quantity Generators [40 CFR 262 Subpart C]

(a) Packaging [40 CFR 262.30]

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable DOT regulations on packaging under 49 CFR Parts 173, 178, and 179.

(b) Labeling [40 CFR 262.31]

Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable DOT regulations on hazardous materials under 49 CFR Part 172.

(c) Marking [40 CFR 262.32]

1. Before transporting or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable DOT regulations on hazardous materials under 49 CFR Part 172.

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

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

(ii) Generator's Name and Address _____

(iii) Generator's EPA Identification Number _____

(iv) Manifest Tracking Number _____

(v) EPA Hazardous Waste Number(s) _____

~~The generator shall add as indicated his name and address and the number assigned to the manifest accompanying this container. The marking required in this subparagraph must be (1) durable, in English, and printed on or affixed to the surface of a package or on a label, tag, or sign; (2) displayed on a background of sharply contrasting color; (3) unobscured by labels or attachments; and (4) located away from any other marking (such as advertising) that could substantially reduce its effectiveness.~~

3. A generator may use a nationally recognized electronic system, such as bar coding, to identify the EPA Hazardous Waste Number(s), except as required by subpart 2(v) of this subparagraph or part 4 of this subparagraph.

4. Lab packs that will be incinerated in compliance with part (3)(c)3 of Rule 0400-12-01-.10 are not required to be marked with EPA Hazardous Waste Number(s), except D004, D005, D006, D007, D008, D010, and D011, where applicable.

(d) Placarding [40 CFR 262.33]

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR 172 Subpart F.

(e) [Reserved] ~~Accumulation Time [40 CFR 262.34]~~

~~1. For purposes of this subparagraph, except as used in part 5, the term "accumulate" shall refer to both the storage and treatment of hazardous wastes generated on-site. For purposes of part 5 of this subparagraph, the term "accumulate" shall refer only to collecting or gathering together.~~

~~2. Except as provided in parts 6, 7 and 8 of this subparagraph, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:~~

~~(i) The waste is placed:~~

~~(I) In containers and the generator complies with the applicable requirements of Rules 0400-12-01-.05(9), (27), (28), and (29), and/or~~

~~(II) In tanks and the generator complies with the applicable requirements of Rules 0400-12-01-.05(10), (27), (28), and (29), except part (10)(h)3 and subparagraph (10)(k) of Rule 0400-12-01-.05; and/or~~

~~(III) On drip pads and the generator complies with Rule 0400-12-01-.05(23) and maintains the following records at the facility:~~

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

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

~~(IV) In containment buildings and the generator complies with Rule 0400-12-01-.05(30), has placed its professional engineer certification that the building complies with the design standards specified in Rule 0400-12-01-.05(30)(b) in the facility's operating record no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:~~

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

II. Documentation that the unit is emptied at least once every 90 days.

In addition, such a generator is exempt from all the requirements in paragraphs (7) and (8) of Rule 0400-12-01-.05, except for subparagraphs (b) and (e) of paragraph (7).

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

(iii) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste";

(iv) The generator complies with the requirements for owners or operators in parts (2)(f)1, 3, and 4, subparagraph (2)(g) and paragraphs (3) and (4) of Rule 0400-12-01-.05 and with all applicable requirements under Rule 0400-12-01-.10; and

(v) Where tanks are used, the generator maintains adequate records to verify that accumulation time is less than 90 days.

3. A generator of 1000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kilogram of acute hazardous waste listed in subparagraph (4)(b) or part (4)(d)5 of Rule 0400-12-01-.02 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 Rule 0400-12-01-.05 and 0400-12-01-.06 and the permit requirements of Rule 0400-12-01-.07 unless he has been granted an extension to the 90-day period. Such extension may be granted by the Department if hazardous wastes must remain on-site for more 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 Commissioner on a case-by-case basis.

4. A generator who removes hazardous waste from a product or new material storage tank, a product or raw material transport vehicle or vessel, a manufacturing process unit or an associated non-waste-treatment manufacturing unit directly into or onto a transport vehicle for immediate transportation to a treatment, storage, or disposal facility shall (for such process) not be considered to be "accumulating" such waste for purposes of this subparagraph.

5. (i) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acute hazardous waste listed in Rule 0400-12-01-.02(4)(b) or (4)(d)5, in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with part 2 of this subparagraph provided he:

(I) Complies with Rule 0400-12-01-.05(9)(b), (c), and (d)1; and

(II) Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

(ii) A generator who accumulates either hazardous waste or acute hazardous waste listed in Rule 0400-12-01-.02(4)(b) or (4)(d)5 in excess of the amount established in subpart (i) of this part at or near any point of generation must, with respect to that amount of excess waste, comply within three days with part 2 of this subparagraph or other applicable provisions of this Chapter. During the three day period the generator must continue to comply with items (i)(I) and (II) of this part. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

6. A small quantity generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that:

(i) The quantity of hazardous waste accumulated on-site never exceeds 6000 kilograms;

(ii) The generator complies with the requirements of Rule 0400-12-01-.05(9), except for Rules 0400-12-01-.05(9)(g) and .05(9)(i);

(iii) The generator complies with the requirements of Rule 0400-12-01-.05(10)(I);

(iv) (I) Where containers are used, the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container; or

(II) Where tanks are used, the generator maintains adequate records to verify that accumulation time is less than the allowed period;

(v) While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste";

(vi) The generator complies with the requirements for owners or operators in parts (2)(f)1, 3, and 4, and paragraph (3) of Rule 0400-12-01-.05, and with all applicable requirements under Rule 0400-12-01-.10; and

(vii) The generator complies with the following requirements:

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

(II) The generator must post the following information next to the telephone:

I. The name and telephone number of the emergency coordinator;

II. The location of fire extinguishers and spill control material, and, if present, the fire alarm; and

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

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

(IV) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

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

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

III. In the event of a fire, explosion, or other release which could threaten human health outside the facility, or when the generator

has knowledge that a spill has reached surface water, the generator must immediately notify the Tennessee Emergency Management Agency (using their 24-hour toll-free number 800/262-3300) and/or the National Response Center (using their 24-hour toll-free number 800/424-8802). The report must include the following information:

A. Name, address, and installation identification number of the generator;

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

C. Quantity and type of hazardous waste involved in the incident;

D. Extent of injuries, if any; and

E. Estimated quantity and disposition of recovered materials, if any.

7. A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status provided that he complies with the requirements of part 6 of this subparagraph.

8. A small quantity generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6000 kg or accumulates hazardous waste for more than 180 days (or for more than 270 days if he must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of Rule 0400-12-01-.05, 0400-12-01-.06, and 0400-12-01-.07 unless he has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by the Department if hazardous waste must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Commissioner on a case-by-case basis.

9. A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month, who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the Hazardous Waste Code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days, without a permit or without having interim status provided that:

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

(ii) The F006 waste is legitimately recycled through metals recovery;

(iii) No more than 20,000 kilograms of F006 waste is accumulated on-site at any one time; and

(iv) The F006 waste is managed in accordance with the following:

(I) The F006 waste is placed:

I. In containers and the generator complies with the applicable Requirements of paragraphs (9), (27), (28), and (29) of Rule 0400-12-01-.05; and/or

II. In tanks and the generator complies with the applicable requirements of paragraphs (10), (27), (28), and (29) of Rule 0400-12-01-.05, except part (10)(h)3 and subparagraph (10)(k) of Rule 0400-12-01-.05; and/or

III. In containment buildings and the generator complies with paragraph (30) of Rule 0400-12-01-.05, and has placed its professional engineer certification that the building complies with the design standards specified in subparagraph (30)(b) of Rule 0400-12-01-.05 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

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

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

(II) In addition, such a generator is exempt from all the requirements in paragraphs (7) and (8) of Rule 0400-12-01-.05, except for subparagraphs (7)(b) and (7)(c) of Rule 0400-12-01-.05.

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

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

(V) The generator complies with the requirements for owners or operators in paragraphs (3) and (4) of Rule 0400-12-01-.05, with subparagraph (2)(g) of Rule 0400-12-01-.05, and with subpart (1)(g)1(v) of Rule 0400-12-01-.10.

10. A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the Hazardous Waste Code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on-site for more than 90 days, but not more than 270 days, without a permit or without having interim status if the generator complies with the requirements of subparts (i) through (iv) of part 9 of this subparagraph.

11. A generator accumulating F006 in accordance with parts 9 and 10 of this subparagraph who accumulates F006 waste on-site for more than 180 days (or more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on-site is an operator of a storage facility and is subject to the requirements of Rules 0400-12-01-.05 and 0400-12-01-.06 and the permit requirements of Rule 0400-12-01-.07 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extension and exceptions may be granted by the Division if F006 waste must remain on-

~~site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the Director of the Division of Solid Waste Management on a case-by-case basis.~~

~~12. Notwithstanding the provisions of parts 1, 4, 5, and 6 of this subparagraph, if a generator accumulates wastes in a unit that is otherwise fully subject to applicable requirements of Rules 0400-12-01-.05 and/or 0400-12-01-.06, then he must manage such accumulated wastes fully in accordance with those applicable requirements of Rules 0400-12-01-.05 and/or 0400-12-01-.06.~~

~~13. Reserved~~

~~14. Reserved~~

~~15. Reserved~~

~~16. A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of Rule 0400-12-01-.06(5)(c) or Rule 0400-12-01-.05(5)(c) may accumulate the returned waste on-site in accordance with parts 2 and 3 or 6, 7, and 8 of this subparagraph, depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must:~~

~~(i) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or~~

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

(f) Liquids in landfills prohibition [40 CFR 262.35]

The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited. Prior to disposal in a hazardous waste landfill, liquids must meet additional requirements as specified in subparagraphs (14)(o) of Rule 0400-12-01-.05 and (14)(o) of Rule 0400-12-01-.06.

(5) Recordkeeping and Reporting [40 CFR 262, Subpart D]

(a) Recordkeeping applicable to small and large quantity generators [40 CFR 262.40]

1. A generator must keep a copy of each manifest signed in accordance with part (3)(d)1 of this rule for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

2. A generator must keep a copy of each Annual Report and Exception Report for a period of at least three years from the due date of the report (March 1).

3. ~~A generator must keep records as necessary to demonstrate compliance with subparagraph (1)(b) of this rule - to include any test results, waste analyses, or other determinations made in accordance with that subparagraph - for at least three years from the date that the waste was last sent to on-site or off-site hazardous or nonhazardous waste treatment, storage, or disposal facilities. Such records must document the basis for the hazardous waste determination, including those determinations based on the generator's knowledge of materials and processes utilized rather than on laboratory analyses. Pursuant to Rule 0400-12-01-.03(2)(a)2, this requirement does not apply to individual wastewater streams in cases where the hazardous waste determination is~~

~~made on the conglomerate waste stream.~~ See part (1)(b)6 of this rule for recordkeeping requirements for documenting hazardous waste determinations.

4. The periods of retention referred to in this subparagraph are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Commissioner or Board.

(b) Annual Reporting [40 CFR 262.41]

1. A generator who is a large or small quantity generator for at least one month of the calendar year who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must complete and submit an ~~Annual Report~~ annual report to the ~~Department~~ Commissioner by March 1 for the preceding calendar year. Such report must be submitted on forms provided by the ~~Department~~ Commissioner, and the form must be completed according to the instructions accompanying it. The report must include, but shall not necessarily be limited to, the following information:

(i) The year covered by the report.

(ii) The name, address, telephone number, and ~~Department-assigned installation~~ EPA identification number of the generator.

(iii) For each hazardous waste stream (i.e., each separate waste but not necessarily each batch or shipment of such waste) generated by the generator during the reporting year, except for those wastes identified in part 4 of this subparagraph, the following information:

(I) A descriptive name of the waste and the appropriate waste code(s) from Rule 0400-12-01-.02;

(II) The methods by which the waste was managed on-site by the generator during the reporting year and the total quantities managed by each method; and

(III) For those wastes managed off-site during the reporting year:

I. The ~~Installation Identification Number~~ EPA identification number of each treatment, storage, or disposal facility, or the name and address of other places, to which the waste was sent;

II. The total quantity of the waste sent to each place and the method(s) by which it was to be managed; and

III. The ~~Installation Identification Number(s)~~ EPA identification number(s) of those transporters whose services were used during the reporting year.

(iv) A summary of the efforts undertaken during the year to reduce volume and toxicity as required on the Tennessee annual report forms.

(v) A summary of the changes in volume and toxicity of waste actually achieved during the year as required on the Tennessee annual report forms.

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

2. A generator must also submit the annual report established in part 1 of this subparagraph prior to those events, such as change of ownership or cessation of business, which would make him no longer subject to the annual reporting requirement. In such case, the report would cover the period of time that has elapsed since December 31 of the preceding calendar year.

3. Any generator who is a large or small quantity generator for at least one month of the calendar year who treats, stores, or disposes of hazardous waste on-site must complete and submit an ~~Annual Report~~ annual report to the Commissioner by March 1 of each year covering those wastes in accordance with the provisions of Rules 0400-12-01-.05, 0400-12-01-.06, 0400-12-01-.07 and 0400-12-01-.09. Such report must be submitted on forms provided by the Commissioner, and the forms must be completed according to the instructions accompanying it. ~~Reporting for exports of hazardous waste is not required on the Annual Report form.~~ This requirement also applies to large quantity generators that receive hazardous waste from very small quantity generators.

4. Exports of hazardous waste to foreign countries are not required to be reported on the annual report form. A separate annual report requirement is set forth at ~~subparagraph (6)(g)~~ part (9)(d)7 of this rule.

~~4.~~5. A generator shall not be required to annually report on those hazardous wastes generated by analytical laboratory operations which are properly (i.e., in accordance with safe disposal practices and local sewer use ordinances) discharged to the collection sewer system of a publicly-owned treatment works.

(Comment: This exclusion from annual reporting requirements is not intended to encourage the discharge of hazardous waste to a sewer nor does it exclude the laboratory from having to comply with federal, state, or local pretreatment or sewer use requirements.)

6. A very small quantity generator of an episodic event(s) in compliance with paragraph (11) of this rule shall submit an annual report to the Commissioner by March 1 for the episodic event(s) occurring the preceding calendar year. Such report must be submitted on forms provided by the Commissioner, and the form must be completed according to the instructions accompanying it. The report must include, but shall not necessarily be limited to, the following information:

(i) The year covered by the report.

(ii) The name, address, telephone number, and EPA identification number of the very small quantity generator.

(iii) For each hazardous waste stream (i.e., each separate waste but not necessarily each batch or shipment of such waste) generated by the generator during the reporting year, except for those wastes identified in part 4 of this subparagraph, the following information:

(I) A descriptive name of the waste and the appropriate waste code(s) from Rule 0400-12-01-.02;

(II) The methods by which the waste was managed on-site by the generator during the reporting year and the total quantities managed by each method; and

(III) For those wastes managed off-site during the reporting year:

I. The EPA identification number of each treatment, storage, or disposal facility, or the name and address of other places, to which the waste was sent;

II. The total quantity of the waste sent to each place and the method(s) by which it was to be managed; and

III. The EPA identification number(s) of those transporters whose services were used during the reporting year.

(iv) The certification signed by the very small generator or authorized representative.

(c) Exception Reporting [40 CFR 262.42]

1. (i) A large quantity generator of ~~1000 kilograms or greater of~~ hazardous waste ~~in a calendar month, or greater than 1 kg of acute hazardous waste listed in Rule 0400-12-01-.02(4)(b) or Rule 0400-12-01-.02(4)(d)5 in a calendar month,~~ who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

(ii) A large quantity generator of ~~1000 kilograms or greater of~~ hazardous waste ~~in a calendar month, or greater than 1 kg of acute hazardous waste listed in Rule 0400-12-01-.02(4)(b) or Rule 0400-12-01-.02(4)(d)5 of this rule in a calendar month,~~ must submit an Exception Report to the Commissioner if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designed facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

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

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

(iii) The Exception Report required by subpart (ii) of this part must be submitted to the Commissioner within ~~5~~ five days after the 45-day period expires.

2. A small quantity generator of ~~greater than 100 kilograms but less than 1000 kilograms of~~ hazardous waste ~~in a calendar month~~ who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the Commissioner.

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

3. 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 procedure of subparts (5)(c)5(i) through (vi) of Rule 0400-12-01-.05~~(5)(c)5(i) through (vi)~~ or subparts (5)(c)5(i) through (vi) of Rule 0400-12-01-.06~~(5)(c)5(i) through (vi)~~, the generator must comply with the requirements of part 1 or 2 of this subparagraph, 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 part 1 or 2 of this subparagraph for a shipment forwarding such waste to an alternate facility by a designated facility:

(i) The copy of the manifest received by the generator must have the handwritten 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

(ii) The 35/45/60-day time frames begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

~~(e)~~(d) Additional Reporting [40 CFR 262.43]

The Commissioner, as ~~he deems~~ deemed necessary under T.C.A. § 68-212-105(4), T.C.A § 68-212-106, and T.C.A. § 68-212-107 of the Hazardous Waste Management Act, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in Rule 0400-12-01-.02.

~~(d)~~(e) ~~Special Requirements for Generators of Between 100 and 1000 kg/month~~ Recordkeeping for small quantity generators [40 CFR 262.44]

A small quantity generator ~~of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month~~ is exempt from the requirement under part (a)2 of this paragraph to maintain copies of Exception Reports and the requirements of part (c)1 of this paragraph.

(6) Hazardous Waste Reduction Plan

(a) Applicability

1. Except for very small quantity generators ~~who are conditionally exempt small quantity generators, as determined by subparagraph (1)(e) of Rule 0400-12-01-.02, and~~ who ~~maintain the exemption~~ remain very small quantity generators for all ~~twelve~~ 12 months of the calendar year, all generators shall complete a hazardous waste reduction plan in accordance with the requirements of subparagraph (b) of this paragraph. After completion of a plan, the generator shall maintain a current copy of the plan at the generating facility. The plan and the annual progress reports under subparagraph (c) of this paragraph shall be made available, upon request, to a representative of the department at any reasonable time. The department may make use of the information as it deems necessary to carry out its duties under this rule ~~of the information as it deems necessary to carry out its duties under this rule~~.

2. For the purposes of this paragraph, a generator shall permit the commissioner to inspect the hazardous waste reduction plan. The generator shall permit any officer, employee or representative of the department at all reasonable times to have access to the plan. The generator shall furnish a copy of the plan upon request to the commissioner.

3. Large and small quantity generators shall have three years from the date they first became a large or small quantity generator, to complete their waste reduction plan. Only large and small quantity hazardous waste generators are required to have a hazardous waste reduction plan.

4. Hazardous waste streams resulting from one-time generation events, such as accidental spills, equipment modification, plant closure, etc., are not subject to the requirements of this paragraph.

(b) Contents of Plan

1. A hazardous waste reduction plan shall include, at a minimum, the following:

(i) A dated and signed written policy articulating management support for the generator's hazardous waste reduction plan;

(ii) The scope and objectives of the plan, including the evaluation of technologies, procedures and personnel training programs to ensure that unnecessary waste is not generated and to encourage hazardous waste reduction. Specific goals shall be set for hazardous waste reduction, as described in subparagraphs (b) through (d) of the paragraph;

(iii) A description of technically and economically practical hazardous waste reduction options to be implemented and planned schedule for implementation.

These options shall be based on an internal analysis of hazardous waste streams conducted to review individual processes or facilities and other activities where waste may be generated and identify opportunities to reduce or eliminate waste generation. Such analyses shall evaluate data on the types, amount and hazardous constituents of waste generated, where and why that waste was generated within the production process or other operations, and potential hazardous waste reduction and recycling techniques applicable to those wastes;

(iv) A description of the hazardous waste accounting systems that identify waste management costs and factor in liability, compliance and oversight costs to the extent feasible;

(v) A description of the employee awareness and training programs designed to involve employees to the maximum extent feasible in hazardous waste reduction planning and implementation; and

(vi) A description of how the plan has been or will be incorporated into management practices and procedures so as to ensure an ongoing effort.

2. As part of each plan developed under this subparagraph, a generator shall establish specific performance goals for the source reduction of each hazardous waste stream.

3. The specific performance goals established under this subparagraph shall be quantitative goals, expressed in numeric terms. Whenever possible, the units of measurement should be in pounds (or tons) of waste generated per standard unit of production, as defined by the generator. If the establishment of numeric performance goals is not practical, the performance goals shall include a clearly stated list of actions designed to lead to the establishment of numeric goals as soon as practical.

4. As part of each plan developed under this subparagraph, each generator shall explain the rationale for each performance goal. Acts of God or other unforeseeable events beyond the control of the generator do not have to be considered in setting goals. The rationale for a particular performance goal shall address any impediments to hazardous waste reduction, including, but not limited to, the following:

(i) The availability of technically practical hazardous waste reduction methods, including any anticipated changes in the future;

(ii) Previously implemented reductions of hazardous waste;

(iii) The economic practicability of available hazardous waste reduction methods, including any anticipated changes in the future. Examples of situations where hazardous waste reduction may not be economically practical include, but are not limited to:

(I) For valid reasons of prioritization, a particular company has chosen first to address other more serious hazardous waste reduction concerns;

(II) Necessary steps to reduce hazardous waste are likely to have significant adverse impacts on product quality; or

(III) Legal or contractual obligations interfere with the necessary steps that would lead to hazardous waste reduction.

5. A generator required to complete a hazardous waste reduction plan under subparagraph (a) of this paragraph may include as a preface to its initial plan:

(i) An explanation and documentation regarding hazardous waste reduction efforts completed or in progress before the first reporting date; and

(ii) An explanation and documentation regarding impediments to hazardous waste reduction specific to the individual facility.

(c) Annual Progress Report

1. All generators shall annually review their waste reduction plan and complete a hazardous waste reduction progress report which shall:

(i) Analyze and quantify progress made, if any, in hazardous waste reduction, relative to each performance goal established under subparagraph (b) of this paragraph.

(ii) Set forth amendments, if needed, to the hazardous waste reduction plan and explain the need for the amendments.

2. Except for the information reported to the department under paragraph (5)(b) of this rule, Annual Reporting, the annual progress report shall be retained at the facility and shall not be considered a public record. However, the generator shall permit any officer, employee or representative of the department at all reasonable times to have access to the annual progress report.

(d) Review of Plan

1. The Commissioner may review a plan or an annual progress report to determine whether the plan or progress report reasonably contains the elements specified under subparagraph (b) of this paragraph. If a generator fails to complete a plan containing these elements or an annual progress report reasonably containing the elements required, the department shall notify the generator of the specific deficiencies. The department also may specify a reasonable time frame, of not more than ~~one hundred and twenty (~~120~~)~~ days, within which the generator shall modify the plan or progress report correcting the specified deficiencies.

2. If the Commissioner determines that a plan or progress report has not been modified to address the deficiencies identified, the Commissioner may issue an order for correction to the responsible person, and this order shall be complied with within the time limit specified in the order. Such order shall be served by personal service or shall be sent by certified mail, return receipt requested. Investigations made in accordance with this paragraph may be made on the initiative of the commissioner or board. Prior to the issuance of any order or the execution of any other enforcement action, the commissioner or director may request the presence of the alleged violator of this paragraph at a meeting to show cause why enforcement action ought not to be taken by the department.

(e) Confidentiality

A plan or annual progress report developed pursuant to this paragraph and maintained at the generating facility shall not be considered a public record. Information supplied to the department, as provided by this rule and defined as proprietary by regulation, shall not be revealed to any person without the consent of the person supplying such information. However, the summary information on waste reduction activities submitted to the department may be utilized by the commissioner, the board, the department, the United States Environmental Protection Agency, or any authorized representative of the commissioner or the board in connection with the responsibilities of the department or board pursuant to this paragraph or as necessary to comply with federal law. Copies of the any Form R's provided to the State and Environmental Protection Agency (EPA), can be requested from the Tennessee Emergency Management Agency (TEMA).

(7) [Reserved] ~~Exports of Hazardous Waste [40 CFR 262 Subpart E]~~

~~(a) Applicability [40 CFR 262.50]~~

~~This paragraph establishes requirements applicable to exports of hazardous waste. Except to the extent subparagraph (i) of this paragraph provides otherwise, a primary exporter of hazardous waste must comply with the special requirements of this paragraph and a transporter transporting hazardous waste for export must comply with applicable requirements of Rule 0400-12-01-.04. Subparagraph (i) of this paragraph sets forth the requirements of international agreements between the United States and receiving countries which establish different notice, export, and enforcement procedures for the transportation, treatment, storage and disposal of hazardous waste for shipments between the United States and those countries.~~

~~(b) Definitions [40 CFR 262.51]~~

~~In addition to the definitions set forth at Rule 0400-12-01-.01(2)(a), the following definitions apply to this paragraph:~~

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

~~"EPA Acknowledgement of Consent" means the cable sent to EPA from the U.S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.~~

~~"Primary Exporter" means any person who is required to originate the manifest for a shipment of hazardous waste in accordance with paragraph (3) of this rule, which specifies a treatment, storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.~~

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

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

~~(c) General Requirements [40 CFR 262.52]~~

~~Exports of hazardous waste are prohibited except in compliance with the applicable requirements of this paragraph and Rule 0400-12-01-.04. Exports of hazardous waste are prohibited unless:~~

~~1. Notification in accordance with subparagraph (d) of this paragraph has been provided;~~

~~2. The receiving country has consented to accept the hazardous waste;~~

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

~~4. The hazardous waste shipment conforms to the terms of the receiving country's written consent as reflected in the EPA Acknowledgment of Consent.~~

~~(d) Notification of Intent to Export [40 CFR 262.53]~~

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

(i) Name, mailing address, telephone number and EPA ID number of the primary exporter;

(ii) By consignee, for each hazardous waste type:

(I) A description of the hazardous waste and the hazardous waste code (from paragraphs (3) and (4) of Rule 0400-12-01-.02), U.S. DOT proper shipping name, hazard class and ID number (UN/NA) for each hazardous waste as identified in 49 CFR parts 171 through 177;

(II) The estimated frequency or rate at which such waste is to be exported and the period of time over which such waste is to be exported.

(III) The estimated total quantity of the hazardous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700-22);

(IV) All points of entry to and departure from each foreign country through which the hazardous waste will pass;

(V) A description of the means by which each shipment of the hazardous waste will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), type(s) of container (drums, boxes, tanks, etc.));

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

(VII) The name and site address of the consignee and any alternate consignee; and

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

2. Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC 20004. In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export."

3. Except for changes to the telephone number in subpart 1(i) of this subparagraph, changes to item 1(ii)(V) of this subparagraph and decreases in the quantity indicated pursuant to item 1(ii)(III) of this subparagraph when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification), the primary exporter must provide EPA with a written renotification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to item 1(ii)(VIII) of this subparagraph and in the ports of entry to and departure from transit countries pursuant to item 1(ii)(IV) of this subparagraph) has been obtained and the primary exporter receives an EPA Acknowledgment of Consent reflecting the receiving country's consent to the changes.

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

5. In conjunction with the Department of State, EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of part 1 of this subparagraph. Where a claim of confidentiality is asserted with respect to any notification information required by part 1 of this subparagraph, EPA may find the notification not complete until any such claim is resolved in accordance with Rule 0400-12-01-.01(7).

6. Where the receiving country consents to the receipt of the hazardous waste, EPA will forward an EPA Acknowledgment of Consent to the primary exporter for purposes of part (e)8 of this paragraph. Where the receiving country objects to receipt of the hazardous waste or withdraws a prior consent, EPA will notify the primary exporter in writing. EPA will also notify the primary exporter of any responses from transit countries.

(e) Special Manifest Requirements. [40 CFR 262.54]

A primary exporter must comply with the manifest requirements of paragraph (3) of this rule except that:

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

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

3. In the International Shipments block, the primary exporter must check the export box and enter the point of exit (city and state) from the United States.

4. The following statement must be added to the end of the first sentence of the certification set forth in Item 16 of the Uniform Hazardous Waste Manifest Form: ``and conforms to the terms of the attached EPA Acknowledgment of Consent''.

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

6. The primary exporter must require the consignee to confirm in writing the delivery of the hazardous waste to that facility and to describe any significant discrepancies (as defined in Rule 0400-12-01-.06(5)(c)1) between the manifest and the shipment. A copy of the manifest signed by such facility may be used to confirm delivery of the hazardous waste.

7. In lieu of the requirements of part (a)4 of paragraph (3) of this rule, where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter must:

(i) Renotify EPA of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with part (d)3 of this paragraph and obtain an EPA Acknowledgment of Consent prior to delivery; or

(ii) Instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States; and

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

8. The primary exporter must attach a copy of the EPA Acknowledgment of Consent to the shipment to the manifest which must accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter must provide the transporter

with an EPA Acknowledgment of Consent which must accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipment) the primary exporter must attach the copy of the EPA Acknowledgment of Consent to the shipping paper.

9. The primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with Rule 0400-12-01-.04(3)(a)7(iv).

(f) Exception Reports [40 CFR 262.55]

In lieu of the requirements of subparagraph (5)(c) of this rule, 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, NW., Washington, DC, 20460, if any of the following occurs:

1. He has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within forty-five (45) days from the date it was accepted by the initial transporter;

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

3. The waste is returned to the United States.

(g) Annual Reports [40 CFR 262.56]

1. Primary exporters of hazardous waste shall file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous waste exported during the previous calendar year. Such reports shall include the following:

(i) The EPA ID number, name, and mailing and site address of the exporter;

(ii) The calendar year covered by the report;

(iii) The name and site address of each consignee;

(iv) By consignee, for each hazardous waste exported, a description of the hazardous waste, the hazardous waste code (from paragraph (3) or (4) of Rule 0400-12-01-.02), DOT hazard class, the name and US EPA ID Number (where applicable) for each transporter used, the total amount of waste shipped and number of shipments pursuant to each notification;

(v) Except for hazardous waste produced by exporters of greater than 100 kg but less than 1000 kg in a calendar month, unless provided pursuant to subparagraph (5)(b) of this rule, in even numbered years:

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

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

(vi) A certification signed by the primary exporter which states:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based

on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

2. Annual reports submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered reports should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC 20004.

(h) Recordkeeping [40 CFR 262.57]

1. For all exports a primary exporter must:

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

(ii) Keep a copy of each EPA Acknowledgment of Consent for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;

(iii) Keep a copy of each confirmation of delivery of the hazardous waste from the consignee for at least three years from the date the hazardous waste was accepted by the initial transporter; and

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

2. The periods of retention referred to in part 1 of this subparagraph are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Commissioner.

(i) International Agreements [40 CFR 262.58]

1. 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 subpart (i) of this part for purposes of recovery is subject to paragraph (9) of this rule. The requirements of this paragraph and paragraph (8) of this rule do not apply to such exports and imports. A waste is considered hazardous under U.S. national procedures if the waste meets the definition of hazardous waste in subparagraph (1)(c) of Rule 0400-12-01-.02 and is subject to either the manifesting requirements at paragraph (3) of this rule, the universal waste management standards of Rule 0400-12-01-.12, or the export requirements in the spent lead-acid battery management standards of part (7)(a)1 of Rule 0400-12-01-.09.

(i) For the purpose of paragraph (9) of this rule, the designated OECD Member countries consist of Australia, Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland Portugal, the Republic of Korea, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

(ii) For the purpose of paragraph (9) of this rule, Canada and Mexico are considered OECD Member countries only for the purpose of transit.

2. Any person who exports hazardous waste to or imports hazardous waste from: a designated OECD Member country for purposes other than recovery (e.g., incineration,

~~disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of this paragraph and paragraph (8) of this rule, and is not subject to the requirements of paragraph (9) of this rule.~~

(8) [Reserved] ~~Imports of Hazardous Waste [40 CFR 262 Subpart F]~~

~~(a) Imports of Hazardous Waste [40 CFR 262.60]~~

~~1. Any person who imports hazardous waste from a foreign country into the United States must comply with the requirements of this part and the special requirements of this subpart.~~

~~2. When importing hazardous waste, a person must meet all the requirements of subparagraph (3)(a) of this rule for the manifest except that:~~

~~(i) In place of the generator's name, address and EPA Identification number, the name and address of the foreign generator and the importer's name, address and EPA Identification Number must be used.~~

~~(ii) In place of the generator's signature on the certification statement, the U.S. importer or his agent must sign and date the certification and obtain the signature of the initial transporter.~~

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

~~4. In the International Shipments block, the importer must check the import box and enter the point of entry (city and state) into the United States.~~

~~5. The importer must provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to U. S. EPA in accordance with Rules 0400-12-01-.05(5)(b)1(iii) and 0400-12-01-.06(5)(b)1(iii).~~

(9) Transboundary Movements of Hazardous Waste for Recovery ~~within the OECD~~ and Disposal [40 CFR 262 Subpart H]

(Note: The implementation of this paragraph remains the responsibility of EPA.)

(a) Applicability. [40 CFR 262.80]

1. The requirements of this paragraph apply to ~~imports and exports~~ transboundary movements of hazardous wastes ~~that are considered hazardous under U.S. national procedures and are destined for recovery operations in the countries listed in subpart (7)(i)1(i) of this rule~~. ~~A waste is considered hazardous under U.S. national procedures if the waste:~~

~~(i) Meets the definition of hazardous waste in subparagraph (1)(c) of Rule 0400-12-01-.02; and~~

~~(ii) Is subject to either the manifesting requirements at paragraph (3) of this rule, the universal waste management standards of Rule 0400-12-01-.12, or the export requirements in the spent lead-acid battery management standards of part (7)(a)1 of Rule 0400-12-01-.09~~.

2. Any person (including exporter, importer, disposal facility operator, or recovery facility operator) who mixes two or more wastes (including hazardous and non-hazardous wastes) or otherwise subjects two or more wastes (including hazardous and non-hazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent

generator duties under RCRA and/or the Tennessee Hazardous Waste Management Act and any exporter duties, if applicable, under this paragraph.

(b) Definitions [40 CFR 262.81]

~~The~~ In addition to the definitions set forth at subparagraph (2)(a) of Rule 0400-12-01-.01, the following definitions apply to this paragraph.

"Competent authority" means the regulatory authority or authorities of concerned countries having jurisdiction over transboundary movements of wastes ~~destined for recovery operations~~.

"Countries concerned" means the ~~OECD Member~~ countries of export or import and any ~~OECD Member~~ countries of transit.

"Country of export" means any ~~designated OECD Member~~ country ~~listed in subpart (7)(i)1(i) of this rule~~ from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated.

"Country of import" means any ~~designated OECD Member~~ country ~~listed in subpart (7)(i)1(i) of this rule~~ to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of submitting the wastes to recovery or disposal operations therein.

"Country of transit" means any ~~designated OECD Member~~ country ~~listed in subparts (7)(i)1(i) and (ii) of this rule~~ other than the country of export or country of import across which a transboundary movement of hazardous wastes is planned or takes place.

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

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

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

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

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

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

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

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

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

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

10. D10 Incineration on land.

11. D11 Incineration at sea.

12. D12 Permanent storage.

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

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

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

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

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

"EPA Acknowledgment of Consent (AOC)" means the letter EPA sends to the exporter documenting the specific terms of the country of import's consent and the country(ies) of transit's consent(s). The AOC meets the definition of an export license in U.S. Census Bureau regulations 15 CFR 30.1.

"Export" means the transportation of hazardous waste from a location under the jurisdiction of the United States to a location under the jurisdiction of another country, or a location not under the jurisdiction of any country, for the purposes of recovery or disposal operations therein.

"Exporter, also known as primary exporter on the RCRA hazardous waste manifest," 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 who is required to originate the movement document in accordance with part (d)4 of this paragraph or the manifest for a shipment of hazardous waste in accordance with subpart B of 40 CFR part 262, or equivalent state provision, which specifies a foreign receiving facility as the facility to which the hazardous wastes will be sent, or any recognized trader who proposes export of the hazardous wastes for recovery or disposal operations in the country of import.

"Foreign 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 hazardous wastes and who proposes shipment of the hazardous wastes to the United States for recovery or disposal operations.

"Foreign importer" means the person to whom possession or other form of legal control of the hazardous waste is assigned at the time the exported hazardous waste is received in the country of import.

"Foreign receiving facility" means a facility which, under the importing country's applicable domestic law, is operating or is authorized to operate in the country of import to receive the hazardous wastes and to perform recovery or disposal operations on them.

"Import" means the transportation of hazardous waste from a location under the jurisdiction of another country to a location under the jurisdiction of the United States for the purposes of recovery or disposal operations therein.

"Importer" means the person to whom possession or other form of legal control of the hazardous waste is assigned at the time the imported hazardous waste is received in the ~~country of import~~ United States.

"OECD area" means all land or marine areas under the national jurisdiction of any OECD Member country ~~listed in subparagraph (7)(i) of this rule~~. When the regulations refer to shipments to or from an OECD Member country, this means OECD area.

"OECD" means the Organization for Economic Cooperation and Development.

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

"Receiving facility" means a U.S. facility which, under RCRA and other applicable domestic laws, is operating or is authorized to operate to receive hazardous wastes and to perform recovery or disposal operations on them.

~~"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.~~

~~"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.~~

"Recovery operations" means activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses, which include:

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

2. R2 Solvent reclamation/regeneration.

3. R3 Recycling/reclamation of organic substances which are not used as solvents.

4. R4 Recycling/reclamation of metals and metal compounds.

5. R5 Recycling/reclamation of other inorganic materials.

6. R6 Regeneration of acids or bases.

7. R7 Recovery of components used for pollution abatement.

8. R8 Recovery of components used from catalysts.

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

10. R10 Land treatment resulting in benefit to agriculture or ecological improvement.

11. R11 Uses of residual materials obtained from any of the operations numbered R1-R10 or RC14 (for transboundary shipments with Canada only).

12. R12 Exchange of wastes for submission to any of the operations numbered R1-R11 or RC14 (for transboundary shipments with Canada only).

13. R13 Accumulation of material intended for any operation numbered R1-R12 or RC14 (for transboundary shipments with Canada only).

14. RC14 Recovery or regeneration of a substance or use or re-use of a recyclable material, other than by any of operations R1 to R10 (for transboundary shipments with Canada only).

15. RC15 Testing of a new technology to recycle a hazardous recyclable material (for transboundary shipments with Canada only).

16. RC16 Interim storage prior to any of operations R1 to R11 or RC14 (for transboundary shipments with Canada only).

"Transboundary movement" means any movement of hazardous 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.

(c) General conditions. [40 CFR 262.82]

1. Scope. The level of control for exports and imports of waste is indicated by assignment of the waste to either a list of wastes subject to the Green control procedures or a list of wastes subject to the Amber control procedures and ~~by the national procedures of the United States, as defined in part (a)1 of this paragraph~~ whether the waste is or is not hazardous waste. The OECD Green and Amber lists are incorporated by reference in ~~(j)4 of this paragraph~~ subparagraph (2)(b) of Rule 0400-12-01-.01.

(i) ~~Listed wastes subject to the~~ Green ~~control procedures~~ list wastes.

(I) Green wastes that are not ~~considered~~ hazardous wastes ~~under U.S. national procedures as defined in part (a)1 of this paragraph~~ are subject to existing controls normally applied to commercial transactions and are not subject to the requirements of this paragraph.

(II) Green wastes that are ~~considered~~ hazardous wastes ~~under U.S. national procedures as defined in part (a)1 of this paragraph~~ are subject to the ~~Amber control procedures set forth in~~ requirements of this paragraph.

(ii) ~~Listed wastes subject to the~~ Amber ~~control procedures~~ list wastes.

(I) Amber wastes that are ~~considered~~ hazardous wastes ~~under U.S. national procedures as defined in part (a)1 of this paragraph~~ are subject to the ~~Amber control procedures set forth in~~ requirements of this paragraph even if they are imported to or exported from a country that does not consider the waste to be hazardous or control the transboundary shipment as a hazardous waste import or export.

I. For exports, the exporter must comply with subparagraph (d) of this paragraph.

II. For imports, the recovery or disposal facility and the importer must comply with subparagraph (e) of this paragraph.

~~(II) Amber wastes that are considered hazardous under U.S. national procedures as defined in part (a)1 of this paragraph, 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 subpart (7)(i)1(i) of this rule that does not consider the waste to be hazardous. In such an event, the responsibilities of the Amber control procedures shift as provided:~~

~~I. 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.~~

~~II. 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.~~

~~(III)~~(II) Amber wastes that are not ~~considered~~ hazardous wastes, ~~under U.S. national procedures as defined in part (a)1 of this paragraph,~~ but are considered hazardous by ~~an OECD Member~~ the other country, are subject to the Amber control procedures in the ~~OECD Member~~ country that considers the waste hazardous and are not subject to the requirements of this paragraph. All responsibilities of the ~~U.S. importer / importer or~~ exporter shift to the ~~importer / exporter of the OECD Member~~ foreign importer or foreign exporter in the other country that considers the waste hazardous unless the parties make other arrangements through contracts.

(Note: Some Amber list 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~~ requirements of this paragraph. Regardless of the status of the waste under RCRA, however, other Federal environmental statutes (e.g., the Toxic Substances Control Act) restrict certain waste imports or exports. Such restrictions continue to apply with regard to this paragraph.)

(iii) ~~Procedures for mixtures~~ Mixtures of wastes.

(I) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not ~~considered~~ hazardous waste ~~under U.S. national procedures as defined in part (a)1 of this paragraph shall be subject to the Green control procedures, provided the composition of this mixture does not impair its environmentally sound recovery~~ is not subject to the requirements of this paragraph.

(Note: 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.)

(II) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is ~~considered~~ hazardous ~~under U.S. national procedures as defined in part (a)1 of this paragraph are subject to the Amber control procedures, provided the composition of this mixture does not impair its environmentally sound recovery~~ waste is subject to the requirements of this paragraph.

(Note: 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 Amber control procedures.)

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

(I) If such wastes are ~~considered~~ hazardous waste, ~~under U.S. national procedures as defined in part (a)1 of this paragraph,~~ such wastes are subject to the ~~Amber control procedures~~ requirements of this paragraph.

(II) If such wastes are not ~~considered~~ hazardous waste, ~~under U.S. national procedures as defined in part (a)1 of this paragraph,~~ such wastes are not subject to the ~~Green control procedures~~ requirements of this paragraph.

2. General conditions applicable to transboundary movements of hazardous waste:

(i) The hazardous waste must be destined for recovery or disposal operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the ~~importing~~ country of import;

(ii) The transboundary movement must be in compliance with applicable international transport agreements; and

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

(iii) Any transit of hazardous waste through ~~a non-OECD Member country~~ one or more countries must be conducted in compliance with all applicable international and national laws and regulations.

~~3. Provisions relating to re-export for recovery to a third country:~~

~~(i) 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 subpart (7)(i)1(i) of this rule 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 subparagraph (d) of this paragraph 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.~~

~~(I) 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.~~

~~(II) 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.~~

~~(ii) In the case of re-export of Amber wastes to a country other than those listed in subpart (7)(i)1(i) of this rule, 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 subpart (i) of this part, 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~~.

~~4.~~ 3. Duty to return ~~or re-export~~ wastes subject to the Amber control procedures during transit through the United States. When a transboundary movement of hazardous wastes transiting the United States and subject to the Amber control procedures ~~cannot be completed in accordance with the terms of the contract or the consent(s) and~~ does not comply with the requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if alternative arrangements cannot be made to recover or dispose of these wastes ~~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 part 3 of this subparagraph 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:~~ The U.S. transporter must inform EPA at the specified mailing address in part 5 of this subparagraph 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

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 countries.

~~(i) Return from the United States to the country of export: The U.S. importer must inform EPA at the specified address in item (d)2(i)(I) of this paragraph 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.~~

~~(ii) 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 part (h)2 of this paragraph.~~

~~5. Duty to return wastes subject to the Amber control procedures from a country of transit. 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:~~

~~(i) 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 item (d)2(i)(I) of this paragraph 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.~~

~~(ii) 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 part (h)2 of this paragraph.~~

~~6. Requirements for wastes destined for and received by R12 and R13 facilities. 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 subparagraph (d) of this paragraph and for the movement document as set forth in subparagraph (e) of this paragaph. Additional responsibilities of R12/R13 facilities include:~~

~~(i) Indicating in the notification document the foreseen recovery facility or facilities where the subsequent R1-R11 recovery operation takes place or may take place.~~

~~(ii) 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.~~

~~(iii) 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.~~

~~(iv) 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.~~

~~(v) When an R12/R13 recovery facility delivers wastes for recovery to an R1-R11 recovery facility located:~~

~~(I) In the initial country of export, Amber control procedures apply, including a new notification;~~

~~(II) 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.~~

~~7.~~ 4. Laboratory analysis exemption. ~~The transboundary movement of an Amber waste is exempt from the Amber control procedures if it is in certain quantities and~~ Export and import of a hazardous waste sample is exempt from the requirements of this paragraph if the sample is destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery or disposal operations, does not. ~~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) in quantity, is. ~~Waste destined for laboratory analysis must still be~~ appropriately packaged and labeled and complies with the conditions of part (1)(d)4 or 5 of Rule 0400-12-01-.02.

5. EPA Address for submittals by postal mail or hand delivery. Submittals required in this paragraph to be made by postal mail or hand delivery should be sent to the following addresses:

(i) For postal mail delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, 1200 Pennsylvania Avenue N.W., Washington, DC 20460.

(ii) For hand-delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, William Jefferson Clinton South Bldg., Room 6144, 1200 Pennsylvania Ave N.W., Washington, DC 20004.

(d) ~~Notification and consent~~ Exports of hazardous waste. [40 CFR 262.83]

1. ~~Applicability. 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 paragraph. Hazardous wastes subject to the Amber control procedures are subject to the requirements of part 2 of this subparagraph; and wastes not identified on any list are subject to the requirements of part 3 of this subparagraph~~ General export requirements. Except as provided in subparts (v) and (vi) of this part, exporters that have received an AOC from EPA before December 31, 2016, are subject to that approval and the requirements listed in the AOC that existed at the time of that approval until such time the approval period expires. All other exports of hazardous waste are prohibited unless:

(i) The exporter complies with the contract requirements in part 6 of this subparagraph;

(ii) The exporter complies with the notification requirements in part 2 of this subparagraph;

(iii) The exporter receives an AOC from EPA documenting consent from the countries of import and transit (and original country of export if exporting previously imported hazardous waste);

(iv) The exporter ensures compliance with the movement documents requirements in part 4 of this subparagraph;

(v) The exporter ensures compliance with the manifest instructions for export shipments in part 3 of this subparagraph; and

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

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

I. Submits Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b), and includes the following items in the EEI, along with the other information required under 15 CFR 30.6:

A. EPA license code;

B. Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);

C. EPA consent number for each hazardous waste;

D. Country of ultimate destination code per 15 CFR 30.6(a)(5);

E. Date of export per 15 CFR 30.6(a)(2);

F. RCRA hazardous waste manifest tracking number, if required;

G. Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

H. EPA net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

II. Complies with a paper-based process by:

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

B. Providing the transporter with an additional copy of the manifest, and instructing the transporter via mail, email or fax to deliver that copy to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with item (3)(a)7(iv)(II) of Rule 0400-12-01-.04.

(II) For shipments initiated on or after the AES filing compliance date, submits Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b), and includes the following items in the EEI, along with the other information required under 15 CFR 30.6:

I. EPA license code;

II. Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);

III. EPA consent number for each hazardous waste;

IV. Country of ultimate destination code per 15 CFR 30.6(a)(5);

V. Date of export per 15 CFR 30.6(a)(2);

VI. RCRA hazardous waste manifest tracking number, if required;

VII. Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

VIII. EPA net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

2. Amber wastes. Exports of hazardous wastes from the United States as described in part (a)1 of this paragraph that are subject to the Amber control procedures are prohibited unless the notification and consent requirements of subpart (i) or (ii) of this part are met.

(i) Transactions requiring specific consent:

(I) Notification. 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 part 4 of this subparagraph. 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 subparagraph (e) of this paragraph.

(II) Tacit consent. If no objection has been lodged by any countries concerned (i.e., exporting, importing, or transit) to a notification provided pursuant to item (I) of this subpart 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.

(III) Written consent. 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.

(ii) Transboundary movements to facilities pre-approved by the competent authorities of the importing countries to accept specific wastes for recovery:

(I) Notification. The exporter must provide EPA a notification that contains all the information identified in part 4 of this subparagraph 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 item (i)(I) of this part. 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, NW., Washington, DC 20460, with the words "OECD Export Notification Pre-approved Facility" prominently displayed on the envelope. General notifications that cover multiple shipments as described in item (i)(I) of this part 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 subparagraph (e) of this paragraph.~~

~~(II) 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.~~

~~3. Wastes not covered in the OECD Green and Amber lists. Wastes destined for recovery operations, that have not been assigned to the OECD Green and Amber lists, incorporated by reference in part (j)4 of this paragraph, but which are considered hazardous under U.S. national procedures as defined in part (a)1 of this paragraph, are subject to the notification and consent requirements established for the Amber control procedures in accordance with part 2 of this subparagraph. Wastes destined for recovery operations, that have not been assigned to the OECD Green and Amber lists incorporated by reference in part (j)4 of this paragraph, and are not considered hazardous under U.S. national procedures as defined by part (a)1 of this paragraph are subject to the Green control procedures.~~

~~4.~~2. Notifications. ~~submitted under this section must include the information specified in subparts (i) through (xiv) of this part~~

(i) General notifications. At least 60 days before the first shipment of hazardous waste is expected to leave the United States, the exporter must provide notification in English to EPA of the proposed transboundary movement. Notifications must be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one year of shipments of one or more hazardous wastes being sent to the same recovery or disposal facility, and must include all of the following information:

~~(i) Serial number or other accepted identifier of the notification document;~~

~~(ii)~~(I) Exporter name and EPA identification number ~~(if applicable)~~, address, telephone, fax numbers, and ~~e-mail~~ email address;

~~(iii)~~(II) ~~Importing recovery~~ Foreign receiving facility name, address, telephone, fax numbers, e-mail address, ~~and~~ technologies employed, and the applicable recovery or disposal operations as defined in subparagraph (b) of this paragraph;

~~(iv)~~(III) ~~Importer~~ Foreign importer name (if not the owner or operator of the ~~recovery~~ foreign receiving facility), address, telephone, fax numbers, and e-mail 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;~~

~~(v)~~(IV) Intended transporter(s) and/or their agent(s); address, telephone, fax, and ~~e-mail~~ email address;

~~(vi)~~(V) ~~Country~~ "U.S." as the country of export ~~and~~ name, "USA01" as the relevant competent authority code, and ~~point of departure~~ the intended port(s) of exit;

~~(vii)~~(VI) ~~Countries of transit and relevant competent authorities and points of entry and departure~~ The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and the ports of entry and exit for each country of transit;

~~(viii)~~(VII) ~~Country of import and relevant competent authority, and point of entry~~ The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and port of entry for the country of import;

~~(ix)~~(VIII) Statement of whether the notification ~~is a single notification or a general notification. If general, include period of validity requested~~ covers a single shipment or multiple shipments;

~~(x)~~(IX) ~~Date(s) foreseen for commencement of~~ Start and End Dates requested for transboundary ~~movement(s)~~ movements;

~~(xi)~~(X) Means of transport ~~envisaged~~ planned to be used;

~~(xii)~~(XI) ~~Designation of waste type(s) from the appropriate OECD list incorporated by reference in part (j)4 of this paragraph, description(s) of each waste type, estimated total quantity of each, RCRA waste code, and the United Nations number for each waste type~~ Description(s) of each hazardous waste, including whether each hazardous waste is regulated universal waste under 40 CFR part 273 or the state equivalent, spent lead-acid batteries being exported for recovery of lead under 40 CFR part 266, subpart G, or the state equivalent, or industrial ethyl alcohol being exported for reclamation under 40 CFR 261.6(a)(3)(i) or the state equivalent, estimated total quantity of each waste in either metric tons or cubic meters, the applicable RCRA waste code(s) for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in subparagraph (2)(b) of Rule 0400-12-01-.02, and the United Nations/U.S. Department of Transportation (DOT) ID number for each waste;

~~(xiii)~~(XII) Specification of the recovery or disposal operation(s) as defined in subparagraph (b) of this paragraph.

~~(xiv)~~(XIII) 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~~ legally enforceable written contractual obligations have been entered ~~into,~~ into and that any applicable insurance or other financial ~~guarantees are~~ guarantee is or shall be in force covering the transboundary movement."

Name: _____

Signature: _____

Date: _____

~~(Note: 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.)~~

~~5. Certificate of Recovery. 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 subparagraph (f) of this paragraph.~~

(ii) Exports to pre-consented recovery facilities in OECD Member countries. If the recovery facility is located in an OECD member country and has been pre-consented by the competent authority of the OECD member country to recover the waste sent by exporters located in other OECD member countries, the notification may cover up to three years of shipments. Notifications proposing export to a pre-consented facility in an OECD member country must include all information listed in items (i)(I) through (XIII) of this part and additionally state that the facility is pre-consented. Exporters must submit the notification to EPA using the allowable methods listed in subpart (i) of this part at least 10 days before the first shipment is expected to leave the United States.

(iii) Notifications listing interim recycling operations or interim disposal operations. If the foreign receiving facility listed in item (i)(II) of this part will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, or in the case of transboundary movements with Canada, any of the interim recovery operations R12, R13, or RC16, or interim disposal operations D13 to D14, or DC17, the notification submitted according to subpart (i) of this part must also include the final foreign recovery or disposal facility name, address, telephone, fax numbers, email address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, or in the case of transboundary movements with Canada, which of the applicable recovery or disposal operations R1 through R11, RC14 to RC15, D1 through D12, and DC15 to DC16 will be employed at the final foreign recovery or disposal facility. The recovery and disposal operations in this subpart are defined in subparagraph (b) of this paragraph.

(iv) Renotifications. When the exporter wishes to change any of the information specified on the original notification (including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters), the exporter must submit a renotification of the changes to EPA using the allowable methods in subpart (i) of this part. Any shipment using the requested changes cannot take place until the countries of import and transit consent to the changes and the exporter receives an EPA AOC letter documenting the countries' consents to the changes.

(v) For cases where the proposed country of import and recovery or disposal operations are not covered under an international agreement to which both the United States and the country of import are parties, EPA will coordinate with the Department of State to provide the complete notification to country of import and any countries of transit. In all other cases, EPA will provide the notification directly to the country of import and any countries of transit. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of items (i)(I) through (XIII) of this part.

(vi) Where the countries of import and transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the exporter documenting the countries' consents. Where any of the countries of import and transit objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the exporter.

(vii) Export of hazardous wastes for recycling or disposal operations that were originally imported into the United States for recycling or disposal operations in a third country is prohibited unless an exporter in the United States complies with the export requirements in this subparagraph, including providing notification to EPA in accordance with subpart (i) of this part. In addition to listing all required information in items (i)(I) through (XIII) of this part, the exporter must provide the original consent number issued for the initial import of the wastes in the

notification, and receive an AOC from EPA documenting the consent of the competent authorities in new country of import, the original country of export, and any transit countries prior to re-export.

(viii) Upon request by EPA, the exporter must furnish to EPA any additional information which the country of import requests in order to respond to a notification.

3. RCRA manifest instructions for export shipments. The exporter must comply with the manifest requirements of subparagraphs (3)(a) through (d) of this rule except that:

(i) In lieu of the name, site address and EPA ID number of the designated permitted facility, the exporter must enter the name and site address of the foreign receiving facility.

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

(iii) The exporter must list the consent number from the AOC for each hazardous waste listed on the manifest, matched to the relevant list number for the hazardous waste from block 9b. If additional space is needed, the exporter should use a Continuation Sheet(s) (EPA Form 8700-22A).

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

~~(e)~~4. Movement document requirements for export shipments.

~~1.~~(i) All ~~U.S. parties subject to the contract provisions of subparagraph (f) of this paragraph~~ exporters must ensure that a movement document meeting the conditions of ~~part 2 of this subparagraph~~ subpart (ii) of this part accompanies each transboundary movement of hazardous wastes ~~subject to the Amber control procedures~~ from the initiation of the shipment until it reaches the ~~final recovery~~ foreign receiving facility, including cases in which the hazardous waste is stored and/or sorted by the foreign importer prior to shipment to the ~~final recovery~~ foreign receiving facility, except as provided in ~~subparts (i) and (ii) of this part~~ items (I) and (II) of this subpart.

~~(i)~~(I) For shipments of hazardous waste within the United States solely by water (bulk shipments only), the ~~generator~~ exporter 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 part (3)(d)3 of this rule~~.

~~(ii)~~(II) For rail shipments of hazardous waste within the United States which ~~originate at~~ start from the ~~site of generation,~~ company originating the ~~generator~~ export shipment, the exporter must forward the movement document ~~with the manifest (in accordance with the routing procedures for the manifest in part (3)(d)4 of this rule~~ 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.

~~2.~~(ii) The movement document must include ~~all information required under subparagraph (d) of this paragraph (for notification), as well as~~ the following ~~subparts (i) through (vii) of this part~~ items (I) through (XV) of this subpart:

(I) The corresponding consent number(s) and hazardous waste number(s) for the listed hazardous waste from the relevant EPA AOC(s);

(II) The shipment number and the total number of shipments from the EPA AOC;

(III) Exporter name and EPA identification number, address, telephone, fax numbers, and email address;

(IV) Foreign receiving facility name, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in subparagraph (b) of this paragraph;

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

(VI) Description(s) of each hazardous waste, quantity of each hazardous waste in the shipment, applicable RCRA hazardous waste code(s) for each hazardous waste, applicable OECD waste code for each hazardous waste from the lists incorporated by reference in subparagraph (2)(b) of Rule 0400-12-01-.01, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

~~(i)~~(VII) Date movement commenced;

~~(ii)~~(VIII) Name (if not exporter), address, telephone, fax numbers, and ~~e-mail of primary exporter~~ email of company originating the shipment;

~~(iii)~~(IX) Company name, ~~and~~ EPA ID number, address, telephone, fax, and email address of all transporters;

~~(iv)~~(X) Identification (license, registered name or registration number) of means of transport, including types of packaging ~~envisaged~~;

~~(v)~~(XI) Any special precautions to be taken by transporter(s);

~~(vi)~~(XII) Certification/declaration signed and dated by the exporter that ~~no objection to the shipment has been lodged, as follows:~~ the information in the movement document is complete and correct:

~~"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:~~

~~(I) All necessary consents have been received; OR~~

~~(II) 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~~

~~(III) 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: _____~~

~~(vii)~~(XIII) Appropriate signatures for each custody transfer (e.g., transporter, importer, and owner or operator of the ~~recovery~~ foreign receiving facility);

~~3. Exporters also must comply with the special manifest requirements of parts (7)(e)1, 2, 3, 5, and 9 of this rule and importers must comply with the import requirements of paragraph (8) of this rule.~~

~~4.~~(XIV) Each U.S. person that has physical custody of the hazardous waste from the time the movement commences until it arrives at the ~~recovery~~ foreign receiving facility must sign the movement document (e.g., transporter, foreign importer, and owner or operator of the ~~recovery~~ foreign receiving facility)~~.~~; and

~~5. Within three (3) working days of the receipt of imports subject to this paragraph, 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, NW., 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 subparagraph (b) of this paragraph, the facility shall retain the original of the movement document for three (3) years.~~

(XV) As part of the contract requirements per part 6 of this subparagraph, the exporter must require that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter, to the competent authorities of the countries of import and transit, and for shipments occurring on or after the electronic import-export reporting compliance date, the exporter must additionally require that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in subpart 2(i) of this subparagraph.

5. Duty to return or re-export hazardous wastes. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s) and alternative arrangements cannot be made to recover or dispose of the waste in an environmentally sound manner in the country of import, the exporter must ensure that the hazardous waste is returned to the United States or re-exported to a third country. If the waste must be returned, the exporter must provide for the return of the hazardous waste shipment within 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 countries agree. In all cases, the exporter must submit an exception report to EPA in accordance with part 8 of this subparagraph.

~~(f)~~6. ~~Contracts.~~ Export contract requirements

~~1.~~(i) ~~Transboundary movements of hazardous wastes subject to the Amber control procedures~~ Exports of hazardous waste are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent arrangements must be executed by the exporter, foreign importer (if different from the foreign receiving facility), and the owner or operator of the ~~recovery~~ foreign receiving facility~~,~~ and must specify responsibilities for each. Contracts or equivalent

arrangements are valid for the purposes of this ~~subparagraph~~ part only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.

~~2.~~(ii) Contracts or equivalent arrangements must specify the name and EPA ID number, where available, of ~~subparts (i) through (iv) of this part~~ items (I) through (IV) of this subpart:

~~(i)~~(I) The ~~generator of~~ company from where each ~~type of~~ export shipment of hazardous waste is initiated;

~~(ii)~~(II) Each person who will have physical custody of the hazardous wastes;

~~(iii)~~(III) Each person who will have legal control of the hazardous wastes; and

~~(iv)~~(IV) The ~~recovery~~ foreign receiving facility.

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

~~(i)~~(I) The ~~person~~ transporter or foreign receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the exporter, EPA, and either the competent ~~authorities~~ authority of the ~~countries of export and import and, if the wastes are located in a~~ country of transit~~,~~ or the competent ~~authorities~~ authority of ~~that~~ the country of import of the need to make alternate management arrangements; and

~~(ii)~~(II) The person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of hazardous wastes and, as the case may be, shall provide the notification for re-export to the competent authority in the country of import and include the equivalent of the information required in paragraph (b)(1) of this section, the original consent number issued for the initial export of the hazardous wastes in the notification, and obtain consent from EPA and the competent authorities in the new country of import and any transit countries prior to re-export.

~~4.~~(iv) Contracts must specify that the ~~importer will provide the notification required in part (c)3 of this paragraph prior to the re-export of controlled wastes to a third country~~ foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter and to the competent authorities of the countries of import and transit. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in subpart 2(i) of this subparagraph on or after that date.

(v) Contracts must specify that the foreign receiving facility shall send a copy of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than 30 days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the exporter and to the competent authority of the country of import. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign receiving

facility send a copy to EPA at the same time using the allowable methods listed in subpart 2(i) of this subparagraph on or after that date.

(vi) Contracts must specify that the foreign importer or the foreign receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC17, (recovery and disposal operations defined in subparagraph (b) of this paragraph) as appropriate, will:

(I) Provide the notification required in item (iii)(II) of this part prior to any re-export of the hazardous wastes to a final foreign recovery or disposal facility in a third country; and

(II) Promptly send copies of the confirmation of recovery or disposal that it receives from the final foreign recovery or disposal facility within one year of shipment delivery to the final foreign recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, DC15 or DC16 to the competent authority of the country of import. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign facility send copies to EPA at the same time using the allowable method listed in subpart 2(i) of this subparagraph on or after that date.

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

(Note: Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD Member countries and other foreign countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, ~~transporters or importers~~ persons or facilities located in those OECD Member countries or other foreign countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.)

~~6.~~(viii) Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this paragraph.

~~7.~~(ix) 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.~~

~~(Note: 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.)~~

~~(g) Provisions relating to recognized traders.~~

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

2. A recognized trader acting as an exporter or importer for transboundary shipments of waste must comply with all the requirements of this paragraph associated with being an exporter or importer.

(h) Reporting and recordkeeping.

1.7. Annual reports. For all waste movements subject to this paragraph, persons (e.g., exporters, recognized traders) who meet the definition of primary exporter in subparagraph (7)(b) of this rule or who initiate the movement documentation under subparagraph (e) of this paragraph The exporter 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, D.C. 20460, EPA no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter or the person who initiates the movement document under subparagraph (e) of this paragraph is required to file an annual report for waste exports that are not covered under this paragraph, 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 Prior to one year after the AES filing compliance date, the exporter must mail or hand-deliver annual reports to EPA using one of the addresses specified in part (c)5 of this paragraph, or submit to EPA using the allowable methods specified in subpart 2(i) of this subparagraph if the exporter has electronically filed EPA information in AES, or its successor system, per subitem 1(vi)(I)I of this subparagraph for all shipments made the previous calendar year. Subsequently, the exporter must submit annual reports to EPA using the allowable methods specified in subpart 2(i) of this subparagraph. The annual report must include all of the following subparts (i) through (vi) of this part specified as follows:

(i) The EPA identification number, name, and mailing and site address of the exporter filing the report;

(ii) The calendar year covered by the report;

(iii) The name and site address of each final recovery foreign receiving facility;

(iv) By final recovery foreign receiving facility, for each hazardous waste exported:

(I) a A description of the hazardous waste.;

(II) the The applicable EPA hazardous waste number code(s) (from paragraphs (3) or (4) of Rule 0400-12-01-.02), designation of for each waste;

(III) type(s) andThe applicable waste code(s) from the appropriate OECD waste list incorporated by reference in part (j)4 of this paragraph, subparagraph (2)(b) of Rule 0400-12-01-.01;

(IV) The applicable DOT hazard class, the ID number;

(V) The name and U.S. EPA identification ID number (where applicable) for each transporter used, the total amount of over the calendar year covered by the report; and

(VI) The consent number(s) under which the hazardous waste was shipped ~~pursuant to this paragraph~~, and for each consent number, the total amount of the hazardous waste and the number of shipments ~~pursuant to each notification~~ exported during the calendar year covered by the report;

(v) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than 100kg but less than 1,000kg in a calendar month, and except for hazardous waste for which information was already provided pursuant to subparagraph (5)(b) of this rule:

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

(II) 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

(vi) A certification signed by the ~~person acting as primary~~ exporter ~~or initiator of the movement document under subparagraph (e) of this paragraph~~ that states:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

~~2.~~8. Exception reports.

(i) ~~Any person who meets the definition of primary~~ The exporter ~~in subparagraph (7)(b) of this rule or who initiates the movement document under subparagraph (e) of this paragraph~~ must file an exception report in lieu of the requirements of subparagraph (5)(c) of this rule (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, D.C. 20460,~~ EPA if any of the following occurs:

~~(i)~~(I) ~~He~~ The exporter has not received a copy of the RCRA hazardous waste manifest (if applicable) signed by the transporter identifying the point of departure of the hazardous waste from the United States, within ~~forty-five (~~45~~)~~ days from the date it was accepted by the initial transporter, in which case the exporter must file the exception report within the next 30 days;

~~(ii)~~(II) ~~Within ninety~~ The exporter has not received a written confirmation of receipt from the foreign receiving facility in accordance with part 4 of this subparagraph within ~~(~~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;~~ in which case the exporter must the exception report within 30 days; or

~~(iii)~~(III) ~~The waste is returned to the United States~~ The foreign receiving facility notifies the exporter, or the country of import notifies EPA, of the need to return the shipment to the U.S. or arrange alternate management, in which case the exporter must file the exception report within 30 days of notification, or one day prior to the date the return shipment commences, whichever is sooner.

(ii) Prior to the electronic import-export reporting compliance date, exception reports must be mailed or hand delivered to EPA using the addresses listed in part (c)5 of this paragraph. Subsequently, exception reports must be submitted to EPA using the allowable methods listed in subpart 2(i) of this subparagraph.

~~3.~~9. Recordkeeping.

(i) ~~Persons who meet the definition of primary exporter in subparagraph (7)(b) of this rule or who initiate the movement document under subparagraph (e) of this paragraph~~ The exporter shall keep the following records in items (I) through ~~(IV)~~ (V) of this subpart and provide them to EPA or authorized state personnel upon request:

(I) A copy of each notification of intent to export and ~~all written consents obtained from the competent authorities of countries concerned~~ each EPA AOC for a period of at least three ~~(3)~~ years from the date the hazardous waste was accepted by the initial transporter;

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

(III) A copy of any exception reports and a copy of each confirmation of ~~delivery~~ receipt (i.e., movement document) sent by the ~~recovery~~ foreign receiving 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

(IV) A copy of each ~~certificate~~ confirmation of recovery or disposal sent by the ~~recovery~~ foreign receiving facility to the exporter for at least three ~~(3)~~ years from the date that the ~~recovery~~ foreign receiving facility completed interim or final processing of the hazardous waste shipment.

(V) A copy of each contract or equivalent arrangement established per subparagraph (f) of this paragraph for at least three years from the expiration date of the contract or equivalent arrangement.

(ii) Exporters may satisfy these recordkeeping requirements by retaining electronically submitted documents in the exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No exporter may be held liable for the inability to produce such documents for inspection under this part if the exporter can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the exporter bears no responsibility.

~~(ii)~~(iii) The periods of retention referred to in this part are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator or the Commissioner.

~~(i) Pre-approval for U.S. recovery facilities [Reserved]~~

~~(j) OECD waste lists.~~

~~1. General. For the purposes of this paragraph, a waste is considered hazardous under U.S. national procedures, and hence subject to this paragraph, if the waste:~~

~~(i) Meets the definition of hazardous waste in subparagraph (1)(c) of Rule 0400-12-01-.02; and~~

(ii) Is subject to either the manifesting requirements at paragraph (3) of this rule, the universal waste management standards of Rule 0400-12-01-.12, or the export requirements in the spent lead-acid battery management standards of paragraph (7) of Rule 0400-12-.01-.09.

2. If a waste is hazardous under part 1 of this subparagraph, it is subject to the Amber control procedures, regardless of whether it appears in the OECD Amber List, incorporated by reference in part 4 of this subparagraph.

3. The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in subparagraph (c) of this paragraph.

4. 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.

(e) Imports of hazardous waste. [40 CFR 262.84]

1. General import requirements.

(i) With the exception of subpart (v) of this part, importers of shipments covered under a consent from EPA to the country of export issued before December 31, 2016 are subject to that approval and the requirements that existed at the time of that approval until such time the approval period expires. Otherwise, any other person who imports hazardous waste from a foreign country into the United States must comply with the requirements of this rule and the special requirements of this paragraph.

(ii) In cases where the country of export does not require the foreign exporter to submit a notification and obtain consent to the export prior to shipment, the importer must submit a notification to EPA in accordance with part 2 of this subparagraph.

(iii) The importer must comply with the contract requirements in part 6 of this subparagraph.

(iv) The importer must ensure compliance with the movement documents requirements in part 4 of this subparagraph; and

(v) The importer must ensure compliance with the manifest instructions for import shipments in part 3 of this subparagraph.

2. Notifications. In cases where the competent authority of the country of export does not regulate the waste as hazardous waste and, thus, does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the

competent authorities for the countries of transit, but EPA does regulate the waste as hazardous waste:

(i) The importer is required to provide notification in English to EPA of the proposed transboundary movement of hazardous waste at least 60 days before the first shipment is expected to depart the country of export. Notifications submitted prior to the electronic import-export reporting compliance date must be mailed or hand delivered to EPA at the addresses specified in part (c)5 of this paragraph. Notifications submitted on or after the electronic import-export reporting compliance date must be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one year of shipments of one or more hazardous wastes being sent from the same foreign exporter, and must include all of the following information:

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

(II) Receiving facility name, EPA ID number, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in subparagraph (b) of this paragraph;

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

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

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

(VI) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and the ports of entry and exit for each country of transit;

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

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

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

(X) Means of transport planned to be used;

(XI) Description(s) of each hazardous waste, including whether each hazardous waste is regulated universal waste under 40 CFR part 273 or the state equivalent, spent lead-acid batteries being exported for recovery of lead under 40 CFR part 266, subpart G, or the state equivalent, or industrial ethyl alcohol being exported for reclamation under 40 CFR 261.6(a)(3)(i) or the state equivalent, estimated total quantity of each hazardous waste, the applicable RCRA hazardous waste code(s) for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in subparagraph (2)(b) of Rule 0400-12-01-.01, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(XII) Specification of the recovery or disposal operation(s) as defined in subparagraph (b) of this paragraph; and

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

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

Name: _____

Signature: _____

Date: _____

(Note: The United States does not currently require financial assurance for these waste shipments.)

(ii) Notifications listing interim recycling operations or interim disposal operations. If the receiving facility listed in item (i)(II) of this part will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, the notification submitted according to subpart (i) of this part must also include the final recovery or disposal facility name, address, telephone, fax numbers, email address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, will be employed at the final recovery or disposal facility. The recovery and disposal operations in this subpart are defined in subparagraph (b) of this paragraph.

(iii) Renotifications. When the foreign exporter wishes to change any of the conditions specified on the original notification (including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters), the importer must submit a renotification of the changes to EPA using the allowable methods in subpart (i) of this part. Any shipment using the requested changes cannot take place until EPA and the countries of transit consent to the changes and the importer receives an EPA AOC letter documenting the consents to the changes.

(iv) A notification is complete when EPA determines the notification satisfies the requirements of items (i)(I) through (XIII) of this part.

(v) Where EPA and the countries of transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the importer documenting the countries' consents and EPA's consent. Where any of the countries of transit or EPA objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the importer.

(vi) Export of hazardous wastes originally imported into the United States. Export of hazardous wastes that were originally imported into the United States for recycling or disposal operations is prohibited unless an exporter in the United States complies with the export requirements in subpart (d)2(vii) of this paragraph.

3. RCRA Manifest instructions for import shipments.

(i) When importing hazardous waste, the importer must meet all the requirements of subparagraph (3)(a) of this rule for the manifest except that:

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

(II) In place of the generator's signature on the certification statement, the importer or his agent must sign and date the certification and obtain the signature of the initial transporter.

(ii) The importer may obtain the manifest form from any source that is registered with the EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

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

(iv) The importer must provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to U.S. EPA in accordance with subpart (5)(b)1(iii) of Rule 0400-12-01-.05 and subpart (5)(b)1(iii) of Rule 0400-12-01-.06.

(v) In lieu of the requirements of part (3)(a)4 of this rule, where a shipment cannot be delivered for any reason to the receiving facility, the importer must instruct the transporter in writing via fax, email or mail to:

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

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

4. Movement document requirements for import shipments.

(i) The importer must ensure that a movement document meeting the conditions of subpart (ii) of this part accompanies each transboundary movement of hazardous wastes from the initiation of the shipment in the country of export until it reaches the receiving facility, including cases in which the hazardous waste is stored and/or sorted by the importer prior to shipment to the receiving facility, except as provided in items (I) and (II) of this subpart.

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

(II) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment, the importer must forward the movement document to the next non-rail transporter, if any, or the last rail transporter to handle the hazardous waste in the United States if imported by rail.

(ii) The movement document must include the following items (I) through (XV) of this subpart:

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

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

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

(IV) Receiving facility name, EPA ID number, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in subparagraph (b) of this paragraph;

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

(VI) Description(s) of each hazardous waste, quantity of each hazardous waste in the shipment, applicable RCRA hazardous waste code(s) for each hazardous waste, the applicable OECD waste code for each hazardous waste from the lists incorporated by reference in subparagraph (2)(b) of Rule 0400-12-01-.01, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(VII) Date movement commenced;

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

(IX) Company name, EPA ID number, address, telephone, fax, and email address of all transporters;

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

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

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

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

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

(XV) The receiving facility must send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the foreign exporter, to the competent authorities of the countries of export and transit, and for shipments received on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

5. Duty to return or export hazardous wastes. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s), the provisions of subpart 6(iv) of this subparagraph apply. If alternative arrangements cannot be made to recover the hazardous waste in an environmentally sound manner in the United States, the hazardous waste must be returned to the country of export or exported to a third country. The provisions of subpart 2(vi) of this subparagraph apply to any hazardous waste shipments to be exported to a third country. 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 importer.

6. Import contract requirements.

(i) Imports of hazardous waste must 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 foreign exporter, importer, and the owner or operator of the receiving facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this part 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.

(ii) Contracts or equivalent arrangements must specify the name and EPA ID number, where available, of items (I) through (IV) of this subpart:

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

(II) Each person who will have physical custody of the hazardous wastes;

(III) Each person who will have legal control of the hazardous wastes; and

(IV) The receiving facility.

(iii) Contracts or equivalent arrangements must specify the use of a movement document in accordance with part 4 of this subparagraph.

(iv) Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the hazardous wastes if their disposition cannot be carried out as described in the notification of intent to export submitted by either the foreign exporter or the importer. In such cases, contracts must specify that:

(I) The transporter or receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the foreign exporter and importer, and the competent authority where the shipment is located of the need to arrange alternate management or return; and

(II) The person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of the hazardous wastes and, as the case may be, shall provide the notification for re-export required in subpart (d)2(vii) of this paragraph.

(v) Contracts must specify that the importer or the receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC15 through DC17, as appropriate, will provide the notification required in subpart (d)2(vii) of this paragraph prior to the re-export of hazardous wastes. The recovery and disposal operations in this paragraph are defined in subparagraph (b) of this paragraph.

(vi) 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.

(Note: Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD Member countries or other foreign countries do. It is the responsibility of the importer to ascertain and comply with such requirements; in some cases, persons or facilities located in those countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.)

(vii) Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this paragraph.

(viii) Upon request by EPA, importers or disposal 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).

7. Confirmation of recovery or disposal. The receiving facility must do the following:

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

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

8. Recordkeeping.

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

(I) A copy of each notification that the importer sends to EPA under subpart 2(i) of this subparagraph and each EPA AOC it receives in response for a period of at least three years from the date the hazardous waste was accepted by the initial foreign transporter; and

(II) A copy of each contract or equivalent arrangement established per part 6 of this subparagraph for at least three years from the expiration date of the contract or equivalent arrangement.

(ii) The receiving facility shall keep the following records:

(I) A copy of each confirmation of receipt (i.e., movement document) that the receiving facility sends to the foreign exporter for at least three years from the date it received the hazardous waste;

(II) A copy of each confirmation of recovery or disposal that the receiving facility sends to the foreign exporter for at least three years from the date that it completed processing the waste shipment;

(III) For the receiving facility that performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17 (recovery and disposal operations defined in subparagraph (b) of this paragraph, a copy of each confirmation of recovery or disposal that the final recovery or disposal facility sent to it for at least three years from the

date that the final recovery or disposal facility completed processing the waste shipment; and

(IV) A copy of each contract or equivalent arrangement established per part 6 of this subparagraph for at least three years from the expiration date of the contract or equivalent arrangement.

(iii) Importers and receiving facilities may satisfy these recordkeeping requirements by retaining electronically submitted documents in the importer's or receiving facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No importer or receiving facility may be held liable for the inability to produce such documents for inspection under this part if the importer or receiving facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the importer or receiving facility bears no responsibility.

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

(f) through (j) [Reserved] [40 CFR 262.85-262.89]

~~(10) (RESERVED)~~

~~(11) (RESERVED)~~

~~(12)~~(10) Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities [40 CFR 262, Subpart K]

(a) Definitions for this paragraph [40 CFR 262.200]

The following definitions apply to this paragraph:

1. [Reserved] ~~"Central accumulation area" means an on-site hazardous waste accumulation area subject to either parts (4)(e)2 and 3 of this rule (large quantity generators); or parts (4)(e)6, 7 and 8 of this rule (small quantity generators). A central accumulation area at an eligible academic entity that chooses to be subject to this paragraph must also comply with subparagraph (l) of this paragraph when accumulating unwanted material and/or hazardous waste.~~

2. "College/University" means a private or public, post-secondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the U.S. Department of Education.

3. "Eligible academic entity" means a college or university, or a non-profit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

4. "Formal written affiliation agreement" means:

(i) ~~for~~ For a non-profit research institute," ~~means~~ a written document that establishes a relationship between institutions for the purposes of research and/or education and is signed by authorized representatives, as defined by subparagraph (2)(a) of Rule 0400-12-01-.01~~(2)(a)~~, from each institution. ~~A relationship on a project-by-project or grant-by-grant basis is not considered a formal written affiliation agreement. A formal written affiliation agreement for~~

(ii) For a teaching hospital, ~~means~~ a master affiliation agreement and program letter of agreement, as defined by the Accreditation Council for Graduate Medical Education, with an accredited medical program or medical school.

A relationship on a project-by-project or grant-by-grant basis is not considered a formal written affiliation agreement.

5. "Laboratory" means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also considered laboratories.

6. "Laboratory clean-out" means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or that have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (e.g., at the end of a semester or academic year) or as a result of a renovation, relocation, or change in laboratory supervisor/occupant. A regularly scheduled removal of unwanted material as required by subparagraph (i) of this paragraph does not qualify as a laboratory clean-out.

7. "Laboratory worker" means a person who handles chemicals and/or unwanted material in a laboratory and may include, but is not limited to, faculty, staff, post-doctoral fellows, interns, researchers, technicians, supervisors/managers, and principal investigators. A person does not need to be paid or otherwise compensated for his/her work in the laboratory to be considered a laboratory worker. Undergraduate and graduate students in a supervised classroom setting are not laboratory workers.

8. "Non-profit research institute" means an organization that conducts research as its primary function and files as a non-profit organization under the tax code of 26 U.S.C. 501(c)(3).

9. "Reactive acutely hazardous unwanted material" means an unwanted material that is one of the acutely hazardous commercial chemical products listed in part (4)(d)5 of Rule 0400-12-01-.02 for reactivity.

10. "Teaching hospital" means a hospital that trains students to become physicians, nurses, or other health or laboratory personnel.

11. "Trained professional" means a person who has completed the applicable training requirements of subparagraph ~~(2)(g)~~ (1)(h) ~~of Rule 0400-12-01-.05 as required by subpart (4)(e)2(iv)~~ of this rule for large quantity generators~~,~~ or is knowledgeable about normal operations and emergencies in accordance with ~~subpart (4)(e)6(vii)~~ subparagraph (1)(g) of this rule for small quantity generators and ~~conditionally exempt~~ very small quantity generators. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

12. "Unwanted material" means any chemical, mixtures of chemicals, products of experiments, or other material from a laboratory that is no longer needed, wanted, or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to ~~subparagraph~~ parts (1)(b)1 through 4 of Rule 0400-12-01-.02~~,~~ or a hazardous waste pursuant to subparagraph (1)(c) of Rule 0400-12-01-.02. If an eligible academic entity elects to use another equally effective term in lieu of "unwanted material," as allowed by item (g)1(i)(I) of this paragraph, the equally effective term has the same meaning and is subject to the same requirements as "unwanted material" under this paragraph.

13. “Working container” means a small container (i.e., two gallons or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

(b) Applicability of this paragraph. [40 CFR 262.201]

1. Large quantity generators and small quantity generators.

This paragraph provides alternative requirements to the requirements in ~~subparagraph~~ subparagraphs (1)(b) ~~of this rule~~ and ~~part (4)(e)5~~ (f) of this rule for the hazardous waste determination and accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this paragraph, provided that they complete the notification requirements of subparagraph (d) of this paragraph.

2. ~~Conditionally exempt~~ Very small quantity generators.

This paragraph provides alternative requirements to the conditional exemption in ~~part (1)(e)2 of Rule 0400-12-01-.02~~ subparagraph (1)(e) of this rule for the accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this paragraph, provided that they complete the notification requirements subparagraph (d) of this paragraph.

(c) This paragraph is optional. [40 CFR 262.202]

1. Large quantity generators and small quantity generators.

Eligible academic entities have the option of complying with this paragraph with respect to its laboratories~~,~~ as an alternative to complying with the requirements of ~~subparagraph~~ subparagraphs (1)(b) ~~of this rule~~ and ~~part (4)(e)5~~ (f) of this rule.

2. ~~Conditionally exempt~~ Very small quantity generators.

Eligible academic entities have the option of complying with this paragraph with respect to its laboratories~~,~~ as an alternative to complying with the conditional exemption of ~~part (1)(e)2 of Rule 0400-12-01-.02~~ subparagraph (1)(e) of this rule.

(d) How an eligible academic entity indicates it will be subject to the requirements of this paragraph. [40 CFR 262.203]

1. An eligible academic entity must notify the ~~Department~~ Commissioner in writing that it is electing to be subject to the requirements of this paragraph for all the laboratories owned by the eligible academic entity under the same Installation Identification Number. An eligible academic entity that is a ~~conditionally exempt~~ very small quantity generator and does not have an Installation Identification Number must notify that it is electing to be subject to the requirements of this paragraph for all the laboratories owned by the eligible academic entity that are on-site, as defined in ~~paragraph~~ subparagraph (2)(a) of Rule 0400-12-01-.01. An eligible academic entity must submit a separate notification (Hazardous Waste Registration and Notification form) for each Installation Identification Number (or site, for ~~conditionally exempt~~ very small quantity generators) that is electing to be subject to the requirements of this paragraph, and must submit the Hazardous Waste Registration and Notification form before it begins operating under this paragraph.

2. Such notification must be submitted on Hazardous Waste Registration and Notification forms provided by the ~~Department~~ Commissioner. The form must be completed according to the instructions accompanying it.

3. An eligible academic entity must keep a copy of the notification on file at the eligible academic entity for as long as its laboratories are subject to this paragraph.

4. A teaching hospital that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the teaching hospital for as long as its laboratories are subject to this paragraph.

5. A non-profit research institute that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the non-profit research institute for as long as its laboratories are subject to this paragraph.

(e) How an eligible academic entity indicates it will withdraw from the requirements of this paragraph. [40 CFR 262.204]

1. An eligible academic entity must notify the ~~Department~~ Commissioner in writing that it is electing to no longer be subject to the requirements of this paragraph for all the laboratories owned by the eligible academic entity under the same Installation Identification Number and that it will comply with the requirements of ~~subparagraph~~ subparagraphs (1)(b) ~~of this rule~~ and ~~part (4)(e)5~~ (f) of this rule for small quantity generators and large quantity generators. An eligible academic entity that is a ~~conditionally exempt~~ very small quantity generator and does not have an Installation Identification Number must notify that it is withdrawing from the requirements of this paragraph for all the laboratories owned by the eligible academic entity that are on-site and that it will comply with the conditional exemption of ~~part (1)(e)2 of Rule 0400-12-01-.02~~ subparagraph (1)(e) of this rule. An eligible academic entity must submit a separate notification (Hazardous Waste Registration and Notification form) for each Installation Identification Number (or site, for ~~conditionally exempt~~ very small quantity generators) that is withdrawing from the requirements of this paragraph and must submit the Hazardous Waste Registration and Notification form before it begins operating under the requirements of ~~subparagraph~~ subparagraphs (1)(b) ~~of this rule~~ and ~~part (4)(e)5~~ (f) of this rule for small quantity generators and large quantity generators, or ~~part (1)(e)2 of Rule 0400-12-01-.02~~ subparagraph (1)(e) of this rule for ~~conditionally exempt~~ very small quantity generators.

2. Such notification must be submitted on Hazardous Waste Registration and Notification forms provided by the ~~Department~~ Commissioner. The form must be completed according to the instructions accompanying it.

3. An eligible academic entity must keep a copy of the withdrawal notice on file at the eligible academic entity for three years from the date of the notification.

(f) Summary of the requirements of this paragraph. [40 CFR 262.205]

An eligible academic entity that chooses to be subject to this paragraph is not required to have interim status or a hazardous waste management permit for the accumulation of unwanted material and hazardous waste in its laboratories, provided the laboratories comply with the provisions of this paragraph and the eligible academic entity has a Laboratory Management Plan (LMP) in accordance with subparagraph (o) of this paragraph that describes how the laboratories owned by the eligible academic entity will comply with the requirements of this paragraph.

(g) Labeling and management standards for containers of unwanted material in the laboratory. [40 CFR 262.206]

An eligible academic entity must manage containers of unwanted material while in the laboratory in accordance with the requirements in this subparagraph.

1. Labeling: Label unwanted material as follows:

(i) The following information must be affixed or attached to the container:

(I) The words “unwanted material” or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in Part I of the Laboratory Management Plan; and

(II) Sufficient information to alert emergency responders to the contents of the container. Examples of information that would be sufficient to alert emergency responders to the contents of the container include, but are not limited to:

I. The name of the chemical(s); and

II. The type or class of chemical, such as organic solvents or halogenated organic solvents.

(ii) The following information may be affixed or attached to the container, but must at a minimum be associated with the container:

(I) The date that the unwanted material first began accumulating in the container; and

(II) Information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and hazardous waste and to assign the proper hazardous waste code(s), pursuant to subparagraph (1)(b) of this rule. Examples of information that would allow a trained professional to properly identify whether an unwanted material is a solid or hazardous waste include, but are not limited to:

I. The name and/or description of the chemical contents or composition of the unwanted material, or, if known, the product of the chemical reaction;

II. Whether the unwanted material has been used or is unused; and

III. A description of the manner in which the chemical was produced or processed, if applicable.

2. Management of Containers in the Laboratory:

An eligible academic entity must properly manage containers of unwanted material in the laboratory to assure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Proper container management must include the following:

(i) Containers are maintained and kept in good condition and damaged containers are replaced, overpacked, or repaired; and

(ii) Containers are compatible with their contents to avoid reactions between the contents and the container~~;~~ and are made of, or lined with, material that is compatible with the unwanted material so that the container's integrity is not impaired; and

(iii) Containers must be kept closed at all times, except:

(I) When adding, removing, or bulking unwanted material; or

(II) A working container may be open until the end of the procedure or work shift, or until it is full, whichever comes first, at which time the working container must either be closed or the contents emptied into a separate container that is then closed; or

(III) When venting of a container is ~~necessary.~~ necessary:

I. For the proper operation of laboratory equipment, such as with in-line collection of unwanted materials from high performance liquid chromatographs; or

II. To prevent dangerous situations, such as build-up of extreme pressure.

(h) Training. [40 CFR 262.207]

An eligible academic entity must provide training to all individuals working in a laboratory at the eligible academic entity, as follows:

1. Training for laboratory workers and students must be commensurate with their duties so they understand the requirements in this paragraph and can implement them.

2. An eligible academic entity can provide training for laboratory workers and students in a variety of ways, including, but not limited to:

(i) Instruction by the professor or laboratory manager before or during an experiment; ~~or~~

(ii) Formal classroom training; ~~or~~

(iii) Electronic/written training; ~~or~~

(iv) On-the-job training; or

(v) Written or oral exams.

3. An eligible academic entity that is a large quantity generator must maintain documentation for the durations specified in part (2)(g)5 of Rule 0400-12-01-.05 ~~as required by subpart (4)(e)2(iv)~~ demonstrating training for all laboratory workers that is sufficient to determine whether laboratory workers have been trained. Examples of documentation demonstrating training can include, but are not limited to, the following:

(i) Sign-in/attendance sheet(s) for training session(s); ~~or~~

(ii) Syllabus for training session; ~~or~~

(iii) Certificate of training completion; or

(iv) Test results.

4. A trained professional must:

(i) Accompany the transfer of unwanted material and hazardous waste when the unwanted material and hazardous waste is removed from the laboratory; and

(ii) Make the hazardous waste determination, pursuant to ~~subparagraph~~ parts (1)(b)1 through 4 of this rule, for unwanted material.

(i) Removing containers of unwanted material from the laboratory. [40 CFR 262.208]

1. Removing containers of unwanted material on a regular schedule. An eligible academic entity must either:

(i) Remove all containers of unwanted material from each laboratory on a regular interval, not to exceed ~~six (6)~~ 12 months; or

(ii) Remove containers of unwanted material from each laboratory within ~~six (6)~~ 12 months of each container's accumulation start date.

2. The eligible academic entity must specify in Part I of its Laboratory Management Plan whether it will comply with subpart 1(i) or (ii) of this subparagraph for the regular removal of unwanted material from its laboratories.

3. The eligible academic entity must specify in Part II of its Laboratory Management Plan how it will comply with subpart 1(i) or (ii) of this subparagraph and develop a schedule for regular removals of unwanted material from its laboratories.

4. Removing containers of unwanted material when volumes are exceeded.

(i) If a laboratory accumulates a total volume of unwanted material (including reactive acutely hazardous unwanted material) in excess of 55 gallons before the regularly scheduled removal, the eligible academic entity must ensure that all containers of unwanted material in the laboratory (including reactive acutely hazardous unwanted material):

(I) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that 55 gallons is exceeded; and

(II) Are removed from the laboratory within ~~ten (~~10~~)~~ calendar days of the date that 55 gallons was exceeded, or at the next regularly scheduled removal, whichever comes first.

(ii) If a laboratory accumulates more than 1 quart of liquid reactive acutely hazardous unwanted material or more than 1 kg (2.2 pounds) of solid reactive acutely hazardous unwanted material before the regularly scheduled removal, then the eligible academic entity must ensure that all containers of reactive acutely hazardous unwanted material:

(I) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that 1 quart or 1 kg is exceeded; and

(II) Are removed from the laboratory within ~~ten (~~10~~)~~ calendar days of the date that 1 quart or 1 kg was exceeded, or at the next regularly scheduled removal, whichever comes first.

(j) Where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the laboratory. [40 CFR 262.209]

1. Large quantity generators and small quantity ~~generators. An~~ generators.

An eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to subparagraph (1)(b) of this rule, for unwanted material in any of the following areas:

(i) In the laboratory before the unwanted material is removed from the laboratory, in accordance with subparagraph (k) of this paragraph;

(ii) Within four ~~(4)~~ calendar days of arriving at an on-site central accumulation area, in accordance with subparagraph (l) of this paragraph; and

(iii) Within four ~~(4)~~ calendar days of arriving at an on-site interim status or permitted treatment, storage, or disposal facility, in accordance with subparagraph (m) of this paragraph.

2. ~~Conditionally exempt~~ Very small quantity ~~generators—an~~ generators.

An eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to ~~subparagraph~~ parts (1)(b)1 through 4 of this rule, for unwanted material in the laboratory before the unwanted material is removed from the laboratory, in accordance with subparagraph (k) of this paragraph.

(k) Making the hazardous waste determination in the laboratory before the unwanted material is removed from the laboratory. [40 CFR 262.210]

If an eligible academic entity makes the hazardous waste determination, pursuant to subparagraph (1)(b) of this rule, for unwanted material in the laboratory, it must comply with the following:

1. A trained professional must make the hazardous waste determination, pursuant to ~~subparagraph~~ parts (1)(b)1 through 4 of this rule, before the unwanted material is removed from the laboratory.

2. If an unwanted material is a hazardous waste, the eligible academic entity must:

(i) Write the words “hazardous waste” on the container label that is affixed or attached to the container, before the hazardous waste may be removed from the laboratory; and

(ii) Write the appropriate hazardous waste code(s) on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste is transported off-site; and

(iii) Count the hazardous waste toward the eligible academic entity's generator ~~status~~ category, pursuant to ~~parts (1)(e)3 and 4 of Rule 0400-12-01-.02~~ subparagraph (1)(d) of this rule, in the calendar month that the hazardous waste determination was made.

3. A trained professional must accompany all hazardous waste that is transferred from the laboratory(ies) to an on-site central accumulation area or on-site interim status or permitted treatment, storage, or disposal facility.

4. When hazardous waste is removed from the laboratory:

(i) Large quantity generators and small quantity generators must ensure it is taken directly from the laboratory(ies) to an on-site central accumulation area~~,~~; ~~or~~ on-site interim status or permitted treatment, storage or disposal facility~~,~~; or transported off-site.

(ii) ~~Conditionally exempt~~ Very small quantity generators must ensure it is taken directly from the laboratory(ies) to any of the types of facilities listed in ~~subpart (1)(e)6(iii) of Rule 0400-12-01-.02 for acute hazardous waste, or subpart (1)(e)7(iii) of Rule 0400-12-01-.02 for hazardous waste~~ subparagraph (1)(d) of this rule.

5. An unwanted material that is a hazardous waste is subject to all applicable hazardous waste regulations when it is removed from the laboratory.

(l) Making the hazardous waste determination at an on-site central accumulation area. [40 CFR 262.211]

If an eligible academic entity makes the hazardous waste determination, pursuant to subparagraph (1)(b) of this rule, for unwanted material at an on-site central accumulation area, it must comply with the following:

1. A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site central accumulation area; ~~and~~

2. All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site central accumulation area; ~~and~~

3. The unwanted material becomes subject to the generator accumulation regulations of ~~parts (4)(e)2 and 3~~ subparagraph (1)(g) of this rule for ~~large~~ small quantity generators or ~~parts (4)(e)6, 7 and 8~~ subparagraph (1)(h) of this rule for ~~small~~ large quantity generators as soon as it arrives in the central accumulation area, except for the "hazardous waste" labeling ~~requirements~~ conditions of subpart (1)(g)2(vi) of this rule and subpart (1)(h)1(v) of this rule; ~~and~~

4. A trained professional must determine, pursuant to ~~subparagraph~~ parts (1)(b)1 through 4 of this rule, if the unwanted material is a hazardous waste within four ~~(4)~~ calendar days of the unwanted materials' arrival at the on-site central accumulation area; and

5. If the unwanted material is a hazardous waste, the eligible academic entity must:

   (i) Write the words "hazardous waste" on the container label that is affixed or attached to the container~~,~~ within four ~~(4)~~ calendar days of arriving at the on-site central accumulation area and before the hazardous waste may be removed from the on-site central accumulation area; ~~and~~

   (ii) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed of on-site or transported off-site; ~~and~~

   (iii) Count the hazardous waste toward the eligible academic entity's generator ~~status~~ category, pursuant to ~~parts (1)(e)3 and 4 of Rule 0400-12-01-.02~~ subparagraph (1)(d) of this rule, in the calendar month that the hazardous waste determination was made; and

   (iv) Manage the hazardous waste according to all applicable hazardous waste regulations.

(m) Making the hazardous waste determination at an on-site interim status or permitted treatment, storage, or disposal facility. [40 CFR 262.212]

If an eligible academic entity makes the hazardous waste determination, pursuant to subparagraph (1)(b) of this rule, for unwanted material at an on-site interim status or permitted treatment, storage, or disposal facility, it must comply with the following:

1. A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site interim status or permitted treatment, storage or disposal facility; ~~and~~

2. All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site interim status or permitted treatment, storage, or disposal facility; ~~and~~

3. The unwanted material becomes subject to the terms of the eligible academic entity's hazardous waste permit or interim status as soon as it arrives in the on-site treatment, storage, or disposal facility; ~~and~~

4. A trained professional must determine, pursuant to ~~subparagraph~~ parts (1)(b)1 through 4 of this rule, if the unwanted material is a hazardous waste within four ~~(4)~~ calendar days of the unwanted materials' arrival at an on-site interim status or permitted treatment, storage, or disposal facility; and

5. If the unwanted material is a hazardous waste, the eligible academic entity must:

(i) Write the words “hazardous waste” on the container label that is affixed or attached to the container within four ~~(4)~~ calendar days of arriving at the on-site interim status or permitted treatment, storage, or disposal facility and before the hazardous waste may be removed from the on-site interim status or permitted treatment, storage, or disposal facility; ~~and~~

(ii) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed on-site or transported off-site; ~~and~~

(iii) Count the hazardous waste toward the eligible academic entity's generator ~~status~~ category, pursuant to ~~parts (1)(e)3 and 4 of Rule 0400-12-01-.02~~ subparagraph (1)(d) of this rule, in the calendar month that the hazardous waste determination was made; and

(iv) Manage the hazardous waste according to all applicable hazardous waste regulations.

(n) Laboratory clean-outs. [40 CFR 262.213]

1. One time per ~~twelve (12) month~~ 12-month period for each laboratory, an eligible academic entity may opt to conduct a laboratory clean-out that is subject to all the applicable requirements of this paragraph, except that:

(i) If the volume of unwanted material in the laboratory exceeds 55 gallons (or 1 quart of liquid reactive acutely hazardous unwanted material or 1 kg of solid reactive acutely hazardous unwanted material), the eligible academic entity is not required to remove all unwanted materials from the laboratory within ~~ten (~~10~~)~~ calendar days of exceeding 55 gallons (or 1 quart of liquid reactive acutely hazardous unwanted material or 1 kg of solid reactive acutely hazardous unwanted material), as required by subparagraph (i) of this paragraph. Instead, the eligible academic entity must remove all unwanted materials from the laboratory within ~~thirty (~~30~~)~~ calendar days from the start of the laboratory clean-out; and

(ii) For the purposes of on-site accumulation, an eligible academic entity is not required to count a hazardous waste that is an unused commercial chemical product (listed in paragraph (4) of Rule 0400-12-01-.02 or exhibiting one or more characteristics in paragraph (3) of Rule 0400-12-01-.02) generated solely during the laboratory clean-out toward its hazardous waste generator ~~status~~ category, pursuant to ~~parts (1)(e)3 and 4 of Rule 0400-12-01-.02~~ subparagraph (1)(d) of this rule. An unwanted material that is generated prior to the beginning of the laboratory clean-out and is still in the laboratory at the time the laboratory clean-out commences must be counted toward hazardous waste generator ~~status~~ category, pursuant to ~~parts (1)(e)3 and 4 of Rule 0400-12-01-.02~~ subparagraph (1)(d) of this rule, if it is determined to be hazardous waste; and

(iii) For the purposes of off-site management, an eligible academic entity must count all its hazardous waste, regardless of whether the hazardous waste was counted toward generator ~~status~~ category under subpart (ii) of this part, and if it generates more than 1 kg/month of acute hazardous waste or more than 100 kg/month of non-acute hazardous waste (i.e., the ~~conditionally exempt~~ very small quantity generator limits ~~of subparagraph (1)(e) of Rule 0400-12-01-.02~~ as defined in subparagraph (2)(a) of Rule 0400-12-01-.01), the hazardous waste is subject to all applicable hazardous waste regulations when it is transported off-site; and

(iv) An eligible academic entity must document the activities of the laboratory clean-out. The documentation must, at a minimum, identify the laboratory being cleaned out, the date the laboratory clean-out begins and ends, and the volume of hazardous waste generated during the laboratory clean-out. The eligible academic entity must maintain the records for a period of three years from the date the clean-out ends; and

2. For all other laboratory clean-outs conducted during the same ~~twelve (12) month~~ 12-month period, an eligible academic entity is subject to all the applicable requirements of this paragraph, including, but not limited to:

(i) The requirement to remove all unwanted materials from the laboratory within ~~ten (~~10~~)~~ calendar days of exceeding 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), as required by subparagraph (i) of this paragraph; and

(ii) The requirement to count all hazardous waste, including unused hazardous waste, generated during the laboratory clean-out toward its hazardous waste generator ~~status~~ category, pursuant to ~~parts (1)(e)3 and 4 of Rule 0400-12-01-.02~~ subparagraph (1)(d) of this rule.

(o) Laboratory management plan. [40 CFR 262.214]

An eligible academic entity must develop and retain a written Laboratory Management Plan~~,~~ or revise an existing written plan. The Laboratory Management Plan is a site-specific document that describes how the eligible academic entity will manage unwanted materials in compliance with this paragraph. An eligible academic entity may write one Laboratory Management Plan for all the laboratories owned by the eligible academic entity that have opted into this paragraph, even if the laboratories are located at sites with different Installation Identification Numbers. The Laboratory Management Plan must contain two parts with a total of nine elements identified in parts 1 and 2 of this subparagraph. In Part I of its Laboratory Management Plan, an eligible academic entity must describe its procedures for each of the elements listed in part 1 of this subparagraph. An eligible academic entity must implement and comply with the specific provisions that it develops to address the elements in Part I of the Laboratory Management Plan. In Part II of its Laboratory Management Plan, an eligible academic entity must describe its best management practices for each of the elements listed in part 2 of this subparagraph. The specific actions taken by an eligible academic entity to implement each element in Part II of its Laboratory Management Plan may vary from the procedures described in the eligible academic entity's Laboratory Management Plan, without constituting a violation of this paragraph. An eligible academic entity may include additional elements and best management practices in Part II of its Laboratory Management Plan if it chooses.

1. The eligible academic entity must implement and comply with the specific provisions of Part I of its Laboratory Management Plan. In Part I of its Laboratory Management Plan, an eligible academic entity must:

(i) Describe procedures for container labeling in accordance with part (g)1 of this paragraph, as follows:

(I) Identifying whether the eligible academic entity will use the term “unwanted material” on the containers in the laboratory (If not, identify an equally effective term that will be used in lieu of “unwanted material” and consistently by the eligible academic entity. The equally effective term, if used, has the same meaning and is subject to the same requirements as “unwanted material.”);

(II) Identifying the manner in which information that is “associated with the container” will be imparted.

(ii) Identify whether the eligible academic entity will comply with subpart (i)1(i) or (i)1(ii) of this paragraph for regularly scheduled removals of unwanted material from the laboratory.

2. In Part II of its Laboratory Management Plan, an eligible academic entity must:

(i) Describe its intended best practices for container labeling and management, (see the required standards at subparagraph (g) of this paragraph); ~~and~~

(ii) Describe its intended best practices for providing training for laboratory workers and students commensurate with their duties (see the required standards at part (h)1 of this paragraph); ~~and~~

(iii) Describe its intended best practices for providing training to ensure safe on-site transfers of unwanted material and hazardous waste by trained professionals (see the required standards at subpart (h)4(i) of this paragraph); ~~and~~

(iv) Describe its intended best practices for removing unwanted material from the laboratory, including:

(I) For regularly scheduled removals—Develop a regular schedule for identifying and removing unwanted materials from its laboratories (see the required standards at subparts (i)1(i) and (i)1(ii) of this paragraph); and

(II) For removals when maximum volumes are exceeded:

I. Describe its intended best practices for removing unwanted materials from the laboratory within ~~ten (~~10~~)~~ calendar days when unwanted materials have exceeded their maximum volumes (see the required standards at part (i)4 of this paragraph); and

II. Describe its intended best practices for communicating that unwanted materials have exceeded their maximum volumes;~~ and~~

(v) Describe its intended best practices for making hazardous waste determinations, including specifying the duties of the individuals involved in the process (see the required standards at ~~subparagraph~~ parts (1)(b)1 through 4 of this rule and subparagraphs (j) through (m) of this paragraph); ~~and~~

(vi) Describe its intended best practices for laboratory clean-outs, if the eligible academic entity plans to use the incentives for laboratory clean-outs provided in subparagraph (n) of this paragraph, including:

(I) Procedures for conducting laboratory clean-outs (see the required standards at subparts (n)1(i) through (iii) of this paragraph); and

(II) Procedures for documenting laboratory clean-outs (see the required standards at subpart (n)1(iv) of this paragraph); and

(vii) Describe its intended best practices for emergency prevention, including:

(I) Procedures for emergency prevention, notification, and response, appropriate to the hazards in the laboratory; ~~and~~

(II) A list of chemicals that the eligible academic entity has, or is likely to have, that become more dangerous when they exceed their expiration date and/or as they degrade; ~~and~~

(III) Procedures to safely dispose of chemicals that become more dangerous when they exceed their expiration date and/or as they degrade; and

(IV) Procedures for the timely characterization of unknown chemicals.

3. An eligible academic entity must make its Laboratory Management Plan available to laboratory workers, students, or any others at the eligible academic entity who request it.

4. An eligible academic entity must review and revise its Laboratory Management Plan~~,~~ as needed.

(p) Unwanted material that is not solid or hazardous waste. [40 CFR 262.215]

1. If an unwanted material does not meet the definition of solid waste in subparagraph (1)(b) of Rule 0400-12-01-.02, it is no longer subject to this paragraph or to the hazardous waste regulations.

2. If an unwanted material does not meet the definition of hazardous waste in subparagraph (1)(c) of Rule 0400-12-01-.02, it is no longer subject to this paragraph or to the hazardous waste regulations~~,~~ but must be managed in compliance with any other applicable regulations and/or conditions.

(q) Non-laboratory hazardous waste generated at an eligible academic entity. [40 CFR 262.216]

An eligible academic entity that generates hazardous waste outside of a laboratory is not eligible to manage that hazardous waste under this paragraph; and

1. Remains subject to the generator requirements of ~~subparagraph~~ subparagraphs (1)(b) ~~of this rule~~ and ~~part (4)(e)5~~ (f) of this rule for large quantity generators and small quantity generators (if the hazardous waste is managed in a satellite accumulation area), and all other applicable generator requirements of Rule 0400-12-01-.03, with respect to that hazardous waste; or

2. Remains subject to the conditional exemption of ~~part (1)(e)2 of Rule 0400-12-01-.02~~ subparagraph (1)(e) of this rule for ~~conditionally exempt~~ very small quantity generators, with respect to that hazardous waste.

(11) Alternate Standards for Episodic Generation [40 CFR 262, Subpart L]

(a) Applicability. [40 CFR 262.230]

This paragraph is applicable to very small quantity generators and small quantity generators as defined in subparagraph (1)(b) of Rule 0400-12-01-.01.

(b) Definitions for this paragraph. [40 CFR 262.231]

1. “Episodic event” means an activity or activities, either planned or unplanned, that does not normally occur during generator operations, resulting in an increase in the generation of hazardous wastes that exceeds the calendar month quantity limits for the generator's usual category.

2. “Planned episodic event” means an episodic event that the generator planned and prepared for, including regular maintenance, tank cleanouts, short-term projects, and removal of excess chemical inventory.

3. “Unplanned episodic event” means an episodic event that the generator did not plan or reasonably did not expect to occur, including production process upsets, product recalls, accidental spills, or “acts of nature” such as a tornado, hurricane, or flood.

(c) Conditions for a generator managing hazardous waste from an episodic event. [40 CFR 262.232]

1. Very small quantity generator. A very small quantity generator may maintain its existing generator category for hazardous waste generated during an episodic event provided that the generator complies with the following conditions:

(i) The very small quantity generator is limited to one episodic event per calendar year, unless a petition is granted under subparagraph (d) of this paragraph;

(ii) Notification. The very small quantity generator must notify the Commissioner no later than 30 calendar days prior to initiating a planned episodic event using forms provided by the Commissioner, and the forms must be completed according to the accompanying instructions. In the event of an unplanned episodic event, the generator must notify the Commissioner within 72 hours of the unplanned event via phone, email, or fax and subsequently submit the form provided by the Commissioner, and the form must be completed according to the instructions accompanying it. The generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of hazardous waste expected to be generated as a result of the episodic event, and shall identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to an emergency in compliance with item (1)(g)2(ix)(I) of this rule;

(iii) Installation Identification Number. The very small quantity generator must have an installation identification number or obtain an installation identification number using forms provided by the Commissioner, and the forms must be completed according to the accompanying instructions;

(iv) Accumulation. A very small quantity generator is prohibited from accumulating hazardous waste generated from an episodic event on drip pads and in containment buildings. When accumulating hazardous waste in containers and tanks the following conditions apply:

(I) Containers. A very small quantity generator accumulating in containers must mark or label its containers with the following:

I. The words “Episodic Hazardous Waste”;

II. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

III. The date upon which the episodic event began, clearly visible for inspection on each container.

(II) Tanks. A very small quantity generator accumulating episodic hazardous waste in tanks must do the following:

I. Mark or label the tanks with the words “Episodic Hazardous Waste”;

II. Mark or label the tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive,

reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

III. Use inventory logs, monitoring equipment, or other records to identify the date upon which each episodic event begins; and

IV. Keep inventory logs or records with the information required by subitem III of this item on site and readily available for inspection.

(III) Hazardous waste must be managed in a manner that minimizes the possibility of a fire, explosion, or release of hazardous waste or hazardous waste constituents to the air, soil, or water;

I. Containers must be in good condition and compatible with the hazardous waste being accumulated therein. Containers must be kept closed except to add or remove waste; and

II. Tanks must:

A. Be in good condition and compatible with the hazardous waste accumulated therein;

B. Have procedures in place to prevent the overflow (e.g., be equipped with a means to stop inflow with systems such as a waste feed cutoff system or bypass system to a standby tank when hazardous waste is continuously fed into the tank); and

C. Be inspected at least once each operating day to ensure all applicable discharge control equipment, such as waste feed cutoff systems, bypass systems, and drainage systems are in good working order and to ensure the tank is operated according to its design by reviewing the data gathered from monitoring equipment such as pressure and temperature gauges from the inspection.

(v) The very small quantity generator must comply with the hazardous waste manifest provisions of paragraph (3) of this rule when it sends its episodic event hazardous waste off site to a designated facility, as defined in subparagraph (2)(a) of Rule 0400-12-01-.01, and comply with the annual reporting requirements of part (5)(b)6 of this rule.

(Note: The quantities of hazardous waste generated during an episodic event(s) does not exempt the very small quantity generator from paying any applicable fee in accordance with paragraph (5) of Rule 0400-12-01-.08.)

(vi) The very small quantity generator has up to 60 calendar days from the start of the episodic event to manifest and send its hazardous waste generated from the episodic event to a designated facility, as defined in subparagraph (2)(a) of Rule 0400-12-01-.01.

(vii) Very small quantity generators must maintain the following records for three years from the end date of the episodic event:

(I) Beginning and end dates of the episodic event;

(II) A description of the episodic event;

(III) A description of the types and quantities of hazardous wastes generated during the event;

(IV) A description of how the hazardous waste was managed as well as the name of the designated facility, as defined in subparagraph (2)(a) of Rule 0400-12-01-.01, that received the hazardous waste;

(V) Name(s) of permitted hazardous waste transporters used to transport the hazardous wastes generated during the event; and

(VI) An approval letter from the Commissioner if the generator petitioned to conduct one additional episodic event per calendar year.

2. Small quantity generators. A small quantity generator may maintain its existing generator category during an episodic event provided that the generator complies with the following conditions:

(i) The small quantity generator is limited to one episodic event per calendar year unless a petition is granted under subparagraph (d) of this paragraph;

(ii) Notification. The small quantity generator must notify the Commissioner no later than 30 calendar days prior to initiating a planned episodic event using forms provided by the Commissioner, and the forms must be completed according to the accompanying instructions. In the event of an unplanned episodic event, the small quantity generator must notify the Commissioner within 72 hours of the unplanned event via phone, email, or fax and subsequently submit the form provided by the Commissioner, and the form must be completed according to the instructions accompanying it. The small quantity generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of hazardous wastes expected to be generated as a result of the episodic event, and identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to emergency;

(iii) Installation Identification Number. The small quantity generator must have an installation identification number or obtain an installation identification number using forms provided by the Commissioner, and the forms must be completed according to the accompanying instructions; and

(iv) Accumulation by small quantity generators. A small quantity generator is prohibited from accumulating hazardous wastes generated from an episodic event on drip pads and in containment buildings. When accumulating hazardous waste generated from an episodic event in containers and tanks, the following conditions apply:

(I) Containers. A small quantity generator accumulating episodic hazardous waste in containers must meet the standards at subpart (1)(g)2(ii) of this rule and must mark or label its containers with the following:

I. The words “Episodic Hazardous Waste”;

II. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation

requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

III. The date upon which the episodic event began, clearly visible for inspection on each container.

(II) Tanks. A small quantity generator accumulating episodic hazardous waste in tanks must meet the standards at subpart (1)(g)2(iii) of this rule and must do the following:

I. Mark or label its tank with the words "Episodic Hazardous Waste";

II. Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

III. Use inventory logs, monitoring equipment, or other records to identify the date upon which each period of accumulation begins and ends; and

IV. Keep inventory logs or records with the information required by subitem III of this item on site and available for inspection.

(v) The small quantity generator must treat hazardous waste generated from an episodic event on site or manifest and ship such hazardous waste off site to a designated facility (as defined by subparagraph (2)(a) of Rule 0400-12-01-.01) within 60 calendar days from the start of the episodic event, and it must comply with the annual reporting requirements of part (5)(b)1 of this rule.

(Note: The quantities of hazardous waste generated during an episodic event(s) does not exempt the small quantity generator from paying any applicable fee in accordance with paragraph (5) of Rule 0400-12-01-.08.)

(vi) The small quantity generator must maintain the following records for three years from the end date of the episodic event:

(I) Beginning and end dates of the episodic event;

(II) A description of the episodic event;

(III) A description of the types and quantities of hazardous wastes generated during the event;

(IV) A description of how the hazardous waste was managed as well as the name of the designated facility (as defined by subparagraph (2)(a) of Rule 0400-12-01-.01) that received the hazardous waste;

(V) Name(s) of permitted hazardous waste transporters used to transport the hazardous wastes generated during the event; and

(VI) An approval letter from the Commissioner if the generator petitioned to conduct one additional episodic event per calendar year.

(d) Petition to manage one additional episodic event per calendar year. [40 CFR 262.233]

1. A generator may petition the Commissioner in writing, either on paper or electronically, for a second episodic event in a calendar year without impacting its generator category under the following conditions:

(i) If a very small quantity generator or small quantity generator has already held a planned episodic event in a calendar year, the generator may petition the Commissioner for an additional unplanned episodic event in that calendar year within 72 hours of the unplanned event.

(ii) If a very small quantity generator or small quantity generator has already held an unplanned episodic event in a calendar year, the generator may petition the Commissioner for an additional planned episodic event in that calendar year.

2. The petition must include the following:

(i) The reason(s) why an additional episodic event is needed and the nature of the episodic event;

(ii) The estimated amount of hazardous waste to be managed from the event;

(iii) How the hazardous waste is to be managed;

(iv) The estimated length of time needed to complete management of the hazardous waste generated from the episodic event--not to exceed 60 days; and

(v) Information regarding the previous episodic event managed by the generator, including the nature of the event, whether it was a planned or unplanned event, and how the generator complied with the conditions.

3. The generator must retain written approval in its records for three years from the date the episodic event ended.

(12) Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators [40 CFR 262, Subpart M]

(a) Applicability. [40 CFR 262.250]

The regulations of this paragraph apply to those areas of a large quantity generator where hazardous waste is generated or accumulated on site.

(b) Maintenance and operation of facility. [40 CFR 262.251]

A large quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

(c) Required equipment. [40 CFR 262.252]

All areas deemed applicable by subparagraph (a) of this paragraph must be equipped with the items in parts 1 through 4 of this subparagraph (unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified in parts 1 through 4 of

this subparagraph, or the actual hazardous waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). A large quantity generator may determine the most appropriate locations within its facility to locate equipment necessary to prepare for and respond to emergencies:

1. An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

2. A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

3. Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

4. Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

(d) Testing and maintenance of equipment. [40 CFR 262.253]

All communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(e) Access to communications or alarm system. [40 CFR 262.254]

1. Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under subparagraph (c) of this paragraph.

2. In the event there is just one employee on the premises while the facility is operating, the employee must have immediate access (e.g., direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under subparagraph (c) of this paragraph.

(f) Required aisle space. [40 CFR 262.255]

The large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

(g) Arrangements with local authorities. [40 CFR 262.256]

1. The large quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if it is determined to be the appropriate organization with which to make arrangements.

(i) A large quantity generator attempting to make arrangements with its local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals.

(ii) As part of this coordination, the large quantity generator shall attempt to make arrangements, as necessary, to familiarize the organizations identified in this part with the layout of the facility, the properties of the hazardous waste handled at the facility and associated hazards, places where personnel would normally be working, entrances to roads inside the facility, possible evacuation routes, and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

(iii) Where more than one police or fire department might respond to an emergency, the large quantity generator shall attempt to make arrangements designating primary emergency authority to a specific fire or police department, and attempt to make arrangements with any others to provide support to the primary emergency authority.

2. The large quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

3. A facility possessing 24-hour response capabilities may seek a waiver from the authority having jurisdiction (AHJ) over the fire code within the facility's state or locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the waiver is documented in the operating record.

(h) Purpose and implementation of contingency plan. [40 CFR 262.260]

1. A large quantity generator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

2. The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

(i) Content of contingency plan. [40 CFR 262.261]

1. The contingency plan must describe the actions facility personnel must take to comply with subparagraphs (h) and (m) of this paragraph in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

2. If the generator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR part 112, or some other emergency or contingency plan, it need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the standards of this paragraph. The generator may develop one contingency plan that meets all regulatory standards. The Commissioner recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance (“One Plan”).

3. The plan must describe arrangements agreed to with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals or, if applicable, the Local Emergency Planning Committee, pursuant to subparagraph (g) of this paragraph.

4. The plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator (see subparagraph (l) of this paragraph), and this list must be kept up to date. Where more than one person is listed, one must be named as primary

emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. In situations where the generator facility has an emergency coordinator continuously on duty because it operates 24 hours per day, every day of the year, the plan may list the staffed position (e.g., operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times.

5. The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

6. The plan must include an evacuation plan for generator personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

(j) Copies of contingency plan. [40 CFR 262.262]

A copy of the contingency plan and all revisions to the plan must be maintained at the large quantity generator, and:

1. The large quantity generator must submit a copy of the contingency plan and all revisions to all local emergency responders (i.e., police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services). This document may also be submitted to the Local Emergency Planning Committee, as appropriate.

2. A large quantity generator that first becomes subject to these provisions after the effective date of these rules, or a large quantity generator that is otherwise amending its contingency plan, must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified in part 1 of this subparagraph or, as appropriate, the Local Emergency Planning Committee. The quick reference guide must include the following elements:

(i) The types/names of hazardous wastes in layman's terms and the associated hazard associated with each hazardous waste present at any one time (e.g., toxic paint wastes, spent ignitable solvent, corrosive acid);

(ii) The estimated maximum amount of each hazardous waste that may be present at any one time;

(iii) The identification of any hazardous wastes where exposure would require unique or special treatment by medical or hospital staff;

(iv) A map of the facility showing where hazardous wastes are generated, accumulated, and treated, and routes for accessing these wastes;

(v) A street map of the facility in relation to surrounding businesses, schools, and residential areas to understand how best to get to the facility and also evacuate citizens and workers;

(vi) The locations of water supply (e.g., fire hydrant and its flow rate);

(vii) The identification of on-site notification systems (e.g., a fire alarm that rings off site, smoke alarms); and

(viii) The name of the emergency coordinator(s) and 7/24-hour emergency telephone number(s) or, in the case of a facility where an emergency coordinator is

continuously on duty, the emergency telephone number for the emergency coordinator.

3. Generators must update, if necessary, their quick reference guides, whenever the contingency plan is amended and submit these documents to the local emergency responders identified in part 1 of this subparagraph or, as appropriate, the Local Emergency Planning Committee.

4. For a facility possessing 24-hour response capabilities, submission of a copy of the contingency plan and of the quick reference guide as required by parts 1 and 2 of this subparagraph to a local emergency responder (i.e., police department, fire department, hospital, and state and local emergency response teams) is not required, provided a waiver has been obtained in accordance with part (g)3 of this paragraph that specifies that the services of the local emergency responder is not needed in the event of an emergency.

(k) Amendment of contingency plan. [40 CFR 262.263]

The contingency plan must be reviewed, and immediately amended, if necessary, whenever:

1. Applicable regulations are revised;

2. The plan fails in an emergency;

3. The generator facility changes--in its design, construction, operation, maintenance, or other circumstances--in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency;

4. The list of emergency coordinators changes; or

5. The list of emergency equipment changes.

(l) Emergency coordinator. [40 CFR 262.264]

At all times, there must be at least one employee either on the generator's premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures and implementing the necessary emergency procedures outlined in subparagraph (m) of this paragraph. Although responsibilities may vary depending on factors such as type and variety of hazardous waste(s) handled by the facility, as well as type and complexity of the facility, this emergency coordinator must be thoroughly familiar with all aspects of the generator's contingency plan, all operations and activities at the facility, the location and characteristics of hazardous waste handled, the location of all records within the facility, and the facility's layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

(m) Emergency procedures. [40 CFR 262.265]

1. Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(ii) Notify appropriate state or local agencies with designated response roles if their help is needed.

2. Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any

released materials. The emergency coordinator may do this by observation or review of the facility records or manifests and, if necessary, by chemical analysis.

3. Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).

4. If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, the emergency coordinator must report the findings as follows:

   (i) If the assessment indicates that evacuation of local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated; and

   (ii) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for that geographical area or the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include:

      (I) Name and telephone number of reporter;

      (II) Name and address of the generator;

      (III) Time and type of incident (e.g., release, fire);

      (IV) Name and quantity of material(s) involved, to the extent known;

      (V) The extent of injuries, if any; and

      (VI) The possible hazards to human health, or the environment, outside the facility.

5. During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the generator's facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released hazardous waste, and removing or isolating containers.

6. If the generator stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

7. Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the generator can demonstrate, in accordance with part (1)(c)3 or (1)(c)4 of Rule 0400-12-01-.02, that the recovered material is not a hazardous waste, then it is a newly generated hazardous waste that must be managed in accordance with all the applicable requirements and conditions for exemption in this rule and Rules 0400-12-01-.04 and 0400-12-01-.05.

8. The emergency coordinator must ensure that, in the affected area(s) of the facility:

   (i) No hazardous waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

9. The generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, the generator must submit a written report on the incident to the Commissioner. The report must include:

(i) Name, address, and telephone number of the generator;

(ii) Date, time, and type of incident (e.g., fire, explosion);

(iii) Name and quantity of material(s) involved;

(iv) The extent of injuries, if any;

(v) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(vi) Estimated quantity and disposition of recovered material that resulted from the incident.

~~(13) Appendix~~

~~(a) Appendix I [Appendix to 40 CFR 262] -- Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)~~

~~U.S. EPA Form 8700-22~~

~~Read all instructions before completing this form.~~

~~1. This form has been designed for use on a 12-pitch (elite) typewriter which is also compatible with standard computer printers; a firm point pen may also be used -- press down hard.~~

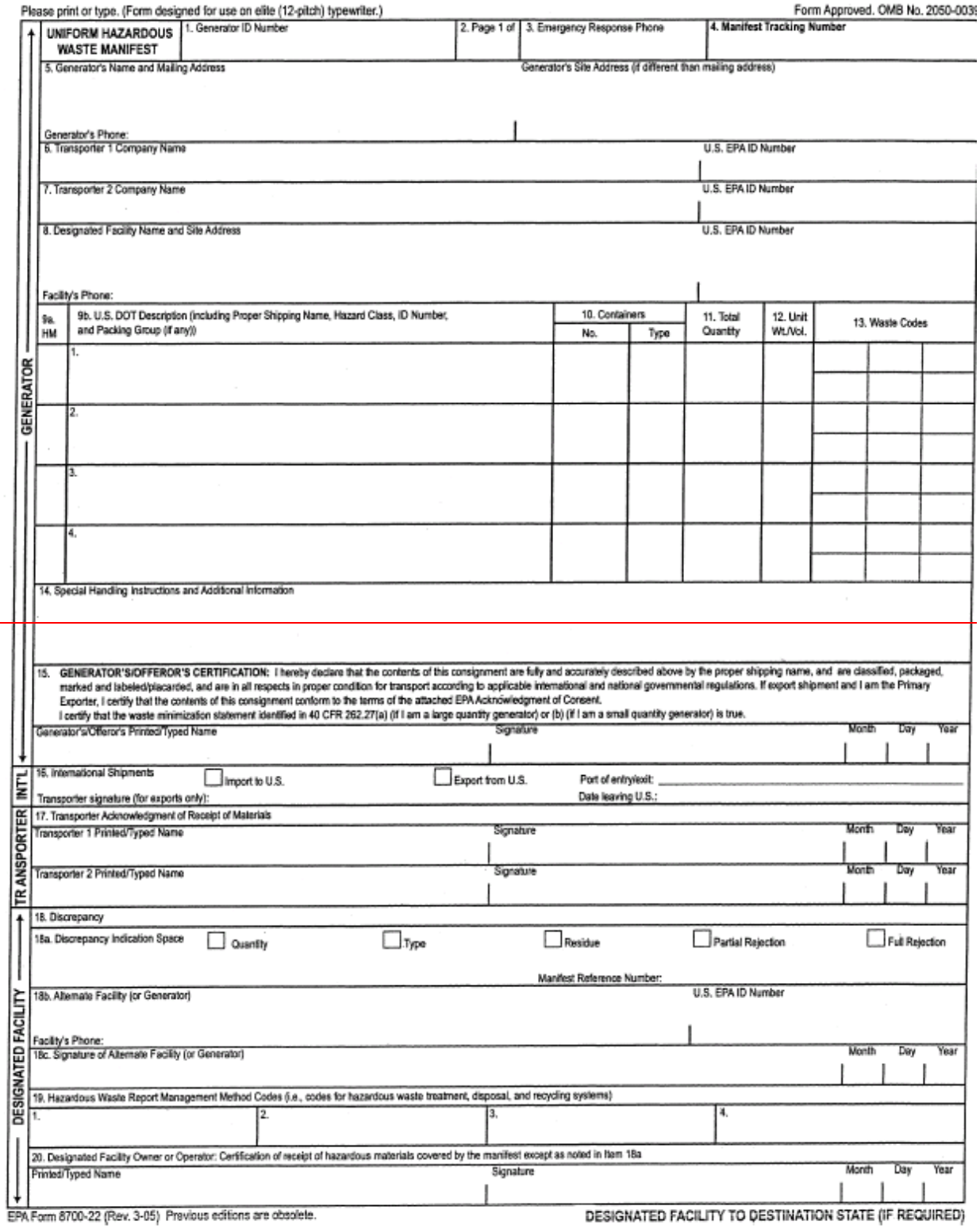
~~2. Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to complete this form (FORM 8700-22) and, if necessary, the continuation sheet (FORM 8700-22A) for both inter- and intrastate transportation of hazardous waste.~~

* * * * *

~~Manifest 8700-22~~

~~The following statement must be included with each Uniform Hazardous Waste Manifest, either on the form, in the instructions to the form, or accompanying the form:~~

~~Public reporting burden for this collection of information is estimated to average: 30 minutes for generators, 10 minutes for transporters, and 25 minutes for owners or operators of treatment, storage, and disposal facilities. This includes time for reviewing instructions, gathering data, completing, reviewing and transmitting the form. Any correspondence regarding the PRA burden statement for the manifest must be sent to the Director of the Collection Strategies Division in EPA's Office of Information Collection at the following address: U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460. Do not send the completed form to this address.~~



Please print or type. (Form designed for use on elite (12-pitch) typewriter.) Form Approved. OMB No. 2050-003

UNIFORM HAZARDOUS WASTE MANIFEST

1. Generator ID Number | 2. Page 1 of | 3. Emergency Response Phone | 4. Manifest Tracking Number

GENERATOR

5. Generator's Name and Mailing Address — Generator's Site Address (if different than mailing address)

Generator's Phone:

6. Transporter 1 Company Name — U.S. EPA ID Number

7. Transporter 2 Company Name — U.S. EPA ID Number

8. Designated Facility Name and Site Address — U.S. EPA ID Number

Facility's Phone:

9a. HM	9b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))	10. Containers No.	10. Containers Type	11. Total Quantity	12. Unit Wt./Vol.	13. Waste Codes
	1.					
	2.					
	3.					
	4.					

14. Special Handling Instructions and Additional Information

15. **GENERATOR'S/OFFEROR'S CERTIFICATION:** I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent.
I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true.

Generator's/Offeror's Printed/Typed Name — Signature — Month Day Year

INT'L

16. International Shipments ☐ Import to U.S. ☐ Export from U.S. Port of entry/exit:
Transporter signature (for exports only): Date leaving U.S.:

TRANSPORTER

17. Transporter Acknowledgment of Receipt of Materials

Transporter 1 Printed/Typed Name — Signature — Month Day Year

Transporter 2 Printed/Typed Name — Signature — Month Day Year

DESIGNATED FACILITY

18. Discrepancy

18a. Discrepancy Indication Space ☐ Quantity ☐ Type ☐ Residue ☐ Partial Rejection ☐ Full Rejection

Manifest Reference Number:

18b. Alternate Facility (or Generator) — U.S. EPA ID Number

Facility's Phone:

18c. Signature of Alternate Facility (or Generator) — Month Day Year

19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)

1.	2.	3.	4.

20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by the manifest except as noted in Item 18a

Printed/Typed Name — Signature — Month Day Year

EPA Form 8700-22 (Rev. 3-05) Previous editions are obsolete. DESIGNATED FACILITY TO DESTINATION STATE (IF REQUIRED)

~~I. Instructions for Generators~~

~~Item 1. Generator's U.S. EPA Identification Number~~

~~Enter the generator's U.S. EPA twelve digit identification number, or the State generator identification number if the generator site does not have an EPA identification number.~~

Item 2. Page 1 of –

Enter the total number of pages used to complete this Manifest (i.e., the first page (EPA Form 8700-22) plus the number of Continuation Sheets (EPA Form 8700-22A), if any).

Item 3. Emergency Response Phone Number

Enter a phone number for which emergency response information can be obtained in the event of an incident during transportation. The emergency response phone number must:

1. Be the number of the generator or the number of an agency or organization who is capable of and accepts responsibility for providing detailed information about the shipment;

2. Reach a phone that is monitored 24 hours a day at all times the waste is in transportation (including transportation related storage); and

3. Reach someone who is either knowledgeable of the hazardous waste being shipped and has comprehensive emergency response and spill cleanup/incident mitigation information for the material being shipped or has immediate access to a person who has that knowledge and information about the shipment.

(Note: Emergency Response phone number information should only be entered in Item 3 when there is one phone number that applies to all the waste materials described in Item 9b. If a situation (e.g., consolidated shipments) arises where more than one Emergency Response phone number applies to the various wastes listed on the manifest, the phone numbers associated with each specific material should be entered after its description in Item 9b.)

Item 4. Manifest Tracking Number

This unique tracking number must be pre-printed on the manifest by the forms printer.

Item 5. Generator's Mailing Address, Phone Number and Site Address

Enter the name of the generator, the mailing address to which the completed manifest signed by the designated facility should be mailed, and the generator's telephone number. Note, the telephone number (including area code) should be the normal business number for the generator, or the number where the generator or his authorized agent may be reached to provide instructions in the event the designated and/or alternate (if any) facility rejects some or all of the shipment. Also enter the physical site address from which the shipment originates only if this address is different than the mailing address.

Item 6. Transporter 1 Company Name, and U.S. EPA ID Number

Enter the company name and U.S. EPA ID number of the first transporter who will transport the waste. Vehicle or driver information may not be entered here.

Item 7. Transporter 2 Company Name and U.S. EPA ID Number

If applicable, enter the company name and U.S. EPA ID number of the second transporter who will transport the waste. Vehicle or driver information may not be entered here. If more than two transporters are needed, use a Continuation Sheet(s) (EPA Form 8700-22A).

Item 8. Designated Facility Name, Site Address, and U.S. EPA ID Number

Enter the company name and site address of the facility designated to receive the waste listed on this manifest. Also enter the facility's phone number and the U.S. EPA twelve digit identification number of the facility.

Item 9. U.S. DOT Description (Including Proper Shipping Name, Hazard Class or Division, Identification Number, and Packing Group)

Item 9a. If the wastes identified in Item 9b consist of both hazardous and nonhazardous materials, then identify the hazardous materials by entering an ``X'' in this Item next to the corresponding hazardous material identified in Item 9b.

If applicable, enter the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

Item 9b. Enter the U.S. DOT Proper Shipping Name, Hazard Class or Division, Identification Number (UN/NA) and Packing Group for each waste as identified in 49 CFR 172. Include technical name(s) and reportable quantity references, if applicable.

(Note: If additional space is needed for waste descriptions, enter these additional descriptions in Item 27 on the Continuation Sheet (EPA Form 8700-22A). Also, if more than one Emergency Response phone number applies to the various wastes described in either Item 9b or Item 27, enter applicable Emergency Response phone numbers immediately following the shipping descriptions for those Items.)

Item 10. Containers (Number and Type)

Enter the number of containers for each waste and the appropriate abbreviation from Table I (below) for the type of container.

Table I.--Types of Containers

BA = Burlap, cloth, paper, or plastic bags.
CF = Fiber or plastic boxes, cartons, cases.
CM = Metal boxes, cartons, cases (including roll-offs).
CW = Wooden boxes, cartons, cases.
CY = Cylinders.
DF = Fiberboard or plastic drums, barrels, kegs.
DM = Metal drums, barrels, kegs.
DT = Dump truck.
DW = Wooden drums, barrels, kegs.
HG = Hopper or gondola cars.
TC = Tank cars.
TP = Portable tanks.
TT = Cargo tanks (tank trucks).

Item 11. Total Quantity

Enter, in designated boxes, the total quantity of waste. Round partial units to the nearest whole unit, and do not enter decimals or fractions. To the extent practical, report quantities using appropriate units of measure that will allow you to report quantities with precision. Waste quantities entered should be based on actual measurements or reasonably accurate estimates of actual quantities shipped. Container capacities are not acceptable as estimates.

Item 12. Units of Measure (Weight/Volume)

Enter, in designated boxes, the appropriate abbreviation from Table II (below) for the unit of measure.

Table II.--Units of Measure

G = Gallons (liquids only).
K = Kilograms.
L = Liters (liquids only).
M = Metric Tons (1000 kilograms).
N = Cubic Meters.
P = Pounds.

T = Tons (2000 pounds).
Y = Cubic Yards.

(Note: Tons, Metric Tons, Cubic Meters, and Cubic Yards should only be reported in connection with very large bulk shipments, such as rail cars, tank trucks, or barges.)

Item 13. Waste Codes

Enter up to six federal and state waste codes to describe each waste stream identified in Item 9b. State waste codes that are not redundant with federal codes must be entered here, in addition to the federal waste codes which are most representative of the properties of the waste.

Item 14. Special Handling Instructions and Additional Information.

1. Generators may enter any special handling or shipment-specific information necessary for the proper management or tracking of the materials under the generator's or other handler's business processes, such as waste profile numbers, container codes, bar codes, or response guide numbers. Generators also may use this space to enter additional descriptive information about their shipped materials, such as chemical names, constituent percentages, physical state, or specific gravity of wastes identified with volume units in Item 12.

2. This space may be used to record limited types of federally required information for which there is no specific space provided on the manifest, including any alternate facility designations; the Manifest Tracking Number of the original manifest for rejected wastes and residues that are re-shipped under a second manifest; and the specification of PCB waste descriptions and PCB out-of-service dates required under 40 CFR 761.207. Generators, however, cannot be required to enter information in this space to meet state regulatory requirements.

Item 15. Generator's/Offeror's Certifications

1. The generator must read, sign, and date the waste minimization certification statement. In signing the waste minimization certification statement, those generators who have not been exempted by statute or regulation from the duty to make a waste minimization certification under section 3002(b) of RCRA are also certifying that they have complied with the waste minimization requirements. The Generator's Certification also contains the required attestation that the shipment has been properly prepared and is in proper condition for transportation (the shipper's certification). The content of the shipper's certification statement is as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name and are classified, packaged, marked, and labeled/placarded, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent." When a party other than the generator prepares the shipment for transportation, this party may also sign the shipper's certification statement as the offeror of the shipment.

2. Generator or Offeror personnel may preprint the words, "On behalf of" in the signature block or may hand write this statement in the signature block prior to signing the generator/offeror certification, to indicate that the individual signs as the employee or agent of the named principal.

(Note: All of the above information except the handwritten signature required in Item 15 may be pre-printed.)

II. Instructions for International Shipment Block

Item 16. International Shipments

For export shipments, the primary exporter must check the export box, and enter the point of exit (city and state) from the United States. For import shipments, the importer must check the import box and enter the point of entry

(city and state) into the United States. For exports, the transporter must sign and date the manifest to indicate the day the shipment left the United States. Transporters of hazardous waste shipments must deliver a copy of the manifest to the U.S. Customs when exporting the waste across U.S. borders.

III. Instructions for Transporters

Item 17. Transporters' Acknowledgments of Receipt

Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt. Only one signature per transportation company is required. Signatures are not required to track the movement of wastes in and out of transfer facilities, unless there is a change of custody between transporters. If applicable, enter the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

(Note: Transporters carrying imports, who are acting as importers, may have responsibilities to enter information in the International Shipments Block. Transporters carrying exports may also have responsibilities to enter information in the International Shipments Block. See above instructions for Item 16.)

IV. Instructions for Owners and Operators of Treatment, Storage, and Disposal Facilities

Item 18. Discrepancy

Item 18a. Discrepancy Indication Space

1. The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any discrepancies between the waste described on the Manifest and the waste actually received at the facility. Manifest discrepancies are: significant differences (as defined by §§264.72(b) and 265.72(b)) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives, rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept, or container residues, which are residues that exceed the quantity limits for "empty" containers set forth in 40 CFR 261.7(b).

2. For rejected loads and residues (40 CFR 264.72(d), (e), and (f), or 40 CFR 265.72(d), (e), or (f)), check the appropriate box if the shipment is a rejected load (i.e., rejected by the designated and/or alternate facility and is sent to an alternate facility or returned to the generator) or a regulated residue that cannot be removed from a container. Enter the reason for the rejection or the inability to remove the residue and a description of the waste. Also, reference the Manifest Tracking Number for any additional manifests being used to track the rejected waste or residue shipment on the original manifest. Indicate the original Manifest Tracking Number in Item 14, the Special Handling Block and Additional Information Block of the additional manifests.

3. Owners or operators of facilities located in unauthorized States (i.e., states in which the U.S. EPA administers the hazardous waste management program) who cannot resolve significant differences in quantity or type within 15 days of receiving the waste must submit to their Regional Administrator a letter with a copy of the Manifest at issue describing the discrepancy and attempts to reconcile it (40 CFR 264.72(e) and 265.72(e)).

4. Owners or operators of facilities located in authorized States (i.e., those States that have received authorization from the U.S. EPA to administer the hazardous waste management program) should contact their State agency for information on where to report discrepancies involving "significant differences" to state officials.

Item 18b. Alternate Facility (or Generator) for Receipt of Full Load Rejections

Enter the name, address, phone number, and EPA Identification Number of the Alternate Facility which the rejecting TSDF has designated, after consulting with the generator, to receive a fully rejected waste shipment. In the event that a fully rejected shipment is being returned to the generator, the rejecting TSDF may enter the generator's site information in this space. This field is not to be used to forward partially rejected loads or residue waste shipments.

~~Item 18c. Alternate Facility (or Generator) Signature~~

~~The authorized representative of the alternate facility (or the generator in the event of a returned shipment) must sign and date this field of the form to acknowledge receipt of the fully rejected wastes or residues identified by the initial TSDF.~~

~~Item 19. Hazardous Waste Report Management Method Codes~~

~~Enter the most appropriate Hazardous Waste Report Management Method code for each waste listed in Item 9. The Hazardous Waste Report Management Method code is to be entered by the first treatment, storage, or disposal facility (TSDF) that receives the waste and is the code that best describes the way in which the waste is to be managed when received by the TSDF.~~

~~Item 20. Designated Facility Owner or Operator Certification of Receipt (Except As Noted in Item 18a)~~

~~Enter the name of the person receiving the waste on behalf of the owner or operator of the facility. That person must acknowledge receipt or rejection of the waste described on the Manifest by signing and entering the date of receipt or rejection where indicated. Since the Facility Certification acknowledges receipt of the waste except as noted in the Discrepancy Space in Item 18a, the certification should be signed for both waste receipt and waste rejection, with the rejection being noted and described in the space provided in Item 18a. Fully rejected wastes may be forwarded or returned using Item 18b after consultation with the generator. Enter the name of the person accepting the waste on behalf of the owner or operator of the alternate facility or the original generator. That person must acknowledge receipt or rejection of the waste described on the Manifest by signing and entering the date they received or rejected the waste in Item 18c. Partially rejected wastes and residues must be re-shipped under a new manifest, to be initiated and signed by the rejecting TSDF as offeror of the shipment.~~

~~Manifest Continuation Sheet Instructions – Continuation Sheet, U. S. EPA Form 8700-22A~~

~~Read all instructions before completing this form. This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used – press down hard.~~

~~This form must be used as a continuation sheet to U.S. EPA Form 8700-22 if:~~

- ~~More than two transporters are to be used to transport the waste; or~~
- ~~More space is required for the U.S. DOT descriptions and related information in Item 9 of U.S. EPA Form 8700-22.~~

~~Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, or disposal facilities to use the Uniform Hazardous Waste Manifest (EPA Form 8700-22) and, if necessary, this continuation sheet (EPA Form 8700-22A) for both interstate and intrastate transportation.~~

Please print or type. (Form designed for use on elite (12-pitch) typewriter.) Form Approved. OMB No. 2050-0039

UNIFORM HAZARDOUS WASTE MANIFEST (Continuation Sheet) | 21. Generator ID Number | 22. Page | **23. Manifest Tracking Number**

24. Generator's Name

25. Transporter _____ Company Name — U.S. EPA ID Number

26. Transporter _____ Company Name — U.S. EPA ID Number

27a. HM	27b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))	28. Containers No.	28. Containers Type	29. Total Quantity	30. Unit Wt./Vol.	31. Waste Codes

32. Special Handling Instructions and Additional Information

GENERATOR

TRANSPORTER

33. Transporter _____ Acknowledgment of Receipt of Materials
Printed/Typed Name | Signature | Month | Day | Year

34. Transporter _____ Acknowledgment of Receipt of Materials
Printed/Typed Name | Signature | Month | Day | Year

DESIGNATED FACILITY

35. Discrepancy

36. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)

EPA Form 8700-22A (Rev. 3-05) Previous editions are obsolete.

DESIGNATED FACILITY TO DESTINATION STATE (IF REQUIRED)

~~Item 21. Generator's ID Number~~

~~Enter the generator's U.S. EPA twelve digit identification number or, the State generator identification number if the generator site does not have an EPA identification number.~~

~~Item 22. Page ---~~

~~Enter the page number of this Continuation Sheet.~~

~~Item 23. Manifest Tracking Number~~

~~Enter the Manifest Tracking Number from Item 4 of the Manifest form to which this continuation sheet is attached.~~

~~Item 24. Generator's Name--~~

~~Enter the generator's name as it appears in Item 5 on the first page of the Manifest.~~

~~Item 25. Transporter--Company Name~~

~~If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 3 Company Name. Also enter the U.S. EPA twelve digit identification number of the transporter described in Item 25.~~

~~Item 26. Transporter--Company Name~~

~~If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 4 Company Name. Each Continuation Sheet can record the names of two additional transporters. Also enter the U.S. EPA twelve digit identification number of the transporter named in Item 26.~~

~~Item 27. U.S. D.O.T. Description Including Proper Shipping Name, Hazardous Class, and ID Number (UN/NA)~~

~~For each row enter a sequential number under Item 27b that corresponds to the order of waste codes from one continuation sheet to the next, to reflect the total number of wastes being shipped. Refer to instructions for Item 9 of the manifest for the information to be entered.~~

~~Item 28. Containers (No. And Type)~~

~~Refer to the instructions for Item 10 of the manifest for information to be entered.~~

~~Item 29. Total Quantity~~

~~Refer to the instructions for Item 11 of the manifest form.~~

~~Item 30. Units of Measure (Weight/Volume)~~

~~Refer to the instructions for Item 12 of the manifest form.~~

~~Item 31. Waste Codes~~

~~Refer to the instructions for Item 13 of the manifest form.~~

~~Item 32. Special Handling Instructions and Additional Information~~

~~Refer to the instructions for Item 14 of the manifest form.~~

~~Transporters~~

~~Item 33. Transporter--Acknowledgment of Receipt of Materials~~

~~Enter the same number of the Transporter as identified in Item 25. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 25. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.~~

~~Item 34. Transporter--Acknowledgment of Receipt of Materials~~

~~Enter the same number of the Transporter as identified in Item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 26. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.~~

~~Owner and Operators of Treatment, Storage, or Disposal Facilities~~

~~Item 35. Discrepancy Indication Space~~

~~Refer to Item 18. This space may be used to more fully describe information on discrepancies identified in Item 18a of the manifest form.~~

~~Item 36. Hazardous Waste Report Management Method Codes~~

~~For each field here, enter the sequential number that corresponds to the waste materials described under Item 27, and enter the appropriate process code that describes how the materials will be processed when received. If additional continuation sheets are attached, continue numbering the waste materials and process code fields sequentially, and enter on each sheet the process codes corresponding to the waste materials identified on that sheet.~~

* * * * *

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 5 of subparagraph (a) of paragraph (1) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

5. A transporter of hazardous waste ~~subject to the manifesting requirements of Rule 0400-12-01-.03, or subject to the waste management standards of Rule 0400-12-01-.12~~ that is being imported from or exported to any ~~of the countries listed in subpart (7)(i)1(i) of Rule 0400-12-01-.03~~ other country for the purposes of recovery or disposal is subject to this paragraph and to all relevant requirements of paragraph (9) of Rule 0400-12-01-.03, including, but not limited to, ~~subparagraph (9)(e)~~ parts (9)(d)4 and (9)(e)4 of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (c) of paragraph (1) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(c) Transfer Facility Requirements [40 CFR 263.12]

1. A hazardous waste transfer facility shall not operate without having received an installation identification number from the Department.

2. (i) The operator of a hazardous waste transfer facility shall maintain a log of all shipments of hazardous waste entering and leaving the facility.

(ii) The log required by subpart (i) of this part shall be developed by the owner or operator of the transfer facility and shall contain, at a minimum, the following information for each shipment:

(I) The date the shipment arrived;

(II) The generator's name and ~~EPA~~ installation identification number;

(III) The manifest document number associated with the shipment;

(IV) The date the hazardous waste was shipped out of the transfer facility; and

(V) If the transporter mixes hazardous wastes by placing them into a single container at the transfer facility:

I. The item number(s) and letter(s) from the manifest document number(s) for all separately containerized wastes that are combined in the container; and

II. If the hazardous wastes mixed in the container have different U.S. DOT shipping descriptions, the new manifest number as required by part (a)4 of this paragraph.

(iii) The information required by subpart (ii) of this part shall be retained for a period of three years and made available for review by the Commissioner.

3. The operator of a hazardous waste transfer facility shall insure that the transfer facility's operations comply with the provisions of:

(i) Subparagraph (2)(g) of Rule 0400-12-01-.05~~(2)(g)~~, Personnel Training;

(ii) Paragraph (9) of Rule 0400-12-01-.05~~(9)~~, Use and Management of Containers, except subparagraphs (9)(e) and (i) of Rule 0400-12-01-.05; and

(iii) Subparagraph (2)(e) of Rule 0400-12-01-.05~~(2)(e)~~, Security.

4. Except for the requirements of part 3 of this subparagraph, a transporter who stores manifested shipments of hazardous waste in containers meeting ~~applicable DOT and Tennessee Regulatory Commission regulations and~~ the independent requirements of subparagraph (4)(a) of Rule 0400-12-01-.03~~(4)~~ at a transfer facility for a period of ~~ten~~ 10 days or less is not subject to regulation under Rules 0400-12-01-.05, 0400-12-01-.06, 0400-12-01-.07, ~~or~~ and 0400-12-01-.10 with respect to the storage of those wastes.

5. In addition to the requirements of item (2)(ii)(V) of this subparagraph, when consolidating the contents of two or more containers with the same hazardous waste into a new container, or when combining and consolidating two different hazardous wastes that are compatible with each other, the transporter must mark its containers of 119 gallons or less with the following information:

(i) The words "Hazardous Waste"; and

(ii) The applicable EPA hazardous waste number(s) (hazardous waste codes) in paragraphs (3) and (4) of Rule 0400-12-01-.02, or in compliance with part (4)(c)3 of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 1 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(ii) Exports.

~~In the case of exports other than those~~ For exports of hazardous waste subject to the requirements of paragraph (9) of Rule 0400-12-01-.03, a transporter may not accept ~~such~~ hazardous waste ~~from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgement of Consent; and unless, in addition to~~ without a manifest signed by the generator in accordance with this paragraph, ~~the transporter shall also be provided with an EPA Acknowledgement of Consent which, except for shipments by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of paragraph (9) of Rule 0400-12-01-.03, a transporter may not accept hazardous waste without a tracking~~ as appropriate, and for exports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by ~~subparagraph (9)(e)~~ part (9)(d)4 of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (iv) of part 1 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(I) Any requirement in these regulations to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of ~~part (3)(f)1~~ subparagraph (3)(f) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (viii) of part 1 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(viii) Reserved. ~~Imposition of user fee for electronic manifest use. A transporter who is a user of the electronic manifest may be assessed a user fee by EPA for the origination or processing of each electronic manifest.~~

~~(Note: In accordance with 40 CFR 263.20(a)(8), EPA shall maintain and update from time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to 40 CFR Part 262.)~~

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by adding a new subpart (ix) to read as follows:

(ix) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. Transporters may participate electronically in the post-receipt data corrections process by following the process described in part (5)(b)12 of Rule 0400-12-01-.06, which applies to corrections made to either paper or electronic manifest records.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

3. The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports occurring under the terms of a consent issued by EPA to the exporter on or after December 31, 2016, the transporter must ensure that a ~~copy of the EPA Acknowledgement of Consent~~ movement document that includes all information required by part (9)(d)4 of Rule 0400-12-01-.03 also accompanies the hazardous waste. In the case of imports occurring under the terms of a consent issued by EPA to the country of export or the importer on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by part (9)(e)4 of Rule 0400-12-01-.03 also accompanies the hazardous waste.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 5 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(ii) A shipping paper containing all the information required on the manifest (excluding the ~~Installation Identification Numbers~~ EPA identification numbers, generator certification, and signatures) and, for exports~~, an EPA Acknowledgment of Consent~~ or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by part (9)(d)4 of Rule 0400-12-01-.03 or part (9)(e)4 of Rule 0400-12-01-.03 accompanies the hazardous waste; and

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 6 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(ii) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the ~~Installation Identification Numbers~~ EPA identification number, generator certification, and signatures) and, for exports ~~an EPA Acknowledgment of Consent~~ or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by part (9)(d)4 of Rule 0400-12-01-.03 or part (9)(e)4 of Rule 0400-12-01-.03 accompanies the hazardous waste at all times.

(Note: Intermediate rail transporters are not required to sign ~~either~~ the manifest, movement document, or shipping paper.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iv) of part 7 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(iv) For paper manifests only,

(I) ~~Give~~ Send a copy of the manifest to the e-Manifest system in accordance with the allowable methods specified in item (5)(b)1(ii)(V) of Rule 0400-12-01-.06; and

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

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (b) of paragraph (3) of Rule 0400-12-01-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Transporters of Hazardous Waste is amended by deleting it in its entirety and substituting instead the following:

(b) Compliance with the Manifest [40 CFR 263.21]

1. ~~The~~ Except as provided in part 2 of this subparagraph, the transporter must deliver the entire quantity of hazardous waste which ~~he~~ the transporter has accepted from a generator or a transporter to:

(i) The designated facility listed on the manifest; or

(ii) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(iii) The next designated transporter; or

(iv) The place outside the United States designated by the generator.

2. (i) Emergency condition. If the hazardous waste cannot be delivered in accordance with ~~part~~ subpart 1(i), (ii), or (iv) of this subparagraph because of an emergency condition other than rejection of the waste by the designated facility or alternate designated facility, then the transporter must contact the generator for further ~~directions~~ instructions and must revise the manifest according to the generator's instructions.

(ii) Transporters without agency authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subpart 1(iii) of this subparagraph, and the current transporter is without contractual authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter must contact the generator for further instructions prior to making any revisions to the transporter designations on the manifest. The current transporter may thereafter make such revisions if:

(I) The hazardous waste is not delivered in accordance with subpart 1(iii) of this subparagraph because of an emergency condition; or

(II) The current transporter proposes to change the transporter(s) designated on the manifest by the generator, or to add a new transporter during transportation, to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety; and

(III) The generator authorizes the revision.

(iii) Transporters with agency authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subpart 1(iii) of this subparagraph, and the current transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporter(s) designated on the manifest, or add a new transporter, during transportation without the generator's prior, explicit approval, provided that:

(I) The current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;

(II) The transporter enters in Item 14 of each manifest for which such a change is made, the following statement of its agency authority:

"Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator's behalf;" and

(III) The change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.

(iv) Generator liability. The grant by a generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under subpart 2(iii) of this subparagraph does not affect the generator's liability or responsibility for complying with any applicable requirement under Chapter 0400-12-01, or grant any additional authority to the transporter to act on behalf of the generator.

~~(ii)~~3. If hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter must obtain the following:

~~(I)~~(i) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature and the Manifest Tracking Number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with subparagraph ~~(3)(c)~~ (c) of this ~~rule,~~ paragraph and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in subparts (5)(c)5(i) through (vi) of Rule 0400-12-01-.06, ~~(5)(c)5(i) though (vi)~~ or subparts 6(i) through (vi) of Rule 0400-12-01-.06 or subparts (5)(c)5(i) through (vi) of Rule 0400-12-01-.05~~(5)(c)5(i) though (vi)~~ or subparts 6(i) through (vi) of Rule 0400-12-01-.05.

~~(II)~~(ii) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and Identification Number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with subparagraph ~~(3)~~(c) of this ~~rule,~~ paragraph and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with subparts (5)(c)5(i) through (vi) of Rule 0400-12-01-.06~~(5)(c)5(i) through (vi)~~ or subparts (5)(c)5(i) through (vi) of Rule 0400-12-01-.05~~(5)(c)5(i) through (vi)~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 2 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) The owner or operator of a facility permitted or registered by the Commissioner or Board, as appropriate, pursuant to the "Tennessee Solid Waste Disposal Act"

(T.C.A. §§68-211-101 through 68-211-115 and 68-211-301), to manage municipal or industrial waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this rule by ~~Rule 0400-12-01-.02(1)(e) as a "small quantity"~~ subparagraph (1)(e) of Rule 0400-12-01-.03;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iv) of part 2 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iv) A generator accumulating waste on-site in compliance with ~~Rule 0400-12-01-.03(4)(e) (~~ applicable conditions for exemption in subparagraphs (1)(e) through (h) of Rule 0400-12-01-.03 and paragraphs (10) and (11) of Rule 0400-12-01-.03, except to the extent ~~such~~ the requirements ~~are included in Rule 0400-12-01-.03(4)(e)), unless the generator is accumulating the waste in a facility otherwise subject to~~ of this rule are included in those subparagraphs or paragraphs;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (viii) of part 2 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(viii) A transporter storing manifested shipments of hazardous waste in containers meeting applicable DOT and ~~Tennessee Regulatory Commission regulations for packaging at a transfer facility for a period of ten days or less~~ the independent requirements of subparagraph (4)(a) of Rule 0400-12-01-.03 at a transfer facility for a period of 10 days or less;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (c) of paragraph (2) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

1. The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to paragraph (9) of Rule 0400-12-01-.03 from a foreign source must submit the following required notices:

(i) ~~The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Commissioner in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.~~ As per part (9)(e)2 of Rule 0400-12-01-.03, for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in subpart (9)(e)2(i) of Rule 0400-12-01-.03 at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(ii) ~~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, NW., Washington, DC 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.~~ As per item (9)(e)4(ii)(XV) of Rule 0400-12-01-.03, a copy of the movement document bearing all required signatures within three working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document must be maintained at the facility for at least three years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this subpart if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the owner or operator of a facility bears no responsibility.

(iii) As per subpart (9)(e)6(iv) of Rule 0400-12-01-.03, if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in subpart (9)(e)2(i) of Rule 0400-12-01-.03 of the need to return or arrange alternate management of the shipment.

(iv) As per part (9)(e)7 of Rule 0400-12-01-.03, such owner or operator shall:

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

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

(WIETS), or its successor system. The recovery and disposal operations in this item are defined in subparagraph (9)(b) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(ii) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his/her agent must:

(I) Sign and date~~, by hand,~~ each copy of the manifest;

(II) Note any discrepancies (as defined in part (c)1 of this paragraph) on each copy of the manifest;

~~(Comment: The Department does not intend that the owner or operator of a facility whose procedures under part (2)(d)3 of this rule include waste analysis must perform that analysis before signing the manifest and giving it to the transporter. Part (c)2 of this paragraph, however, requires reporting an unreconciled discrepancy discovered during later analysis.)~~

(III) Immediately give the transporter at least one copy of the manifest;

(IV) Within 30 days of delivery, send a copy (Page ~~3~~ 2) of the manifest to the generator;

(V) ~~Within 30 days of delivery, send the top copy (Page 1) of the Manifest to the e-Manifest system for purposes of data entry and processing. In lieu of mailing this paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to EPA under this item must be submitted in data file and image file formats that are acceptable to EPA and that are supported by EPA's electronic reporting requirements and by the electronic manifest system~~ Paper manifest submission requirements are:

I. Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy (Page 1) of any paper manifest and any paper continuation sheet to the EPA's e-Manifest system for purposes of data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

II. Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing may be met by the owner or operator only by transmitting to the EPA

system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services; and

(VI) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iii) ~~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, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460~~ The owner or operator of a facility receiving hazardous waste subject to paragraph (9) of Rule 0400-012-01-.03 from a foreign source must:

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

(II) Send a copy of the manifest within 30 days of delivery to EPA using the addresses listed in part (9)(c)5 of Rule 0400-12-01-.03 until the facility can submit such a copy to the e-Manifest system per Item (ii)(V) of this part.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

3. Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of Rule 0400-12-01-.03. ~~(Comment:~~ The provisions of subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03~~(4)(c)~~ are applicable to the onsite accumulation of hazardous wastes by generators. Therefore, the provisions of subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03~~(4)(c)~~ only apply to owners or operators who are shipping hazardous waste which they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under part (1)(h)6 of Rule 0400-12-01-.03.~~)~~

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 4 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

4. ~~Within~~ As per item (9)(e)4(ii)(XV) of Rule 0400-12-01-.03, within three ~~(3)~~ working days of the receipt of a shipment subject to paragraph (9) of Rule 0400-12-01-.03, the owner or operator of a 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, D.C. 20460, and~~ to competent authorities of all other countries ~~concerned~~ of export and transit that control the shipment as an export and transit of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document must be maintained at the facility for at least three ~~(3)~~ years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this part if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 6 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) Any requirement in these regulations for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of ~~part (3)(f)1~~ subparagraph (3)(f) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 10 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

10. Imposition of user fee for electronic manifest use.

(i) ~~An owner or operator who is a user of the electronic manifest format may be assessed a user fee by EPA for the origination or processing of each electronic manifest.~~ As prescribed in 40 CFR § 265.1311, and determined in 40 CFR § 265.1312, an owner or operator who is a user of the electronic manifest system shall be assessed a user fee by EPA for the submission and processing of each electronic and paper manifest. EPA shall update the schedule of user fees and publish them to the user community, as provided in 40 CFR § 265.1313.

(ii) An owner or operator subject to user fees under this part shall make user fee payments in accordance with the requirements of 40 CFR § 265.1314, subject to the informal fee dispute resolution process of 40 CFR § 265.1316, and subject to the sanctions for delinquent payments under 40 CFR §. 265.1315.

~~(Note: In accordance with 40 CFR 265.71(j), an owner or operator may also be assessed a user fee by EPA for the collection and processing of paper manifest copies that owners or operators must submit to the electronic manifest system operator under item 1(ii)(V) of this subparagraph. EPA shall maintain and update from time to time the current schedule of electronic manifest system user fees,~~

~~which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to 40 CFR Part 262.)~~

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (b) of paragraph (5) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by adding a new part 12 to read as follows:

12. Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) shown on the manifest.

(i) Interested persons must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web-based service provided in e-Manifest for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(ii) Each correction submission must include the following information:

(I) The Manifest Tracking Number and date of receipt by the facility of the original manifest(s) for which data are being corrected;

(II) The item number(s) of the original manifest that is the subject of the submitted correction(s); and

(III) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(iii) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:

(I) The certification statement must be executed with a valid electronic signature; and

(II) A batch upload of data corrections may be submitted under one certification statement.

(iv) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(v) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system, certified by the respondent as specified in subpart (iii) of this part, and with notice of the corrections to other interested persons shown on the manifest.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 6 of subparagraph (a) of paragraph (6) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

6. The Commissioner may replace all or part of the requirements of this paragraph applying to a regulated unit (as defined in subparagraph (6)(a) of ~~this rule~~ Rule 0400-12-01-.06), with alternative requirements developed for groundwater monitoring set out in an approved closure or post-closure plan or in an enforceable document (as defined in part (1)(b)9 of Rule 0400-12-01-.07~~(1)(b)9~~), where the Commissioner determines that:

(i) A regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management unit(s) (or areas of concern) are likely to have contributed to the release; and

(ii) It is not necessary to apply the requirements of this paragraph because the alternative requirements will protect human health and the environment. The ~~alliterative~~ alternative standards for the regulated unit must meet the requirements of part (6)(l)1 of Rule 0400-12-01-.06~~(6)(l)1~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (c) of paragraph (6) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

2. The owner or operator must determine the concentration or value of the following parameters in ground-water samples in accordance with ~~part~~ parts 3 and 4 of this subparagraph:

(i) Parameters characterizing the suitability of the ~~ground-water~~ groundwater as a drinking water supply, as specified in appendix III.

(ii) Parameters establishing ground-water quality:

(I) Chloride

(II) Iron

(III) Manganese

(IV) Phenols

(V) Sodium

(VI) Sulfate

(Comment: These parameters are to be used as a basis for comparison in the event a ground-water quality assessment is required under part (d)4 of this paragraph.)

(iii) Parameters used as indicators of ground-water contamination:

(I) pH

(II) Specific Conductance

(III) Total Organic Carbon

(IV) Total Organic Halogen

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 4 of subparagraph (c) of paragraph (6) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

4. After the first year, all monitoring wells must be sampled and the samples analyzed with the following frequencies:

(i) Samples collected to establish ground-water quality must be obtained and analyzed for the parameters specified in subpart ~~(2)(ii)~~ 2(ii) of this subparagraph at least annually.

(ii) Samples collected to indicate ground-water contamination must be obtained and analyzed for the parameters specified in subpart ~~(2)(iii)~~ 2(iii) of this subparagraph at least semi-annually.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (v) of part 4 of subparagraph (d) of paragraph (6) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(v) The owner or operator must make his first determination under subpart ~~4(iv)~~ (iv) of this ~~subparagraph~~ part as soon as technically feasible, and prepare a report containing an assessment of ground-water quality. This report must be place in the facility operating record and maintained until closure of the facility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 5 of subparagraph (d) of paragraph (6) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

5. Notwithstanding any other provision of this ~~subpart~~ paragraph, any ground-water quality assessment to satisfy the requirements of subpart 4(iv) of this subparagraph which is initiated prior to final closure of the facility must be completed and reported in accordance with subpart 4(v) of this subparagraph.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 4 of subparagraph (a) of paragraph (7) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

4. The Commissioner may replace all or part of the requirements of this paragraph (and the unit-specific standards in part (b)3 of this paragraph) applying to a regulated unit (as defined in subparagraph (6)(a) of ~~this rule~~ Rule 0400-12-01-.06), with alternative requirements for closure set out in an approved closure or post-closure plan, or in an enforceable document (as defined in part (1)(b)9 of Rule 0400-12-01-.07~~(1)(b)9~~), where the Commissioner determines that:

(i) A regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management unit(s) (or areas of concern) are likely to have contributed to the release, and

(ii) It is not necessary to apply the closure requirements of this paragraph (and/or those referenced herein) because the alternative requirements will protect human health and the environment~~,~~ and will satisfy the closure performance standard of part (b)1 and 2 of this paragraph.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (II) of Subpart (i) of part 2 of subparagraph (j) of paragraph (7) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(II) Its use is restricted under this paragraph ~~(7) of Rule 0400-12-01-.05~~; and

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (e) of paragraph (9) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(e) Inspections [40 CFR 265.174]

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. ~~(Comment:~~ See subparagraph (b) of this paragraph for remedial action required if deterioration or leaks are detected.~~)~~

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (l) of paragraph (10) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(l) Reserved. ~~Special Requirements for Generators of Between 100 and 1,000 kg/mo that Accumulate Hazardous Waste in Tanks [40 CFR 265.201]~~

~~1. The requirements of this subparagraph apply to small quantity generators of more than 100 kg but less than 1,000 kg of hazardous waste in a calendar month, that accumulate hazardous waste in tanks for less than 180 days (or 270 days if the generator must ship the waste greater than 200 miles), and do not accumulate over 6,000 kg on-site at any time.~~

~~2. Generators of between 100 and 1,000 kg/mo hazardous waste must comply with the following general operating requirements:~~

~~(i) Treatment or storage of hazardous waste in tanks must comply with part (2)(h)2 of this rule.~~

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

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

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

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

3. Except as noted in part 4 of this subparagraph, generators who accumulate between 100 and 1,000 kg/mo hazardous waste in tanks must inspect, where present:

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

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

(iii) The level of waste in the tank at least once each operating day to ensure compliance with subpart 2(iii) of this subparagraph;

(iv) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

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

(Note: As required by part (2)(f)3 of this rule, the owner or operator must remedy any deterioration or malfunction he finds.)

4. Generators who accumulate between 100 and 1,000 kg/mo of hazardous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert facility personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly, where applicable, the areas identified in subparts 3(i) through (v) of this subparagraph. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

5. (Reserved)

6. Generators of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks must, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures.

(Note: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with Rule 0400-12-01-.02(1)(c)3 or 4, that any solid waste removed from his tank is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of Rules 0400-12-01-.03, .04, and this rule.)

7. Generators of between 100 and 1,000 kg/mo must comply with the following special requirements for ignitable or reactive waste:

(i) Ignitable or reactive waste must not be placed in a tank, unless:

(I) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that

I. the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under Rule 0400-12-01-.02(3)(b) or (d), and

II. part (2)(h)2 of this rule is complied with; or

(II) The waste is stored or treated in such a way that it is protected from any

material or conditions that may cause the waste to ignite or react; or

(III) The tank is used solely for emergencies.

(ii) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981) (listed in Rule 0400-12-01-.01(2)(b)).

8. Generators of between 100 and 1,000 kg/mo must comply with the following special requirements for incompatible wastes:

(i) Incompatible wastes, or incompatible wastes and materials, (see paragraph (53) Appendix V of this rule for examples) must not be placed in the same tank, unless part (2)(h)2 of this rule is complied with.

(ii) Hazardous waste must not be placed in an unwashed tank which previously held an incompatible waste or material, unless part (2)(h)2 of this rule is complied with.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (b) of paragraph (11) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

1. The owner or operator of each new surface impoundment unit, each lateral expansion of a surface impoundment unit, and each replacement of an existing surface impoundment unit must install two or more liners and a leachate collection and removal system ~~above and~~ between the liners, and operate the leachate collection and removal system, in accordance with part (11)(b)3 of Rule 0400-12-01-.06~~(11)(b)3~~, unless exempted under part (11)(b)4, 5, or 6 of Rule 0400-12-01-.06~~(11)(b)4, 5, or 6~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subitem II of item (I) of subpart (ii) of part 4 of subparagraph (b) of paragraph (14) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

II. The monofill is located more than one-quarter mile from an "underground source of drinking water" (as that term is defined in subparagraph (2)(a) of Rule 0400-12-01-.01~~(2)(a)~~); and

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 2 of subparagraph (a) of paragraph (27) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of subparagraph (1)(h) of Rule 0400-12-01-.03~~(4)(e)2~~ (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of Rule 0400-12-01-.07, or

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 2 of subparagraph (a) of paragraph (27) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by

deleting it in its entirety and substituting instead the following:

(iii) A unit that is exempt from permitting under the provisions of subparagraph (1)(h) of Rule 0400-12-01-.03~~(4)(e)2~~ (i.e., a "90-day" tank or container) and is not a recycling unit under the requirements of subparagraph (1)(f) of Rule 0400-12-01-.02~~(1)(f)~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (28) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(a) Applicability [40 CFR 265.1050]

1. The regulations in this paragraph apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in subparagraph (1)(b) of this rule).

2. Except as provided in part (o)11 of this paragraph, this paragraph applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

(i) A unit that is subject to the permitting requirements of Rule 0400-12-01-.07;

(ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of ~~part (4)(e)2~~ subparagraph (1)(h) of Rule 0400-12-01-.03 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of Rule 0400-12-01-.07; or

(iii) A unit that is exempt from permitting under the provisions of ~~part (4)(e)2~~ subparagraph (1)(h) of Rule 0400-12-01-.03 (i.e., a "90-day" tank or container) and is not a recycling unit under the provisions of subparagraph (1)(f) of Rule 0400-12-01-.02~~(1)(f)~~.

3. Each piece of equipment to which this paragraph applies shall be marked in such a manner that it can be distinguished readily from other pieces of equipment.

4. Equipment that is in vacuum service is excluded from the requirements of subparagraph (c) ~~to~~ through (k) of this paragraph if it is identified as required in subpart (o)7(v) of this paragraph.

5. Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year is excluded from the requirements of subparagraphs (c) through (k) of this paragraph if it is identified as required in subpart (o)7(vi) of this paragraph.

6. ~~(~~[Reserved~~)~~] [40 CFR 265.1050(f)]

7. Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at 40 CFR part 63, subpart IIII, are not subject to the requirements of this paragraph.

(Note: The requirements of subparagraphs (c) through (o) of this paragraph apply to equipment associated with hazardous waste recycling units previously exempt under subpart (1)(f)3(i) of Rule 0400-12-01-.02~~(1)(f)3(i)~~. Other exemptions under subparagraph (1)(d) of Rule 0400-12-01-.02~~(1)(d)~~ and part (1)(b)2 of this rule are not affected by these requirements.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (iv) of part 3 of subparagraph (h) of paragraph (29) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(I) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in part (1)(g)2 of Rule 0400-12-01-.02~~(1)(g)2)~~, the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the container standards ~~in~~ of this paragraph ~~(29) of this rule~~). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest ~~in the appendix to Rule 0400-12-01-.03~~ (EPA Forms 8700-22 and 8700-22A), as required under subparagraph (5)(b) of this rule. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of item ~~3(iv)~~(III) of this ~~subparagraph~~ subpart.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (iv) of part 4 of subparagraph (h) of paragraph (29) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(I) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in part (1)(g)2 of Rule 0400-12-01-.02~~(1)(g)2)~~, the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the container standards of this paragraph ~~(29) of this rule container standards~~). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest ~~in the appendix to Rule 0400-12-01-.03~~ (EPA Forms 8700-22 and 8700-22A), as required under subparagraph (5)(b) of this rule. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of item ~~4(iv)~~(III) of this ~~subparagraph~~ subpart.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iv) of part 3 of subparagraph (b) of paragraph (30) of Rule 0400-12-01-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iv) Inspect and record in the facility's operating record~~,~~ at least once every seven days~~,~~ data gathered from monitoring and leak detection equipment as well as the

containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 2 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) The owner or operator of a facility permitted or registered by the Commissioner or Board, as appropriate, pursuant to the "Tennessee Solid Waste Disposal Act" (T.C.A. §§ 68-211-101 through § 68-211-111~~,~~ and § 68-211-301) to manage municipal or industrial waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this rule by ~~Rule 0400-12-01-.02(1)(e) as a "small quantity"~~ subparagraph (1)(e) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 2 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iii) A generator accumulating waste on-site in compliance with subparagraphs (1)(e), (f), (g), and (h) of Rule 0400-12-01-.03~~(4)(e), unless the generator is accumulating the waste in a facility otherwise subject to this rule~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 6 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

6. The requirements of this rule apply to the owner or operator of a transfer facility where manifested shipments of hazardous waste in containers meeting ~~applicable DOT and the Tennessee Regulatory Commission (TRC) packaging regulations are stored for a period of greater than 48 hours but less than ten days only to the extent they are included in a permit-by-rule granted to such a person under Rule 0400-12-01-.07(1)(c)~~ the independent requirements of subparagraph (4)(a) of Rule 0400-12-01-.03 at a transfer facility for a period of 10 days or less.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (c) of paragraph (2) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(c) Required Notices [40 CFR 264.12]

1. The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to paragraph (9) of Rule 0400-12-01-.03 from a foreign source must submit the following required notices:

(i) ~~The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Commissioner in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.~~ As per part (9)(e)2 of Rule 0400-12-01-.03, for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of

the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in subpart (9)(e)2(i) of Rule 0400-12-01-.03 at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(ii) ~~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, NW., Washington, DC 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.~~ As per item (9)(e)4(ii)(XV) of Rule 0400-12-01-.03, a copy of the movement document bearing all required signatures within three working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document must be maintained at the facility for at least three years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this subpart if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the owner or operator of a facility bears no responsibility.

(iii) As per subpart (9)(e)6(iv) of Rule 0400-12-01-.03, if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in subpart (9)(e)2(i) of Rule 0400-12-01-.03 of the need to return or arrange alternate management of the shipment.

(iv) As per part (9)(e)7 of Rule 0400-12-01-.03, such owner or operator shall:

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

(II) If the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in this item are defined in subparagraph (9)(b) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iv) of Part 2 of subparagraph (f) of paragraph (2) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iv) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in subparagraphs (9)(e), (10)(d), (10)(f), (11)(g), (12)(e), (13)(i), (14)(d), (15)(h), (27)(c), (30)(d), (31)(c), (31)(d), (31)(i), and (32)(d) through (32)(j) of this rule, where applicable. ~~(Comment:~~ Rule 0400-12-01-.07 requires the inspection schedule to be submitted with part B of the permit application. The ~~Department~~ Commissioner will evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the ~~Department~~ Commissioner may modify or amend the schedule as may be necessary.~~)~~

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(ii) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his/her agent must:

(I) Sign and date~~, by hand,~~ each copy of the manifest;

(II) Note any discrepancies (as defined in part (c)1 of this paragraph) on each copy of the manifest;

~~(Comment: The Department does not intend that the owner or operator of a facility whose procedures under part (2)(d)3 of this rule include waste analysis must perform that analysis before signing the manifest and giving it to the transporter. Part (c)2 of this paragraph, however, requires reporting an unreconciled discrepancy discovered during later analysis.)~~

(III) Immediately give the transporter at least one copy of the manifest;

(IV) Within 30 days of delivery, send a copy (Page ~~3~~ 2) of the manifest to the generator;

(V) ~~Within 30 days of delivery, send the top copy (Page 1) of the Manifest to the e-Manifest system for purposes of data entry and processing. In lieu of mailing this paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to EPA under this item must be submitted in data file and image file formats that are acceptable to EPA and that are supported by EPA's electronic reporting requirements and by the electronic manifest system~~ Paper manifest submission requirements are:

I. Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy (Page 1) of any paper manifest and any paper continuation sheet to the EPA's e-Manifest system for purposes of data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

II. Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing may be met by the owner or operator only by transmitting to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services; and

(VI) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 1 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iii) ~~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, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460~~ The owner or operator of a facility receiving hazardous waste subject to paragraph (9) of Rule 0400-012-01-.03 from a foreign source must:

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

(II) Send a copy of the manifest within 30 days of delivery to EPA using the addresses listed in part (9)(c)5 of Rule 0400-12-01-.03 until the facility can submit such a copy to the e-Manifest system per Item (ii)(V) of this part.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

3. Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of Rule 0400-12-01-.03. ~~(Comment:~~ The provisions of subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03~~(4)(e)~~ are applicable to the onsite accumulation of hazardous wastes by generators. Therefore, the provisions of subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03~~(4)(e)~~ only apply to owners or operators who are shipping hazardous waste which they generated at that facility~~.)~~ or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under part (1)(h)6 of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 4 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

4. ~~Within~~ As per item (9)(e)4(ii)(XV) of Rule 0400-12-01-.03, within three ~~(3)~~ working days of the receipt of a shipment subject to paragraph (9) of Rule 0400-12-01-.03, the owner or operator of a facility 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 competent authorities of all other countries ~~concerned~~ of export and transit that control the shipment as an export and transit of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document must be maintained at the facility for at least three ~~(3)~~ years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this part if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of Part 6 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) Any requirement in these regulations for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of ~~part (3)(f)1~~ subparagraph (3)(f) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 10 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

10. Imposition of user fee for electronic manifest use.

(i) ~~An owner or operator who is a user of the electronic manifest format may be assessed a user fee by EPA for the origination or processing of each electronic manifest.~~ As prescribed in 40 CFR § 264.1311, and determined in 40 CFR § 264.1312, an owner or operator who is a user of the electronic manifest system shall be assessed a user fee by EPA for the submission and processing of each electronic and paper manifest. EPA shall update the schedule of user fees and publish them to the user community, as provided in 40 CFR § 264.1313.

(ii) An owner or operator subject to user fees under this part shall make user fee payments in accordance with the requirements of 40 CFR § 264.1314, subject to the informal fee dispute resolution process of 40 CFR § 264.1316, and subject to the sanctions for delinquent payments under 40 CFR § 264.1315.

~~(Note: In accordance with 40 CFR 264.71(j), an owner or operator may also be assessed a user fee by EPA for the collection and processing of paper manifest copies that owners or operators must submit to the electronic manifest system operator under item 1(ii)(V) of this subparagraph. EPA shall maintain and update from time-to-time the current schedule of electronic manifest system user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to 40 CFR Part 262.)~~

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 11 of subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) Electronic manifest signatures shall meet the criteria described in ~~part (3)(f)1~~ subparagraph (3)(f) of Rule 0400-12-01-.03.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (b) of paragraph (5) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by adding a new part 12 to read as follows:

12. Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) shown on the manifest.

(i) Interested persons must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web-based service provided in e-Manifest for such corrections, or by an upload of a data file

containing data corrections relating to one or more previously submitted manifests.

(ii) Each correction submission must include the following information:

(I) The Manifest Tracking Number and date of receipt by the facility of the original manifest(s) for which data are being corrected;

(II) The item number(s) of the original manifest that is the subject of the submitted correction(s); and

(III) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(iii) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:

(I) The certification statement must be executed with a valid electronic signature; and

(II) A batch upload of data corrections may be submitted under one certification statement.

(iv) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(v) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system, certified by the respondent as specified in subpart (iii) of this part, and with notice of the corrections to other interested persons shown on the manifest.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (b) of paragraph (7) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

3. Complies with the closure requirements of this ~~paragraph~~ rule, including, but not limited to, the requirements of subparagraphs (9)(i), (10)(h), (11)(i), (12)(i), (13)(k), (14)(k), (15)(l), paragraphs (16) and (17), and subparagraphs (27)(b) through (d) and (33)(c).

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (II) of subpart (i) of part 2 of subparagraph (j) of paragraph (7) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(II) Its use is restricted under this paragraph ~~(7) of this rule~~; and

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 11 of subparagraph (p) of paragraph (8) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

11. IRREVOCABLE STANDBY LETTER OF CREDIT

A letter of credit, as specified in part (8)(n)8 of Rule 0400-12-01-.05~~(8)(n)8~~ or part (n)8 of this paragraph, must be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

Name and Address of Issuing Institution _____
_____

(Address to ~~Division Director~~ Commissioner)

Dear ~~Sir or Madam~~ Commissioner: We hereby establish our Irrevocable Standby Letter of Credit No. _____ in the favor of any and all third-party liability claimants, at the request and for the account of (owner's or operator's name and address) for third-party liability awards or settlements up to (in words) U.S. dollars $____per occurrence and the annual aggregate amount of (in words) U.S. dollars $_____, for sudden accidental occurrences and/or for third-party liability awards or settlements up to the amount of (in words) U.S. dollars $_____ per occurrence, and the annual aggregate amount of (in words) U.S. dollars $_____, for nonsudden accidental occurrences available upon presentation of a sight draft, bearing reference to this letter of credit No. ___, and

[(1) a signed certificate reading as follows:

CERTIFICATION OF VALID CLAIM

The undersigned, as parties (insert principal) and (insert name and address of third-party claimants), hereby certify that the claim of bodily injury (and/or) property damage caused by a (sudden or nonsudden) accidental occurrence arising from operations of (principal's) hazardous waste treatment, storage, or disposal facility should be paid in the amount of $_____. We hereby certify that the claim does not apply to any of the following:

(i) Bodily injury or property damage for which (insert principal) is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that (insert principal) would be obligated to pay in the absence of the contract or agreement.

(ii) Any obligation of (insert principal) under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(iii) Bodily injury to:

(I) An employee of (insert principal) arising from, and in the course of, employment by (insert principal); or

(II) The spouse, child, parent, brother or sister of that employee as a consequence of, or arising from, and in the course of employment by (insert principal). This exclusion applies:

I. Whether (insert principal) may be liable as an employer or in any other capacity; and

II. To any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in subitems I and II of this item.

(iv) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle or watercraft.

(v) Property damage to:

(I) Any property owned, rented, or occupied by (insert principal);

(II) Premises that are sold, given away or abandoned by (insert principal) if the property damage arises out of any part of those premises;

(III) Property loaned to (insert principal);

(IV) Personal property in the care, custody or control of (insert principal);

(V) That particular part of real property on which (insert principal) or any contractors or subcontractors working directly or indirectly on behalf of (insert principal) are performing operations, if the property damage arises out of these operations.

(Signatures)
Grantor _____

(Signatures)
Claimant(s) _____

or

(2) a valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by a sudden or nonsudden accidental occurrence arising from operation of the Grantor's facility or group of facilities.]

This letter of credit is effective as of (date) and shall expire on (date at least one year later), but such expiration date shall be automatically extended for a period of (at least one year) on (date) and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify you, the ~~Division Director~~ Commissioner, and (owner's or operator's name) by certified mail that we have decided not to extend this letter of credit beyond the current expiration date.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us.

In the event that this letter of credit is used in combination with another mechanism for liability coverage, this letter of credit shall be considered (insert "primary" or "excess") coverage.

We certify that the wording of this letter of credit is identical to the wording specified in part (8)(p)11 of Tennessee Rule 0400-12-01-.06~~(8)(p)11~~ as such regulations were constituted on the date shown immediately below.

(Signatures(s))_____

(Name(s)) _____

(Title(s))_____

(Date) _____

This credit is subject to (insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce" or "the Uniform Commercial Code").

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (9) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(a) Applicability [40 CFR 264.170]

The regulations in this paragraph apply to owners and operators of all hazardous waste facilities that store hazardous waste in containers, ~~of hazardous waste, except as paragraph (1) of this rule~~ except as subparagraph (1)(b) of this rule provides otherwise.

(Comment: Under ~~Rules~~ subparagraph (1)(g) and part (4)(d)3 of Rule 0400-12-01-.02~~(1)(g) and .02(4)(d)3~~, if a hazardous waste is emptied from a container, then the residue remaining in the container is not considered a hazardous waste if the container is "empty" as defined in subparagraph (1)(g) of Rule 0400-12-01-.02~~(1)(g)~~. In that event, management of the container is exempt from the requirements of this paragraph.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (e) of paragraph (9) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(e) Inspections [40 CFR 264.174]

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors. ~~(Comment:~~ See part (2)(f)3 of this rule and subparagraph (b) of this paragraph for remedial action required if deterioration or leaks are detected.~~)~~

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (b) of paragraph (10) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

1. For each existing tank system that does not have secondary containment meeting the requirements of subparagraph ~~(10)~~(d) of this ~~rule~~ paragraph, the owner or operator must determine that the tank system is not leaking or ~~is~~ unfit for use. Except as provided in part 3 of this subparagraph, the owner or operator must obtain and keep on file at the facility a written assessment, reviewed and certified by a qualified Professional Engineer, in accordance with part (2)(a)10 of Rule 0400-12-01-.07~~(2)(a)10~~, that attests to the tank system's integrity by January 12, 1988.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 5 of subparagraph (b) of paragraph (11) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes hazardous for reasons other than the ~~EP~~ toxicity characteristic in subparagraph (3)(e) of Rule 0400-12-01-.02~~(3)(e)~~; and

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 2 of subparagraph (a) of paragraph (30) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of subparagraph (1)(h) of Rule 0400-12-01-.03~~(4)(e)2~~ (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of Rule 0400-12-01-.07, or

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 2 of subparagraph (a) of paragraph (31) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(iii) A unit that is exempt from permitting under the provisions of subparagraph (1)(h) of Rule 0400-12-01-.03~~(4)(e)2~~ (i.e., a "90-day" tank or container) and is not a recycling unit under the provisions of subparagraph (1)(f) of Rule 0400-12-01-.02~~(1)(f)~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (iv) of part 3 of subparagraph (g) of paragraph (32) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(I) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in part (1)(g)2 of Rule 0400-12-01-.02~~(1)(g)2~~), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the container standards ~~in~~ of this paragraph ~~(32) of this rule~~). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest ~~in the appendix to Rule 0400-12-01-.03~~ (EPA Forms 8700-22 and 8700-22A), as required under subparagraph (5)(b) of this rule. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of item ~~3(iv)~~(III) of this ~~subparagraph~~ subpart.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (iv) of part 4 of subparagraph (g) of paragraph (32) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(I) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in part (1)(g)2 of Rule 0400-12-01-.02~~(1)(g)2~~), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the container standards of this paragraph ~~(32) of this rule container standards~~). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest ~~in the appendix to Rule 0400-12-01-.03~~ (EPA Forms 8700-22 and 8700-22A), as required under subparagraph (5)(b) of this rule. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of item ~~4(iv)~~(III) of this ~~subparagraph~~ subpart.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (57) of Rule 0400-12-01-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(a) Appendix I -- Recordkeeping Instructions

The recordkeeping provisions of subparagraph (5)(d) of this rule specify that an owner or operator must keep a written operating record at his facility. This appendix provides additional instructions for keeping portions of the operating record. See part (5)(d)2 of this rule for additional recordkeeping requirements.

The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility in the following manner:

Records of each hazardous waste received, treated, stored, or disposed of at the facility, which include the following:

1. A description by its common name and the Hazardous Waste Code(s) from Rule 0400-12-01-.02 which apply to the waste. The waste description also must include the waste's physical form, i.e., liquid, sludge, solid, or contained gas. If the waste is not listed in paragraph (4) of Rule 0400-12-01-.02~~(4)~~, the description also must include the process that produced it (for example, solid filter cake from production of ----, Hazardous Waste Code W051).

   Each hazardous waste listed in paragraph (4) of Rule 0400-12-01-.02~~(4)~~, and each hazardous waste characteristic defined in paragraph (3) of Rule 0400-12-01-.02~~(3)~~, has a four-digit Hazardous Waste Code assigned to it. This number must be used for recordkeeping and reporting purposes. Where a hazardous waste contains more than one listed hazardous waste, or where more than one hazardous waste characteristic applies to the waste, the waste description must include all applicable Hazardous Waste Codes.

2. The estimated or manifest-reported weight, or volume and density, where applicable, in one of the units of measure specified in Table 1;

Table 1

Unit of Measure	Code[1]
Gallons	G
Gallons per Hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Tons	M
Short Tons	T
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S

Pounds	P
Pounds per Hour	J
Kilograms	K
Kilograms per Hour	R
Cubic Yards	Y
Cubic Meters	C
Acres	B
Acre-feet	A
Hectares	Q
Hectare-meter	F
Btu's per Hour	I

FOOTNOTE: [1]Single digit symbols are used here for data processing purposes.

3. The method(s) (by handling code(s) as specified in Table 2) and date(s) of treatment, storage, or disposal.

Table 2.-Handling Codes for Treatment, Storage and Disposal Methods

Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store or dispose of each quantity of hazardous waste received.

(i) Storage

S01 Container (barrel, drum, etc.)

S02 Tank

S03 Waste Pile

S04 Surface Impoundment

S05 Drip Pad

S06 Containment Building (Storage)

S99 Other Storage (specify)

(ii) Treatment

(I) Thermal Treatment

T06 Liquid injection incinerator

T07 Rotary kiln incinerator

T08 Fluidized bed incinerator

T09 Multiple hearth incinerator

T10 Infrared furnace incinerator

T11 Molten salt destructor

T12 Pyrolysis

T13 Wet Air oxidation

T14 Calcination

T15 Microwave discharge

T18 Other (specify)

(II) Chemical Treatment

T19 Absorption mound

T20 Absorption field

T21 Chemical fixation

T22 Chemical oxidation

T23 Chemical precipitation

T24 Chemical reduction

T25 Chlorination

T26 Chlorinolysis

T27 Cyanide destruction

T28 Degradation

T29 Detoxification

T30 Ion exchange

T31 Neutralization

T32 Ozonation

T33 Photolysis

T34 Other (specify)

(III) Physical Treatment

I. Separation of components

T35 Centrifugation

T36 Clarification

T37 Coagulation

T38 Decanting

T39 Encapsulation

T40 Filtration

T41 Flocculation

T42 Flotation

T43 Foaming

T44 Sedimentation

T45 Thickening

T46 Ultrafiltration

T47 Other (specify)

II. Removal of Specific Components

T48 Absorption-molecular sieve

T49 Activated carbon

T50 Blending

T51 Catalysis

T52 Crystallization

T53 Dialysis

T54 Distillation

T55 Electrodialysis

T56 Electrolysis

T57 Evaporation

T58 High gradient magnetic separation

T59 Leaching

T60 Liquid ion exchange

T61 Liquid-liquid extraction

T62 Reverse osmosis

T63 Solvent recovery

T64 Stripping

T65 Sand filter

T66 Other (specify)

(IV) Biological Treatment
Activated sludge

T67 Activated Sludge

T68 Aerobic lagoon

T69 Aerobic tank

T70 Anaerobic tank

T71 Composting

T72 Septic tank

T73 Spray irrigation

T74 Thickening filter

T75 Trickling filter

T76 Waste stabilization pond

T77 Other (specify)

T78 [Reserved]

T79 [Reserved]

(V) Boilers and Industrial Furnaces

T80 Boiler

T81 Cement Kiln

T82 Lime Kiln

T83 Aggregate Kiln

T84 Phosphate Kiln

T85 Coke Oven

T86 Blast Furnace

T87 Smelting, Melting, or Refining Furnace

T88 Titanium Dioxide Chloride Process Oxidation Reactor

T89 Methane Reforming Furnace

T90 Pulping Liquor Recovery Furnace

T91 Combustion Device Used in the Recovery of Sulfur Values From Spent Sulfuric Acid

T92 Halogen Acid Furnaces

T93 Other Industrial Furnaces Listed in 40 CFR 260.10 (specify)

(VI) Other Treatment

T94 Containment Building (Treatment)

(iii) Disposal

D79 Underground Injection

D80 Landfill

D81 Land Treatment

D82 Ocean Disposal

D83 Surface Impoundment (to be closed as a landfill)

D99 Other Disposal (specify)

(iv) Miscellaneous (Subpart X)

X01 Open Burning/Open Detonation

X02 Mechanical Processing

X03 Thermal Unit

X04 Geologic Repository

X99 Other Subpart X (specify)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 4 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) Generators who accumulate hazardous waste on-site ~~for less than the time periods provided~~ in compliance with all of the conditions for exemption provided in subparagraphs (1)(e), (f), (g), and (h) of Rule 0400-12-01-.03~~(4)(e), unless the generator is accumulating the waste in a unit otherwise subject to this rule~~;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (ii) of part 4 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(ii) Persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulation under this rule by ~~Rules~~ subparagraph (1)(d) of Rule 0400-12-01-.02~~(1)(d) and (e) (exclusions~~ or subparagraph (1)(e) of Rule 0400-12-01-.03 (very small quantity generator exemption);

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (v) of part 1 of subparagraph (c) of paragraph (3) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(v) Changes made in accordance with an interim status corrective action order issued by EPA under section 3008(h) or other Federal authority, by an authorized State under comparable State authority, or by a court in a judicial action brought by EPA or by an authorized State. Changes under this ~~paragraph~~ subpart are

limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (c) of paragraph (3) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended deleting it in its entirety and substituting instead the following:

2. Except as specifically allowed under this ~~paragraph~~ part, changes listed under part 1 of this subparagraph may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

(i) Changes made solely for the purposes of complying with the requirements of subparagraph (10)(d) of Rule 0400-12-01-.05~~(10)(d)~~ for tanks and ancillary equipment.

(ii) If necessary to comply with Federal, State, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of federal RCRA section 3004(o).

(iii) Changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

(iv) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

(v) Changes necessary to comply with an interim status corrective action order issued by EPA under section 3008(h) or other Federal authority, by an authorized State under comparable State authority, or by a court in a judicial proceeding brought by EPA or an authorized State, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(vi) Changes to treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed by Rule 0400-12-01-.10 or federal RCRA section 3004, provided that such changes are made solely for the purpose of complying with Rule 0400-12-01-.10 or federal RCRA section 3004.

(vii) Addition of newly regulated units under subpart 1(vi) of this subparagraph.

(viii) Changes necessary to comply with standards under 40 CFR part 63, Subpart EEE-National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 13 of subparagraph (a) of paragraph (8) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

13. Information Repository

The Commissioner may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in item ~~(7)(e)4(v)(III)~~ (7)(e)4(v)(II) of

this rule. The information repository will be governed by the provisions in items (7)(e)4(v)(III) through (VI) of this rule.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (v) of part 3 of subparagraph (c) of paragraph (9) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(v) Modification of a closure plan or post-closure plan is required under ~~Rule 0400-12-01-.06(7)(c)2 or (h)2~~ part (7)(c)3 or (7)(i)4 of Rule 0400-12-01-.06.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subitem II of item (I) of subpart (i) of part 5 of subparagraph (c) of paragraph (9) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

II. The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the Commissioner in accordance with item (7)(e)3(i)(V) of this rule, and the appropriate units of State and local government, as specified in items (7)(e)3(i)(II) through (V) of this rule. This notification must be made within 90 calendar days after the change is put into effect. For the Class ~~I~~ 1 modifications that require prior Commissioner approval, the notification must be made within 90 calendar days after the Commissioner approves the request

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subitem I of item (VI) of subpart (ii) of part 5 of subparagraph (c) of paragraph (9) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

I. No later than 90 days after receipt of the ~~notification~~ modification request, the Commissioner must:

A. Approve the modification request, with or without changes, and modify the permit accordingly;

B. Deny the request;

C. Determine that the modification request must follow the procedures in subpart (iii) of this part for Class 3 modifications for the following reasons:

(A) There is significant public concern about the proposed modification; or

(B) The complex nature of the change requires the more extensive procedures of Class 3;

D. Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days; or

E. Notify the permittee that he or she will decide on the request within the next 30 days.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (v) of part 5 of subparagraph (c) of paragraph (9) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by deleting it in its entirety and substituting instead the following:

(I) Upon request of the permittee, the Commissioner may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this ~~subsection~~ subpart. Temporary authorizations must have a term of not more than 180 days.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

The note immediately following the title of paragraph (11) of Rule 0400-12-01-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities and immediately preceding subparagraph (a) of that paragraph is amended by deleting it in its entirety and substituting instead the following:

(Note: Why is this ~~subpart~~ paragraph written in a special format? [40 CFR 270.79]

This paragraph is written in a special format to make it easier to understand the regulatory requirements. Like other regulations, this establishes enforceable legal requirements. For this Paragraph, "I" and "you" refer to the owner/operator.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 4 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following:

4. Persons requesting that the Underground Storage Tanks and Solid Waste Disposal Control Board review an action of the Commissioner;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Paragraph (2) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following:

(2) Installation Identification Number Application Fee

Any person ~~who applies~~ identified in subparagraph (1)(b) of this rule applying to the Department for an Installation Identification Number on the Notification Forms provided by the Department shall submit as part of the request a fee ~~of~~ as set forth below:

150 dollars~~.~~ for a new site; ~~Generators updating their facility notification file by~~

150 dollars for a change in ownership;

150 dollars for a site relocation; and

100 dollars for adding a new hazardous waste stream ~~shall submit a fee of 100 dollars with the new hazardous waste stream form~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (3) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following:

(a) Transporters

Any person who applies for a permit or a modification to a permit to transport hazardous wastes in Tennessee must submit ~~as part of said application an application~~ a fee ~~of~~ as set forth below:

200 dollars with a permit application; and

200 dollars per permit modification.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Parts 3 and 4 of subparagraph (a) of paragraph (4) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following:

3. Each person transporting used oil and that is required to submit an annual report under Rule 0400-12-01-.11 shall submit to the Commissioner an annual maintenance fee of 200 dollars ~~within 30 days of the effective date of this rule and~~ by March 1 of each year ~~thereafter~~.

4. Each person operating a used oil transfer facility under Rule 0400-12-01-.11 shall submit to the Commissioner an annual facility maintenance fee of 1,000 dollars ~~within 30 days of the effective date of this rule and~~ by March 1 of each year ~~thereafter~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

The introductory text of subparagraph (b) of Paragraph (4) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following, however, the parts of this subparagraph are retained without being changed by this amendment:

(b) Treatment, Storage, and Disposal Facilities (TSDF) including facilities conducting corrective action and post-closure.

The owner or operator of each hazardous waste treatment, storage, or disposal facility in Tennessee having either a permit issued under the Act or interim status as provided under Rule 0400-12-01-.07(3) must submit to the Commissioner, by March 1 of each year, an annual permit maintenance fee as provided in this subparagraph~~; provided however, that for the year 2010, persons who paid the annual permit maintenance fee in effect on March 1, 2010 shall be credited for the amount so paid, making only the balance due within 30 days of the effective date of this rule~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Paragraph (5) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following:

(5) Generator Fees

(a) Annual Generator Fees

~~(Note: Rules 0400-12-01-.02(1)(d)3(ii) and 0400-12-01-.02(1)(e)3 and 4 are applicable in determining generator status for fee purposes.)~~

1. Except as provided in subparagraph (b) of this paragraph, ~~the Annual Generator Fee for Small Quantity Generators~~ generators shall ~~consist of a~~ pay the base ~~amount of 1,200 dollars~~ fee required by part 3 or 4 of this subparagraph plus an off-site shipping fee ~~determined in accordance with subparagraphs (c) and (d) of this paragraph.(i) For the purpose of this subparagraph Small Quantity Generator shall mean: (I) Any generator who generates greater than 100 kilograms, but less than 1000 kilograms of hazardous~~

~~waste in any calendar month of the previous calendar year; or (II) Any Conditionally Exempt Small Quantity Generator who accumulates at any time more than 1000 kilograms of non-acute hazardous waste in the previous calendar year. 2. Except as provided in subparagraph (b) of this paragraph, the Annual Generator Fee for Large Quantity Generators shall consist of a base amount of 2,000 dollars plus an off-site shipping fee~~. The off-site shipping fee shall be determined in accordance with subparagraphs (c) and (d) of this paragraph.

~~(i) For the purpose of this subparagraph Large Quantity Generator shall mean:~~

~~(I) Any generator who generates 1000 kilograms or more of hazardous waste in any calendar month of the previous calendar year; or~~

~~(II) Any generator who generates over 1 kilogram of acute hazardous waste, or over 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of an acute hazardous waste, in any calendar month of the previous calendar year; or~~

2. A generator shall determine the quantity it generated each calendar month in the same manner as a generator determines it under subparagraph (1)(d) of Rule 0400-12-01-.03, except the quantities generated during episodic event(s) and managed in accordance with paragraph (11) of Rule 0400-12-01-.03 are included in the calendar month generation rate calculations for the purposes of paying the annual generator base fee required by this subparagraph.

3. After determining the quantities generated in accordance with part 2 of this subparagraph, a generator who generates the following amount in any one calendar month of the previous calendar year shall pay a base fee of $1,200:

(i) Greater than 100 kilograms (220 lbs) but less than 1,000 kilograms (2200 lbs) of non-acute hazardous waste; and

(ii) Less than or equal to 1 kilogram (2.2 lbs) of acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or are listed in part (4)(d)5 of Rule 0400-12-01-.02; and

(iii) Less than or equal to 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or are listed in part (4)(d)5 of Rule 0400-12-01-.02.

4. After determining the quantities generated in accordance with part 2 of this subparagraph, a generator who generates the following amount in any one calendar month of the previous calendar year shall pay a base fee of $2,000:

(i) Greater than or equal to 1,000 kilograms (2200 lbs) of non-acute hazardous waste; or

(ii) Greater than 1 kilogram (2.2 lbs) of acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or are listed in part (4)(d)5 of Rule 0400-12-01-.02; or

(iii) Greater than 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in subparagraph (4)(b) of Rule 0400-12-01-.02 with the assigned hazard code of (H) or are listed in part (4)(d)5 of Rule 0400-12-01-.02.

(b) Exclusions from Base Fee Assessment

1. Hazardous wastes generated from remediation or corrective actions required by the Tennessee Hazardous Waste Management Act of 1977 and 1983; the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) shall not be subject to the fee calculations in parts (a)1 or (a)2 of this paragraph.

2. A ~~Conditionally Exempt Small Quantity~~ Generator does not owe this fee if neither part ~~(a)1 nor (a)2~~ (a)3 or 4 of this paragraph is applicable.

   (Note: The fee exclusions in this subparagraph also apply to ~~department approved~~ Department-approved remediation or corrective actions under the administration of the Tennessee Petroleum Underground Storage Tank Act and Tennessee Drycleaner's Environmental Response Act.)

(c) Off-site Shipping Fee

1. Hazardous waste with a thermal heating value greater than 5000 BTU per pound that are subject to energy recovery as defined by handling codes for treatment methods T50 and T80 through T93 are assessed an off-site shipping fee of $0.0012 per pound.

2. Hazardous wastewaters, defined as containing less than 1 percent total organic carbon and less than 1 percent total suspended solids, shall be assessed an off-site shipping fee of $0.0047 per pound.

3. Except for those hazardous wastes excluded from off-site shipment fees as provided in subparagraphs (d) of this paragraph, all remaining waste not claimed in part 1 or 2 ~~above~~ of this subparagraph shall be assessed an off-site shipping fee of $0.0088 per pound.

4. The off-site shipping fee for any single generator shall not exceed $29,200 in any calendar year.

(d) Exclusions from Off-site Shipping Fees

1. Hazardous wastes that are recycled/recovered as defined by handling codes for treatment methods T30, T54, and T63, lead smelting, precious metals recovery, and/or high temperature metals recovery are exempt from off-site shipping fees.

2. Hazardous wastes generated from remediation or corrective actions required by the Tennessee Hazardous Waste Management Act of 1977 and 1983; the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) shall not be subject to off-site shipping fees.

   (Note: The fee exclusion in part 2 of this subparagraph also applies to department approved remediation or corrective actions under the administration of the Tennessee Petroleum Underground Storage Tank Act and Tennessee Drycleaner's Environmental Response Act.)

3. A ~~Conditionally Exempt Small Quantity~~ Generator does not owe this fee, if neither part ~~(a)1 nor (a)2~~ (a)3 or 4 of this paragraph is applicable.

4. Universal Wastes identified in Rule 0400-12-01-.12~~,~~ and spent lead-acid batteries managed under paragraph (7) of Rule 0400-12-01-.09~~(7),~~ are exempt from off-site shipping fees.

(e) Director's Option, case-by-case

The Director may include other handling codes for waste treatment methods in part (c)1 or part (d)1 of this paragraph on a case-by-case basis, based upon application by a generator.

(f) Date for Payment of Fees

These generator fees shall be paid no later than March 1 of each year for hazardous waste activities conducted the previous calendar year~~; provided however, that for the year 2010, persons who paid the generator fee in effect on March 1, 2010 shall be credited for the amount so paid, making only the balance due within 30 days of the effective date of this rule~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (d) of paragraph (8) of Rule 0400-12-01-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Waste and for Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting instead the following:

(d) Date for Payment of Fees

~~These hazardous~~ Hazardous waste tipping fees shall be paid no later than March 1 of each year for hazardous waste activities conducted the previous calendar year~~ beginning with the effective date of these rules; provided however, that for the year 2010, persons who paid the hazardous waste tipping fee in effect on March 1, 2010 shall be credited for the amount so paid, making only the balance due within 30 days of the effective date of this rule~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (c) of paragraph (3) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

(c) Standards Applicable to Storers of Materials That Are to be Used in a Manner That Constitutes Disposal Who Are Not the Ultimate Users [40 CFR 266.22]

Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated under all applicable provisions of paragraphs (1) through (12) of Rule 0400-12-01-.05~~(1) through (12)~~, paragraphs (1) through (12) of Rule 0400-12-01-.06~~(1) through (12)~~, and Rule 0400-12-01-.07, and ~~the notification requirement under Rule 0400-12-01-.03(2)~~ shall notify the Commissioner on forms provided by the Commissioner and completed as per the accompanying instructions.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (d) of paragraph (3) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

1. Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of ~~Rules~~ paragraphs (1) through (12) of Rule 0400-12-01-.05~~(1) through (14)~~, paragraphs (1) through (14) of Rule 0400-12-01-.06~~(1) through (14)~~, ~~Rules~~ Rule 0400-12-01-.07, and Rule 0400-12-01-.10~~, and the notification requirement under Rule 0400-12-01-.03(2)~~ and shall notify the Commissioner on forms provided by the Commissioner and completed as per the accompanying instructions. (These requirements do not apply to products which contain these recyclable materials under the provisions of part (a)2 of this paragraph.)

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (a) of paragraph (6) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

2. Persons who generate, transport, or store recyclable materials that are regulated under this paragraph are subject to the following requirements:

(i) Notification ~~requirements under Rule 0400-12-01-.03(2)~~ of the Commissioner on forms provided by the Commissioner and completed as per the accompanying instructions;

(ii) Paragraph (3) of Rule 0400-12-01-.03 (for generators), Rules 0400-12-01-.04(3)(a) and (b) (for transporters), and Rules 0400-12-01-.05(5)(b) and (c) (for persons who store); and

(iii) ~~(Reserved) [40 CFR 266.70(b)(3)]~~ For precious metals exported to or imported from other countries for recovery, paragraph (9) of Rule 0400-12-01-.03 and subparagraph (2)(c) of Rule 0400-12-01-.05.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Paragraph (7) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

(7) Spent Lead-Acid Batteries Being Reclaimed [40 CFR 266 Subpart G]

(a) Applicability and Requirements [40 CFR 266.80]

1. Are spent lead-acid batteries exempt from hazardous waste management requirements? If you generate, collect, transport, store, or regenerate lead-acid batteries for reclamation purposes, you may be exempt from certain hazardous waste management requirements. Use the following table to determine which requirements apply to you. Alternatively, you may choose to manage your spent lead-acid batteries under the “Universal Waste” rule in Rule 0400-12-01-.12.

If your batteries * * *	And if you * * *	Then you * * *	And you * * *
(i) Will be reclaimed through regeneration (such as by electrolyte replacement).		are exempt from Rules 0400-12-01-.03 (except for .03(1)(b)) through 0400-12-01-.07, 0400-12-01-.09, and 0400-12-01-.10 including the notification requirement of Rule 0400-12-01-.03(2).	are subject to Rules 0400-12-01-.02 and .03(1)(b).
(ii) Will be reclaimed other than through regeneration.	generate, collect, and/or transport these batteries.	are exempt from Rules 0400-12-01-.03 (except for .03(1)(b)) through 0400-12-01-.07 and 0400-12-01-.09, including the notification requirement of Rule 0400-12-01-.03(2).	are subject to Rules 0400-12-01-.02 and .03(1)(b), and applicable provisions under Rule 0400-12-01-.10.
(iii) Will be reclaimed other than through regeneration.	store these batteries but you aren’t the reclaimer.	are exempt from Rules 0400-12-01-.03 (except for .03(1)(b)) through 0400-12-01-.07 and 0400-12-01-.09, including the notification	are subject to Rules 0400-12-01-.02, .03(1)(b), and applicable provisions under Rule 0400-12-01-.10.

		requirement of Rule 0400-12-01-.03(2).	
(iv) Will be reclaimed other than through regeneration.	store these batteries before you reclaim them.	must comply with part 2 of this subparagraph and as appropriate other regulator provisions described in part 2 of this subparagraph.	are subject to Rules 0400-12-01-.02, .03(1)(b), and applicable provisions under Rule 0400-12-01-.10.
(v) Will be reclaimed other than through regeneration.	don't store these batteries before you reclaim them.	are exempt from Rules 0400-12-01-.03 (except for .03(1)(b)) through 0400-12-01-.07 and 0400-12-01-.09, including the notification requirement of Rule 0400-12-01-.03(2).	are subject to Rules 0400-12-01-.02, .03(1)(b), and applicable provisions under Rule 0400-12-01-.10.
(vi) Will be reclaimed through regeneration or any other means.	~~Export~~ export these batteries for reclamation in a foreign country.	are exempt from Rules 0400-12-01-.03 (except for subparagraphs (1)(b) and (1)(i), and paragraph (9)), 0400-12-01-.04 through 0400-12-01-.07, 0400-12-01-.09 and 0400-12-01-.10~~, including the notification requirement of Rule 0400-12-01-.03(2)~~. ~~You are also exempt from 0400-12-01-.03 (except for .03(1)(b)), and except for the applicable requirements in either (I) 40 CFR Part 262, Subpart H; or (II) subparagraph (7)(d) of Rule 0400-12-01-.03 "Notification of Intent to Export", subparts (7)(g)1(i) through (iv) and (vi) and part (7)(g)2 of Rule 0400-12-01-.03 "Annual Reports", and subparagraph (7)(h) of Rule 0400-12-01-.03 "Recordkeeping".~~	are subject to ~~Rules~~ Rule 0400-12-01-.02 and ~~.03~~ subparagraphs (1)(b) and (1)(i) of Rule 0400-12-01-.03, and ~~either must comply with 40 CFR Part 262, Subpart H (if shipping to one of the OECD countries specified in subpart (7)(i)1(i) of Rule 0400-12-01-.03, or must: (I) Comply with the requirements applicable to a primary exporter in subparagraph (7)(d), subparts (7)(g)1(i) through (iv) and (vi), part (7)(g)2, and subparagraph (7)(h) of Rule 0400-12-01-.03; and (II) Export these batteries only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in paragraph (7) of Rule 0400-12-01-.03; and (III) Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the~~

			~~shipment for export~~ paragraph (9) of Rule 0400-12-01-.03.
(vii) Will be reclaimed through regeneration or any other means.	Transport these batteries in the U.S. to export them for reclamation in a foreign country.	are exempt from Rules 0400-12-01-~~.03~~.04 through 0400-12-01-.07, 0400-12-01-.09 and ~~.09~~ 0400-12-01-.10, including the notification requirements of Rule 0400-12-01-.03(2).	must comply with applicable requirements ~~in 40 CFR Part 262, Subpart H (if shipping to one of the OECD countries specified in subpart (7)(i)1(i) of Rule 0400-12-01-.03, or must comply with the following: (I) you may not accept a shipment if you know the shipment does not conform to the EPA Acknowledgement of Consent; (II) you must ensure that a copy of the EPA acknowledgement of Consent accompanies the shipment; and (III) you must ensure that the shipment is delivered to the facility designated by the person initiating the shipment~~ in paragraph (9) of Rule 0400-12-01-.03.
(viii) Will be reclaimed other than through regeneration.	Import these batteries from foreign country and store these batteries but you aren't the reclaimer.	are exempt from Rules 0400-12-01-.03 (except for subparagraphs (1)(b) and (1)(i), and paragraph (9)), 0400-12-01-.04 through 0400-12-01-.07, and 0400-12-01-.09.	are subject to Rule 0400-12-01-.02 and subparagraphs (1)(b) and (1)(i) of Rule 0400-12-01-.03, paragraph (9) of Rule 0400-12-01-.03 and applicable provisions under Rule 0400-12-01-.10.
(ix) Will be reclaimed other than through regeneration.	Import these batteries from foreign country and store these batteries before you reclaim them.	must comply with part (7)(a)2 of Rule 0400-12-01-.09 and as appropriate other regulatory provisions described in part (7)(a)2 of Rule 0400-12-01-.09.	are subject to Rule 0400-12-01-.02 and subparagraphs (1)(b) and (1)(i) of Rule 0400-12-01-.03, paragraph (9) of Rule 0400-12-01-.03 and applicable provisions under Rule 0400-12-01-.10.
(x) Will be reclaimed other than through regeneration.	Import these batteries from foreign country and don't store these batteries before you reclaim them.	are exempt from Rules 0400-12-01-.03 (except for subparagraphs (1)(b) and (1)(i), and paragraph (9)), 0400-	are subject to Rule 0400-12-01-.02 and subparagraphs (1)(b) and (1)(i) of Rule 0400-12-01-.03, paragraph (9) of Rule

		12-01-.04 through 0400-12-01-.07, and 0400-12-01-.09.	0400-12-01-.03 and applicable provisions under Rule 0400-12-01-.10.

2. If I store spent lead-acid batteries before I reclaim them but not through regeneration, which requirements apply? The requirements of this part apply to you if you store spent lead-acid batteries before you reclaim them, but you don't reclaim them through regeneration. The requirements are slightly different depending on your Hazardous Waste permit status.

   (i) For Interim Status Facilities, you must comply with:

      (I) Notification ~~requirements under Rule 0400-12-01-.03(2)~~ of the Commissioner on forms provided by the Commissioner and completed as per the accompanying instructions.

      (II) All applicable provisions in paragraph (1) of Rule 0400-12-01-.05.

      (III) All applicable provisions in paragraph (2) of Rule 0400-12-01-.05, except subparagraph (2)(d) of Rule 0400-12-01-.05~~(2)(d)~~ (waste analysis).

      (IV) All applicable provisions in paragraphs (3) and (4) of Rule 0400-12-01-.05.

      (V) All applicable provisions in paragraph (5) of Rule 0400-12-01-.05, except ~~.05(5)~~ subparagraphs (b) and (c) (dealing with the use of the manifest and manifest discrepancies).

      (VI) All applicable provisions in paragraphs (6) through (12) of Rule 0400-12-01-.05.

      (VII) All applicable provisions in Rule 0400-12-01-.07.

   (ii) For Permitted Facilities.

      (I) Notification ~~requirements under Rule 0400-12-01-.03(2)~~ of the Commissioner on forms provided by the Commissioner and completed as per the accompanying instructions.

      (II) All applicable provisions in paragraph (1) of Rule 0400-12-01-.06.

      (III) All applicable provisions in paragraph (2) of Rule 0400-12-01-.06 but not ~~Rule 0400-12-01-.06(2)~~ subparagraph (d) (waste analysis).

      (IV) All applicable provisions in paragraph (3) and (4) of Rule 0400-12-01-.06.

      (V) All applicable provisions in paragraph (5) of Rule 0400-12-01-.06 but not ~~Rules 0400-12-01-.06(5)~~ subparagraph (b) or (c) (dealing with the use of the manifest and manifest discrepancies).

      (VI) All applicable provisions in paragraphs (6) through (12) of Rule 0400-12-01-.06.

      (VII) All applicable provisions in Rule 0400-12-01-.07.

(b) Reserved.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) part 3 of subparagraph (a) of paragraph (8) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

(iii) Hazardous wastes that are exempt from regulation under subparagraph (1)(d) of Rule 0400-12-01-.02~~(1)(d)~~ and items (1)(f)1(iii)(III) and (IV) of Rule 0400-12-01-.02~~(1)(f)1(iii)(III) and (IV)~~, and hazardous wastes that are subject to the special requirements for ~~conditionally exempt~~ very small quantity generators under ~~Rules 0400-12-01-.02(1)(e)~~ subparagraph (1)(e) of Rule 0400-12-01-.03; and

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 1 of subparagraph (f) of paragraph (14) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

(i) When your LLMW has met the requirements of your NRC or NRC Agreement State license for decay-in-storage and can be disposed of as non-radioactive waste, then the conditional exemption for storage no longer applies. On that date your waste is subject to hazardous waste regulation under the relevant requirements of Rules 0400-12-01-.01 through .10, and the time period for accumulation of a hazardous waste as specified in subparagraph ~~(4)(e)~~ (1)(g) or (h) of Rule 0400-12-01-.03 begins.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Appendix III - Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride of paragraph (30) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

Terrain-adjusted Effective Stack Height (m)	Noncomplex Terrain				Complex Terrain	
	Values for Urban Areas		Values for Rural Areas		Values for Use in Urban and Rural Areas	
	~~C1~~ Cl_2 (g/hr)	~~HC1~~ HCl (g/hr)	~~C1~~ Cl_2 (g/hr)	~~HC1~~ HCl (g/hr)	~~C1~~ Cl_2 (g/hr)	~~HC1~~ HCl (g/hr)
4	8.2E + 01	1.4E + 03	4.2E + 01	7.3E + 02	1.9E + 01	3.3E + 02
6	9.1E + 01	1.6E + 03	4.8E + 01	8.3E + 02	2.8E + 01	4.9E + 02
8	1.0E + 02	1.8E + 03	5.3E + 01	9.2E + 02	4.1E + 01	7.1E + 02
10	1.2E + 02	2.0E + 03	6.2E + 01	1.1E + 03	5.8E + 01	1.0E + 03
12	1.3E + 02	2.3E + 03	7.7E + 01	1.3E + 03	7.2E + 01	1.3E + 03
14	1.5E + 02	2.6E + 03	9.1E + 01	1.6E + 03	9.1E + 01	1.6E + 03
16	1.7E + 02	2.9E + 03	1.2E + 02	2.0E + 03	1.1E + 02	1.8E + 03
18	1.9E + 02	3.3E + 03	1.4E + 02	2.5E + 03	1.2E + 02	2.0E + 03
20	2.1E + 02	3.7E + 03	1.8E + 02	3.1E + 03	1.3E + 02	2.3E + 03
22	2.4E + 02	4.2E + 03	2.3E + 02	3.9E + 03	1.4E + 02	2.4E + 03
24	2.7E + 02	4.8E + 03	2.9E + 02	5.0E + 03	1.6E + 02	2.8E + 03
26	3.1E + 02	5.4E + 03	3.7E + 02	6.5E + 03	1.7E + 02	3.0E + 03
28	3.5E + 02	6.0E + 03	4.7E + 02	8.1E + 03	1.9E + 02	3.4E + 03
30	3.9E + 02	6.9E + 03	5.8E + 02	1.0E + 04	2.1E + 02	3.7E + 03
35	5.3E + 02	9.2E + 03	9.6E + 02	1.7E + 04	2.6E + 02	4.6E + 03
40	6.2E + 02	1.1E + 04	1.4E + 03	2.5E + 04	3.3E + 02	5.7E + 03
45	8.2E + 02	1.4E + 04	2.0E + 03	3.5E + 04	4.0E + 02	7.0E + 03
50	1.1E + 03	1.8E + 04	2.6E + 03	4.6E + 04	4.8E + 02	8.4E + 03
55	1.3E + 03	2.3E + 04	3.5E + 03	6.1E + 04	6.2E + 02	1.1E + 04
60	1.6E + 03	2.9E + 04	4.6E + 03	8.1E + 04	7.7E + 02	1.3E + 04

65	2.0E + 03	3.4E + 04	6.2E + 03	1.1E + 05	9.1E + 02	1.6E + 04
70	2.3E + 03	3.9E + 04	7.2E + 03	1.3E + 05	1.1E + 03	1.8E + 04
75	2.5E + 03	4.5E + 04	8.6E + 03	1.5E + 05	1.2E + 03	2.0E + 04
80	2.9E + 03	5.0E + 04	1.0E + 04	1.8E + 05	1.3E + 03	2.3E + 04
85	3.3E + 03	5.8E + 04	1.2E + 04	2.2E + 05	1.4E + 03	2.5E + 04
90	3.7E + 03	6.6E + 04	1.4E + 04	2.5E + 05	1.6E + 03	2.9E + 04
95	4.2E + 03	7.4E + 04	1.7E + 04	3.0E + 05	1.8E + 03	3.2E + 04
100	4.8E + 03	8.4E + 04	2.1E + 04	3.6E + 05	2.0E + 03	3.5E + 04
105	5.3E + 03	9.2E + 04	2.4E + 04	4.3E + 05	2.3E + 03	3.9E + 04
110	6.2E + 03	1.1E + 05	2.9E + 04	5.1E + 05	2.5E + 03	4.5E + 04
115	7.2E + 03	1.3E + 05	3.5E + 04	6.1E + 05	2.8E + 03	5.0E + 04
120	8.2E + 03	1.4E + 05	4.1E + 04	7.2E + 05	3.2E + 03	5.6E + 04

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Appendix V - Risk Specific Doses of paragraph (30) of Rule 0400-12-01-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities is amended by deleting it in its entirety and substituting instead the following:

Appendix V - Risk Specific Doses [40 CFR 266 APPENDIX V]

Risk Specific Doses (10^{-5})

Constituent	CAS No.	Unit Risk ~~(m^3/ug)~~ (m^3/µg)	RsD ~~(ug/m^3)~~ (µg/m^3)
Acrylamide	79-06-1	1.3E-03	7.7E-03
Acrylonitrile	107-13-1	6.8E-05	1.5E-01
Aldrin	309-00-2	4.9E-03	2.0E-03
Aniline	62-53-3	7.4E-06	1.4E+00
Arsenic	7440-38-2	4.3E-03	2.3E-03
Benz(a)anthracene	56-55-3	8.9E-04	1.1E-02
Benzene	71-43-2	8.3E-06	1.2E+00
Benzidine	92-87-5	6.7E-02	1.5E-04
Benzo(a)pyrene	50-32-8	3.3E-03	3.0E-03
Beryllium	7440-41-7	2.4E-03	4.2E-03
Bis(2-chloroethyl)ether	111-44-4	3.3E-04	3.0E-02
Bis(chloromethyl)ether	542-88-1	6.2E-02	1.6E-04
Bis(2-ethylhexyl)-phthalate	117-81-7	2.4E-07	4.2E+01
1,3-Butadiene	106-99-0	2.8E-04	3.6E-02
Cadmium	7440-43-9	1.8E-03	5.6E-03
Carbon Tetrachloride	56-23-5	1.5E-05	6.7E-01
Chlordane	57-74-9	3.7E-04	2.7E-02
Chloroform	67-66-3	2.3E-05	4.3E-01
Chloromethane	74-87-3	3.6E-06	2.8E+00
Chromium VI	7440-47-3	1.2E-02	8.3E-04
DDT	50-29-3	9.7E-05	1.0E-01
Dibenz(a,h)anthracene	53-70-3	1.4E-02	7.1E-04
1,2-Dibromo-3-chloropropane	96-12-8	6.3E-03	1.6E-03
1,2-Dibromoethane	106-93-4	2.2E-04	4.5E-02
1,1-Dichloroethane	75-34-3	2.6E-05	3.8E-01
1,2-Dichloroethane	107-06-2	2.6E-05	3.8E-01
1,1-Dichloroethylene	75-35-4	5.0E-05	2.0E-01
1,3-Dichloropropene	542-75-6	3.5E-01	2.9E-05
Dieldrin	60-57-1	4.6E-03	2.2E-03
Diethylstilbestrol	56-53-1	1.4E-01	7.1E-05
Dimethylnitrosamine	62-75-9	1.4E-02	7.1E-04
2,4-Dinitrotoluene	121-14-2	8.8E-05	1.1E-01
1,2-Diphenylhydrazine	122-66-7	2.2E-04	4.5E-02
1,4-Dioxane	123-91-1	1.4E-06	7.1E+00
Epichlorohydrin	106-89-8	1.2E-06	8.3E+00

Ethylene Oxide	75-21-8	1.0E-04	1.0E-01
Ethylene Dibromide	106-93-4	2.2E-04	4.5E-02
Formaldehyde	50-00-0	1.3E-05	7.7E-01
Heptachlor	76-44-8	1.3E-03	7.7E-03
Heptachlor Epoxide	1024-57-3	2.6E-03	3.8E-03
Hexachlorobenzene	118-74-1	4.9E-04	2.0E-02
Hexachlorobutadiene	87-68-3	2.0E-05	5.0E-01
Alpha-hexachlorocyclo-hexane	319-84-6	1.8E-03	5.6E-03
Beta-hexachlorocyclohexane	319-85-7	5.3E-04	1.9E-02
Gamma-hexachlorocyclo-hexane	58-89-9	3.8E-04	2.6E-02
Hexachlorocyclohexane, Technical		5.1E-04	2.0E-02
Hexachlorodibenzo-p-dioxin (1,2 Mixture)		1.3E+0	7.7E-06
Hexachloroethane	67-72-1	4.0E-06	2.5E+00
Hydrazine	302-01-2	2.9E-03	3.4E-03
Hydrazine Sulfate	302-01-2	2.9E-03	3.4E-03
3-Methylcholanthrene	56-49-5	2.7E-03	3.7E-03
Methyl Hydrazine	60-34-4	3.1E-04	3.2E-02
Methylene Chloride	75-09-2	4.1E-06	2.4E+00
4,4'-Methylene-bis-2-chloroaniline	101-14-4	4.7E-05	2.1E-01
Nickel	7440-02-0	2.4E-04	4.2E-02
Nickel Refinery Dust	7440-02-0	2.4E-04	4.2E-02
Nickel Subsulfide	12035-72-2	4.8E-04	2.1E-02
2-Nitropropane	79-46-9	2.7E-02	3.7E-04
N-Nitroso-n-butylamine	924-16-3	1.6E-03	6.3E-03
N-Nitroso-n-methylurea	684-93-5	8.6E-02	1.2E-04
N-Nitrosodiethylamine	55-18-5	4.3E-02	2.3E-04
N-Nitrosopyrrolidine	930-55-2	6.1E-04	1.6E-02
Pentachloronitrobenzene	82-68-8	7.3E-05	1.4E-01
PCBs	1336-36-3	1.2E-03	8.3E-03
Pronamide	23950-58-5	4.6E-06	2.2E+00
Reserpine	50-55-5	3.0E-03	3.3E-03
2,3,7,8-Tetrachloro-dibenzo-p-dioxin	1746-01-6	4.5E+01	2.2E-07
1,1,2,2-Tetrachloroethane	79-34-5	5.8E-05	1.7E-01
Tetrachloroethylene	127-18-4	4.8E-07	2.1E+01
Thiourea	62-56-6	5.5E-04	1.8E-02
1,1,2-Trichloroethane	79-00-5	1.6E-05	6.3E-01
Trichloroethylene	79-01-6	1.3E-06	7.7E+00
2,4,6-Trichlorophenol	88-06-2	5.7E-06	1.8E+00
Toxaphene	8001-35-2	3.2E-04	3.1E-02
Vinyl Chloride	75-01-4	7.1E-06	1.4E+00

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparts (i) and (ii) of part 5 of subparagraph (a) of paragraph (1) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

(i) Waste generated by very small quantity generators ~~of less than 100 kilograms of non-acute hazardous waste or less than 1 kilogram of acute hazardous waste per month~~, as defined in ~~Rule 0400-12-01-.02(1)(e)~~ subparagraph (2)(a) of Rule 0400-12-01-.01;

(ii) Waste pesticides that a farmer disposes of pursuant to subpart (1)(a)2(vi) of Rule 0400-12-01-.03~~(1)(a)7~~;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (b) of paragraph (1) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

3. "Hazardous constituent or constituents" means those constituents listed in Appendix VIII ~~to~~ in paragraph (30) of Rule 0400-12-01-.02~~(5)~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (v) of part 1 of subparagraph (g) of paragraph (1) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

(v) If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under ~~Rule 0400-12-01-.03(4)(c)~~ subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03 to meet applicable LDR treatment standards found at subparagraph (3)(a) of this rule, the generator must develop and follow a written waste analysis plan which describes the procedures they will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table 1, subparagraph (3)(f) of this rule, however, are not subject to these waste analysis requirements.) The plan must be kept on site in the generator's records, and the following requirements must be met:

(I) The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited waste(s) being treated~~,~~ and contain all information necessary to treat the waste(s) in accordance with the requirements of this rule, including the selected testing frequency.

(II) Such plan must be kept in the facility's on-site files and made available to inspectors.

(III) Wastes shipped off-site pursuant to this subpart must comply with the notification requirements of subpart (iii) of this part.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (III) of subpart (i) of part 4 of subparagraph (g) of paragraph (1) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

(III) For debris excluded under subpart (1)(c)6(i) of Rule 0400-12-01-.02~~(1)(c)6~~, the technology from Table 1 of subparagraph (3)(f) of this rule used to treat the debris.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 4 of subparagraph (g) of paragraph (1) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

(iii) For debris excluded under subpart (1)(c)6(i) of Rule 0400-12-01-.02~~(1)(c)6~~, the owner or operator of the treatment facility must document and certify compliance with the treatment standards in Table 1 of subparagraph (3)(f) of this rule as follows:

(I) Records must be kept of all inspections, evaluations, and analyses of treated debris that are made to determine compliance with the treatment standards;

(II) Records must be kept of any data or information the treater obtains during treatment of the debris that identifies key operating parameters of the treatment unit; and

(III) For each shipment of treated debris, a certification of compliance with the treatment standards must be signed by an authorized representative and placed in the facility's files. The certification must state the following:

"I certify under penalty of law that the debris has been treated in accordance with the requirements of subparagraph (3)(f) of Rule 0400-12-01-.10~~(3)(f)~~. I am aware that there are significant penalties for making a false certification, including the possibility of fine and imprisonment."

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Waste code K088 (Spent Potliners from primary aluminum reduction) of the Table "Treatment Standards for Hazardous Wastes" following part 10 of subparagraph (a) of paragraph (3) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by: deleting from the third column: "Benz(a)anthra-cene" and replacing it with "Benz(a)anthracene"; deleting from the third column "Benzo(b)fluor-anthene" and replacing it with "Benzo(b)fluoranthene"; deleting from the third column "Benzo(k)fluor-anthene" and replacing it with "Benzo(k)fluoranthene"; deleting from the third column "Benzo(g,h,i)-perylene" and replacing it with "Benzo(g,h,i)perylene"; and deleting from the third column "Dibenz(a,h)-anthracene" and replacing it with "Dibenz(a,h)anthracene", so that, as amended, the entry for K088 shall read as follows:

K088	Spent potliners from primary aluminum reduction.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		~~Benz(a)anthra-cene~~ Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		~~Benzo(b)fluor-anthene~~ Benzo(b)fluoranthene	205-99-2	0.11	6.8
		~~Benzo(k)fluor-anthene~~ Benzo(k)fluoranthene	207-08-9	0.11	6.8
		~~Benzo(g,h,i)-perylene~~ Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
		Chrysene	218-01-9	0.059	3.4
		~~Dibenz(a,h)-anthracene~~ Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluoranthene	206-44-0	0.068	3.4
		Indeno(1,2,3,-cd)pyrene	193-39-5	0.0055	3.4
		Penanthrene	85-01-8	0.059	5.6

		Pyrene	129-00-0	0.067	8.2
		Antimony	7440-36-0	1.9	1.15 mg/l TCLP
		Arsenic	7440-38-2	1.4	26.1 mg/kg
		Barium	7440-39-3	1.2	21 mg/l TCLP
		Beryllium	7440-41-7	0.82	1.22 mg/l TCLP
		Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Mercury	7439-97-6	0.15	0.025 mg/l TCLP
		Nickel	7440-02-0	3.98	11.0 mg/l TCLP
		Selenium	7782-49-2	0.82	5.7 mg/l TCLP
		Silver	7440-22-4	0.43	0.14 mg/l TCLP
		Cyanide (Total)[7]	57-12-5	1.2	590
		Cyanide (Amenable)[7]	57-12-5	0.86	30
		Fluoride	16984-48-8	35	NA

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Technology Code SSTRP in Table 1.[a]-TECHOLOGY CODES AND DESCRIPTION OF TECHNOLOGY-BASED STANDARDS following part 1 of subparagraph (c) of paragraph (3) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by inserting a comma after “unit” and before “such” in the second sentence, so that as amended the description for SSTRP shall read as follows:

SSTRP:	Steam stripping of organics from liquid wastes utilizing direct application of steam to the wastes operated such that liquid and vapor flow rates, as well as temperature and pressure ranges, have been optimized, monitored, and maintained. These operating parameters are dependent upon the design parameters of the unit, such as the number of separation stages and the internal column design, thus resulting in a condensed extract high in organics that must undergo either incineration, reuse as a fuel, or other recovery/reuse and an extracted wastewater that must undergo further treatment as specified

in the standard.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 1 of subparagraph (a) of paragraph (4) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

(i) A generator stores such wastes in tanks, containers, or containment buildings on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in subparagraphs (1)(g) and (h) of Rule 0400-12-01-.03~~(4)(e)~~ and Rules 0400-12-01-.06 and 0400-12-01-.05.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (ii) of part 1 of subparagraph (a) of paragraph (4) of Rule 0400-12-01-.10 Land Disposal Restrictions is amended by deleting it in its entirety and substituting instead the following:

(I) Each container is clearly marked to identify its contents and ~~the~~ with:

I. The words “Hazardous Waste”;

II. The applicable EPA hazardous waste number(s) (hazardous waste codes) in paragraphs (3) and (4) of Rule 0400-12-01-.02; or use a nationally recognized electronic system, such as bar coding, to identify the EPA hazardous waste number(s);

III. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

IV. The date each period of accumulation begins;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Item (II) of subpart (i) of part 2 of subparagraph (a) of paragraph (2) of Rule 0400-12-01-.11 Standards for the Management of Used Oil is amended by deleting it in its entirety and substituting instead the following:

(II) Rebuttable Presumption for Used Oil

Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in paragraph (4) of Rule 0400-12-01-.02~~(4)~~. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in ~~Rule 0400-12-01-.02(5)(a)~~ Appendix VIII) in paragraph (30) of Rule 0400-12-01-.02.

I. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in part (3)(e)3 of this rule, to reclaim metalworking oils/fluids. The presumption does

apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner~~,~~ or disposed.

II. The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 2 of subparagraph (a) of paragraph (2) of Rule 0400-12-01-.11 Standards for the Management of Used Oil are amended by deleting them in their entirety and substituting instead the following:

(iii) ~~Conditionally Exempt~~ Very Small Quantity Generator Hazardous Waste

(I) ~~In accordance with Rule 0400-12-01-.02(1)(e)10, mixtures~~ Mixtures of used oil and ~~conditionally exempt~~ very small quantity generator hazardous waste regulated under subparagraph (1)(e) of Rule 0400-12-01-.03 are subject to regulation as used oil under this rule, provided the resultant mixture does not exhibit the characteristic of ignitability, ~~corrosivity, or reactivity,~~ in accordance with ~~subparagraphs~~ subparagraph (3)(b)~~, (c), or (d)~~ of Rule 0400-12-01-.02.

(II) If the mixture of used oil and hazardous waste from a very small quantity generator regulated under subparagraph (1)(e) of Rule 0400-12-01-.03 exhibits the characteristic of ignitability, ~~corrosivity, or reactivity,~~ in accordance with ~~subparagraphs~~ subparagraph (3)(b)~~, (c) or (d)~~ of Rule 0400-12-01-.02, then the mixture shall be managed as hazardous waste and not as used oil under this rule.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparts (iv) and (v) of part 1 of subparagraph (a) of paragraph (5) of Rule 0400-12-01-.11 Standards for the Management of Used Oil are amended by deleting them in their entirety and substituting instead the following:

(iv) This paragraph does not apply to transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor/re-refiner, or burner subject to the requirements of this ~~part~~ rule. Except as provided in subparts (i) through (iii) of this part, this paragraph does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.

(v) Any transporter of used oil who transports~~: a)~~ quantities of used oil in excess of 55 gallons of used oil at any given time, or ~~b)~~ who transports more than 1,000 gallons of used oil in a calendar year, must meet the certification requirements of this ~~subparagraph~~ subpart in order to transport used oil in the state of Tennessee. Certification of compliance with the following items must be demonstrated prior to commencement of used oil transportation activities by the transporter, as well as annually, as part of the used oil transporter's annual report.

(I) Each used oil hauler must demonstrate that each employee engaged in the hauling of used oil is in the possession of a current Commercial Driver's License. This must be accompanied by a signed certification by the employee stating that the employee has examined and is familiar with the Used Oil Management Standards for Transporters in Tennessee Rule 0400-12-01-.11.

(II) All vehicles used to transport used oil shall have Periodic Inspections as described by ~~Tennessee Code Annotated~~ T.C.A. § 65-15-113 and Rule 1220-02-01-.20. The requirements of a Periodic Inspection are found in federal regulations at 49 CFR Parts 396.17 through 396.25, and Appendix G of 49 CFR Part 396. A copy of the Periodic Inspection report for each vehicle engaged in the transport of used oil shall be included in the initial Certification and updated in subsequent annual reports. Each vehicle shall be in good mechanical condition and suitable for the transportation of used oil.

(III) All commercial transporters engaged in the transportation of used oils must maintain a minimum of $1,000,000 in liability insurance.

(IV) The transporter shall briefly describe the recordkeeping practices to demonstrate compliance with subparagraph (g) of this paragraph. Copies (examples only) of shipping papers shall be included.

(V) I. The transporter shall certify that all used oil is delivered to qualified customers or certified recyclers.

II. A. The terms "qualified customers" and "certified recyclers" shall mean transporters, transfer facilities, off-specification burners, reprocessors, marketers, and/or re-refiners of used oil, which are in possession of valid Installation Identification Numbers.

B. "Qualified customers" shall also include customers without Installation Identification Numbers which receive and burn only those used oils which qualify as "on-specification" used oils as defined in subparagraph (2)(b) of this rule. In such cases when the qualified customer receives a shipment of on-specification used oil and does not possess an Installation Identification Number, the transporter shall clearly indicate in the record that the shipment was "on-specification" used oil.

III. A. Supporting documentation of compliance with subitems I and II of this item shall include all information as required at part (g)2 of this paragraph.

B. This documentation shall be constructed and maintained in accordance with the recordkeeping requirements of subparagraph (g) of this paragraph~~,~~ and shall be available for inspection and furnished to the Department upon request.

(vi) (I) Certifications required by this paragraph, except for “drivers” identified in item (v)(I) of this part, shall contain the following wording:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that knowingly giving or causing to be given any false information constitutes a Class C misdemeanor.”

(II) The Certification for "drivers" referred to in item (v)(I) of this part shall contain the following wording:

"I certify that I have read and am familiar with the Used Oil Management Standards for Transporters in Rule 0400-12-01-.11. I am aware that knowingly giving or causing to be given any false information constitutes a Class C misdemeanor."

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (e) of paragraph (5) of Rule 0400-12-01-.11 Standards for the Management of Used Oil are amended by deleting them in their entirety and substituting instead the following:

3. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in paragraph (4) of Rule 0400-12-01-.02~~(4)~~. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in ~~Rule 0400-12-01-.02(5)~~ Appendix VIII in paragraph (30) of Rule 0400-12-01-.02).

(i) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in part (3)(e)3 of this rule, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner~~,~~ or disposed.

(ii) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (f) of paragraph (5) of Rule 0400-12-01-.11 Standards for the Management of Used Oil is amended by deleting its introductory text and substituting instead the following, however, its associated parts remain unchanged:

(f) Used Oil Storage at Transfer Facilities [40 CFR 279.45]

Used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR part 112) in addition to the requirements of this ~~paragraph~~ subparagraph. Used oil transporters are also subject to the Underground Storage Tank standards (Rules 0400-18-01-.01 through -.11) for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this ~~paragraph~~ subparagraph.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (d) of paragraph (6) of Rule 0400-12-01-.11 Standards for the Management of Used Oil is amended by deleting it in its entirety and substituting instead the following:

3. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in paragraph (4) of Rule 0400-12-01-.02~~(4)~~. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in ~~Rule 0400-12-01-.02(5)(a)~~ Appendix VIII in paragraph (30) of Rule 0400-12-01-.02).

(i) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner~~,~~ or disposed.

(ii) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (d) of paragraph (6) of Rule 0400-12-01-.11 Standards for the Management of Used Oil is amended by deleting it in its entirety and substituting instead the following:

3. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in paragraph (4) of Rule 0400-12-01-.02~~(4)~~. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in ~~Rule 0400-12-01-.02(5)~~ Appendix VIII in paragraph (30) of Rule 0400-12-01-.02).

(i) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in part (3)(e) of this rule, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner~~,~~ or disposed.

(ii) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subitem II of item (I) of subpart (ii) of part 2 of subparagraph (f) of paragraph (6) of Rule 0400-12-01-.11 Standards for the Management of Used Oil is amended by deleting it in its entirety and substituting instead the following:

II. A method shown to be equivalent under subparagraph (3)(a) of Rule 0400-12-01-.01~~(3)(a) and (b)~~;

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (b) of paragraph (1) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting the definition of “Universal Waste Handler” in its entirety and substituting instead in alphabetical order the following definition for “Universal Waste Handler” to read as follows:

“Universal Waste Handler”:

1. Means:

(i) A generator (as defined in this subparagraph) of universal waste; or

(ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal

waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

2. Does not mean:

(i) A person who treats (except under the provisions of parts (2)(d)1, 3, or 4 of this rule, or parts (3)(d)1, 3, or 4 of this rule~~, or Rule 0400-12-01-.07(1)(c)1(iv)~~), disposes of, or recycles universal waste; or

(ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility (except under the provisions of part (4)(b)2) of this rule.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (c) of paragraph (1) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

(c) Applicability -- Household and ~~Conditionally Exempt~~ Very Small Quantity Generator Waste and Non-Hazardous Waste [40 CFR 273.8]

1. Persons managing the wastes listed ~~below~~ in subparts (i) through (iii) of this part may, at their option, manage them under the requirements of this rule:

(i) Household wastes that are exempt under subpart (1)(d)2(i) of Rule 0400-12-01-.02~~(1)(d)2(i)~~ and are also of the same type as the universal wastes defined at subparagraph (b) of this paragraph; and/or

(ii) ~~Conditionally exempt~~ Very small quantity generator wastes that are exempt under ~~Rule 0400-12-01-.02(1)(e)~~ subparagraph (1)(e) of Rule 0400-12-01-.03 and are also of the same type as the universal wastes defined at subparagraph (b) of this paragraph; and/or

(iii) Non-hazardous wastes that are of the same type as the universal wastes defined at subparagraph (b) of this paragraph.

2. Persons who commingle the wastes described in subparts 1(i) and (ii) of this subparagraph ~~above~~ together with universal waste regulated under this rule must manage the commingled waste under the requirements of this rule.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 5 of subparagraph (e) of paragraph (2) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

5. Universal waste lamps (i.e., each lamp), or a container or package in which such lamps are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste - Lamp(s)” or “Waste Lamp(s)” or “Used Lamp(s)” or “Universal Waste - ~~Bulbs(s)~~ Bulb(s)” or “Waste Bulb(s)” or “Used Bulb(s)”. Containers or packages destined for out-of-state shipment shall use the term “Lamps” in lieu of “Bulbs”.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (k) of paragraph (2) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

(k) Exports [40 CFR 273.20]

A small quantity handler of universal waste who sends universal waste to a foreign destination ~~must:~~ is subject to the requirements of paragraph (9) of Rule 0400-12-01-.03.

~~(Note: See 40 CFR 273.20 for additional requirements.)~~

~~1. Comply with the requirements applicable to a primary exporter in Rules 0400-12-01-.03(6)(d),(6)(g)1(i) through (iv), (vi),(g)2 and (6)(h);~~

~~2. Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in Rule 0400-12-01-.03(6); and~~

~~3. Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.~~

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 5 of subparagraph (e) of paragraph (3) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

5. Universal waste lamps (i.e., each lamp), or a container or package in which such lamps are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s)" or "Universal Waste - ~~Bulbs(s)~~ Bulb(s)" or "Waste Bulb(s)" or "Used Bulb(s)". Containers or packages destined for out-of-state shipment shall use the term "Lamps" in lieu of "Bulbs".

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Parts 1 and 2 of subparagraph (j) of paragraph (3) of Rule 0400-12-01-.12 Standards for Universal Waste Management are amended by deleting them in their entirety and substituting instead the following:

1. Receipt of Shipments

A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste received must include the following information:

(i) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent; (Pesticide collection programs operated under the authority of the Tennessee Department of Agriculture are exempt from the requirements of this subpart provided that the pesticides are received by a universal waste handler for proper management);

(ii) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, lamps); and

(iii) The date of receipt of the shipment of universal waste.

2. Shipments Off-site

A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste sent must include the following information:

(i) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

(ii) The quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats, lamps); and

(iii) The date the shipment of universal waste left the facility.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (k) of paragraph (3) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

(k) Exports [40 CFR 273.40]

A large quantity handler of universal waste who sends universal waste to a foreign destination ~~must:~~ is subject to the requirements of paragraph (9) of Rule 0400-12-01-.03.

~~(Note: See 40 CFR 273.40 for additional EPA requirements.)~~

~~1. Comply with the requirements applicable to a primary exporter in Rule 0400-12-01-.03(6)(d), (6)(g)1(i) through (iv),(vi), (g)2 and (6)(h);~~

~~2. Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in Rule 0400-12-01-.03(6); and~~

~~3. Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.~~

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (b) of paragraph (4) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

2. Prohibited from diluting or treating universal waste, except by responding to releases as provided in subparagraph (e) of this paragraph ~~or by managing specific wastes as provided in Rule 0400-12-01-.07(1)(c)1(iv)~~.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (g) of paragraph (4) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

(g) Exports [40 CFR 273.56]

A universal waste transporter transporting a shipment of universal waste to a foreign destination ~~may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:~~ is subject to the requirements of paragraph (9) of Rule 0400-12-01-.03.

~~(Note: See 40 CFR 273.56 for additional EPA requirements.)~~

~~1. A copy of the EPA Acknowledgment of Consent accompanies the shipment; and~~

~~2. The shipment is delivered to the facility designated by the person initiating the shipment.~~

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (c) of paragraph (5) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

1. The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for

each shipment of universal waste received must include the following information:

(i) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;

(ii) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, lamps); and

(iii) The date of receipt of the shipment of universal waste.

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (6) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

(a) Imports [40 CFR 273.70]

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of ~~this rule~~ paragraph (9) of Rule 0400-12-01-.03, immediately after the waste enters the United States, as indicated in parts 1 through 3 of this subparagraph:

1. A universal waste transporter is subject to the universal waste transporter requirements of paragraph (4) of this rule.

2. A universal waste handler is subject to the small or large quantity handler of universal waste requirements of paragraphs (2) or (3) of this rule, as applicable.

3. An owner or operator of a destination facility is subject to the destination facility requirements of paragraph (5) of this rule.

~~4. (Reserved) [40 CFR 273.70(d)]~~

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (b) of paragraph (7) of Rule 0400-12-01-.12 Standards for Universal Waste Management is amended by deleting it in its entirety and substituting instead the following:

2. The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, ~~conditionally exempt~~ very small quantity generators, small businesses, government organizations, as well as large industrial facilities);

Authority: T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Stacey Cothran (Solid/Hazardous Waste Management Industry)	X				
Pat Flood, P.E. (Commissioner's Designee, Dept. of Environment and Conservation)	X				
Dr. George Hyfantis, Jr. (Institution of Higher Learning)	X				
Alan M. Leiserson (Environmental Interests)	X				
Jared L. Lynn (Manufacturing experienced with Solid/Hazardous Waste)	X				
David Martin (Working in a field related to Agriculture)	X				
Jeff McCormick (Municipal Government)	X				
Richard "Ric" Morris (Single Facility with less than 5 Underground Storage Tanks)				X	
William "Will" Ownby (Manufacturing experienced with Underground Storage Tanks/Hazardous Waste)	X				
Brian Parnell (Petroleum Business with at least 15 Underground Storage Tanks)	X				
DeAnne Redman (Petroleum Management Business)	X				
The Honorable Bob Rial (County Government)				X	
Jimmy West (Commissioner's Designee, Dept. of Economic and Community Development)	X				
Mark Williams (Small Generator of Solid/Hazardous Materials representing Automotive Interests)	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by Underground Storage Tanks and Solid Waste Disposal Control Board on 08/05/2020 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *(10/03/19)*

Rulemaking Hearing(s) Conducted on: (add more dates). *(12/03/19)*

Date: _____

Signature: _____

Name of Officer: _____

Title of Officer: _____

Agency/Board/Commission: Underground Storage Tanks and Solid Waste Disposal Control Board

Rule Chapter Number(s): 0400-12-01

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

_____
Herbert H. Slatery III
Attorney General and Reporter

_____
Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

_____
Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

EPA Comments

Under section 3006 of the Resource Conservation and Recovery Act (RCRA), EPA may authorize qualified states to administer and enforce the RCRA hazardous waste program within the state. Tennessee is an authorized state. When the federal rules are amended to include more stringent requirements an authorized state is required to amend its rules to include the more stringent requirements and to have these amended rules evaluated by EPA in accordance with the standards and requirements of 40 CFR part 271. EPA Region 4 has evaluated the current and previous rulemakings to determine if these rulemakings will, when effective, be approved for continuing program authorization. As a result of this review, EPA Region 4 has made the following comments on these rules:

Comment: In subparagraph (1)(g) of Rule 0400-12-01-.01, the word “of” should be added between the word “submission” and the word “information.”

Response: The Board has added the missing word.

Comment: In subparagraph (2)(a) of Rule 0400-12-01-.01, in the definition of “Installation identification number” EPA wanted to confirm that the phrase “in this state” used in two places means the “in the State of Tennessee.”

Response: The Board confirms that “in this state” means “in the State of Tennessee.” To remove any confusion the Board is replacing the phrase “in this state” in the two places it appears in the definition with the phrase “in Tennessee.”

Comment: In subparagraph (2)(a) of Rule 0400-12-01-.01, the definition of “AES filing compliance date” has been established as December 31, 2017, and EPA recommends that the definition be changed to include that date.

Response: The Board agrees and is changing the definition of “AES filing compliance date” to mean December 31, 2017.

Comment: In subparagraph (2)(a) of Rule 0400-12-01-.01, EPA recommends in the definition of “airbag waste handler” that “ten” be changed to “10” for consistency.

Response: The Board agrees to change “ten” to “10” in the definition of “airbag waste handler” for consistency.

Comment: Subparagraph (2)(b) of Rule 0400-12-01-.01 contains EPA’s list of publications or materials that are referenced in Chapter 0400-12-01. EPA suggested Tennessee clarify that language to make it clearer to the reader that the EPA list is reprinted in the subparagraph.

Response: The Board agrees and has clarified the language in part (2)(b)2 of Rule 0400-12-01-.01 and in the two notes that follow to make it clearer that the notes reprint EPA language for the convenience of the reader.

Comment: In subpart (7)(a)1(ii) of Rule 0400-12-01-.01, EPA recommends that Tennessee substitute “June 26, 2018” for the phrase “the effective date of these rules.”

Response: The Board agrees and has made the substitution.

Comment: Regarding part (1)(a)1 of Rule 0400-12-01-.02, EPA points out that the federal analog includes a reference to the notification requirements of section 3010 of RCRA that the state rule does not include. EPA acknowledges that the Chapter 0400-12-01 requires notification in various rules and that it may not impact program authorization.

Response: To make the rules clearer, the Board will add to the end of the first sentence the phrase, “and which are subject to the notification requirements of this chapter.” As amended the part will read:

"This rule identifies those solid wastes which are subject to regulation as hazardous wastes under Rules 0400-12-01-.03 through 0400-12-01-.07 and 0400-12-01-.10 and which are subject to the notification requirements of this chapter."

Comment: Relative to the note added following (1)(b)5(i)(II) of Rule 0400-12-01-.02, EPA confirms that the first sentence accurately clarifies that this exclusion only applies to materials that are not reclaimed prior to their use or reuse and is consistent with the other exclusions in subpart (1)(b)5(i) of Rule 0400-12-01-.02. However, EPA does not think the second sentence of the note is needed since subpart (1)(b)1(i) of Rule 0400-12-01-.02 references the exclusions for secondary materials that are legitimately recycled.

Response: The Board agrees to retain the first sentence of the note and delete the second sentence since it is not needed.

Comment: In part (1)(d)10 of Rule 0400-12-01-.02, Tennessee replaces "notification requirements of section 3010 of RCRA" with "including notification." EPA asks if this substitution is sufficient in terms of directing the regulated community to the correct Tennessee notification requirements.

Response: Tennessee does not have a direct statutory reference to notification and has placed its notification requirements throughout the rules where needed and requires notification on forms provided by the Commissioner. However, the Board removed the phrase "including notification" from where it followed Rule 0400-12-01-.03 and added the phrase "including the notification requirements" after the list of rules the airbag waste handler and airbag waste transporter are exempted from to make it clearer that the exemption applies to any applicable notification requirements of all the listed rules.

Comment: Considering subpart (1)(f)1(iv) of Rule 0400-12-01-.02, subpart (1)(d)3(iv) of Rule 0400-12-01-.03, and subpart (2)(a)2(iii) of Rule 0400-12-01-.11 together, EPA points out that the rules are more stringent in the way mixtures of used oil and hazardous waste from very small quantity generators is regulated than similar mixtures of used oil and hazardous waste from small or large quantity generators. EPA asks if this is intended.

Response: It is the intent of the Board that the mixtures of used oil and very small quantity generator hazardous waste be regulated in the same manner as similar mixtures from small and large quantity generators. As a result, the Board is making the necessary revisions in all three rules to reflect this intent.

Comment: In item (5)(b)1(v)(XI) of Rule 0400-12-01-.02, EPA points out the office and mailing address has changed for exporters of Cathode Ray Tubes to send their annual reports to EPA and requested the item be revised to include the office and address change.

Response: The Board agrees to change the office and address.

Comment: In subpart (1)(a)1(i) of Rule 0400-12-01-.03, in the definition of "condition of exemption" the reference to the notification requirements for hazardous waste generators is too narrow in this context and needs to be changed to be broader to all notification requirements in the chapter.

Response: The Board agrees with EPA and will amend the phrase "or from any requirement for notification under paragraph (2) of this rule" to "or from any requirement for notification under this chapter."

Comment: In item (1)(a)2(i)(I) of Rule 0400-12-01-.03, EPA points out that Tennessee incorrectly substituted its analog for 260.10 for the federal 40 CFR part 261. The correct TN citation should be Rule 0400-12-01-.02.

Response: The Board has revised item (1)(a)2(i)(I) of Rule 0400-12-01-.03.

Comment: In items (1)(a)2(vii)(I) and (II) of Rule 0400-12-01-.03, EPA points out that Tennessee should have retained the reference to "section 3008 of RCRA" instead of replacing it with its Tennessee analog; adding reference to the Tennessee analog is appropriate, but EPA always retains its enforcement authority under 3008.

Response: The Board has added the phrase “Section 3008 of RCRA” to both items.

Comment: In Rule 0400-12-01-.03 at item (1)(a)2(vii)(II), subparagraph (1)(g) and (1)(h) (introductory text), parts (1)(h)2 through 6, EPA points out that Tennessee does not cite its analog to the notification requirements of section 3010 of RCRA.

Response: Tennessee does not have a direct statutory reference to notification and has placed its notification requirements through the rules where needed and requires notification on forms provided by the Commissioner. To all the places pointed out by EPA, the Board has added the phrase “including the notification requirements” after the list of rules to make it clearer that any notification requirements of the listed rules are included.

Comment: In items (1)(e)1(v)(I), (II), and (VII) of Rule 0400-12-01-.03, EPA suggests Tennessee include references to EPA analogs to Tennessee rules so Tennessee does not inadvertently limit how very small quantity generators may manage their hazardous waste.

Response: The Board added references to the federal rules so as to not unnecessarily limit hazardous waste management options for very small quantity generators.

Comment: In item (1)(e)1(v)(III) of Rule 0400-12-01-.03, EPA points out that the reference to “part 271 of this chapter” should be revised to read: “40 CFR part 271.”

Response: The Board has corrected the federal citation.

Comment: In item (1)(e)1(v)(V) of Rule 0400-12-01-.03, EPA points out that the phrase “of this chapter” should be removed after “40 CFR Parts 257.5 through 257.30.”

Response: The Board has removed the phrase.

Comment: In items (1)(f)1(iii)(I) and (II) of Rule 0400-12-01-.03, EPA points out that Tennessee needs to cite its analog to section 265.17(b) instead of the provision from 40 CFR part 262.

Response: The Board has revised the items to cite part (2)(h)2 of Rule 0400-12-01-.05.

Comment: In item (1)(h)1(ii)(I) of Rule 0400-12-01-.03, EPA identifies on the last line that “paragraph” should be “paragraphs.”

Response: The Board has corrected the typographical error.

Comment: In part (1)(i)4 of Rule 0400-12-01-.03, EPA points out that Tennessee is authorized to issue EPA identification numbers, so the reference to Administrator in the part should be to “the Administrator or the Commissioner.”

Response: The Board has added the phrase “or the Commissioner” at the end of the part.

Comment: In part (3)(b)1 of Rule 0400-12-01-.03, EPA points out that the Office of Solid Waste has been changed to the Office of Resource Conservation and Recovery and should be changed in the part and all places it appears in the note that follows.

Response: The Board has changed all references to the Office of Solid Waste to the Office of Resource Conservation and Recovery.

Comment: In subpart (3)(e)1(i) of Rule 0400-12-01-.03, item (3)(a)1(iv)(I) of Rule 0400-12-01-.04, subpart (5)(b)6(i) of Rule 0400-12-01-.05, and subparts (5)(b)6(i) and (5)(b)11(i) of Rule 0400-12-01-.06, EPA points out that because Tennessee adopts 40 CFR 262.25 verbatim at subparagraph (3)(f) of Rule 0400-12-01-.03, Tennessee need not keep the federal reference to 40 CFR 262.25(a). Tennessee should replace it with a reference to subparagraph (3)(f) of Rule 0400-12-01-.03.

Response: The Board has revised the citation in all of the rules identified.

Comment: In subpart (3)(e)1(iii) of Rule 0400-12-01-.03, EPA suggests that the phrase “EPA inspector or the Commissioner” should be changed to “EPA or authorized state inspector” for consistency.

Response: The Board has revised the subpart.

Comment: In subpart (3)(e)3(i) of Rule 0400-12-01-.03, EPA identifies a typographical error. The word “was” should be “waste.”

Response: The Board has corrected the typographical error.

Comment: EPA suggests that the bracketed language following the title of subparagraph (3)(f) of Rule 0400-12-01-.03 should be changed from “262.24” to “262.25.”

Response: The Board has changed the reference.

Comment: For consistency EPA suggests that the identification to the federal analog of subparagraph (4)(f) and paragraph (5) of Rule 0400-12-01-.03 be added as bracketed language.

Response: The Board agrees and added the identification to the federal analog.

Comment: In part (5)(b)3 of Rule 0400-12-01-.03, EPA points out that the federal analog to this part, 40 CFR 262.41(b), contains a sentence that is inadvertently missing from this part that requires large quantity generators that receive hazardous waste from very small quantity generators to file annual reports that include those quantities. EPA also points out the last sentence of the part is duplicative of part (5)(b)4 of Rule 0400-12-01-.03 and suggested that it be deleted.

Response: The Board intends for these amendments to be substantially equivalent to the federal regulations and has added the missing sentence. The Board is also deleting the duplicative sentence.

Comment: EPA points out that the title to paragraph (9) of Rule 0400-12-01-.03 should be updated to match EPA’s current title for 40 CFR 262 subpart H by changing “Transboundary Movements of Hazardous Waste for Recovery within the OECD” to read “Transboundary Movements of Hazardous Waste for Recovery and Disposal.”

Response: The Board agrees and has revised the title of the paragraph to match its analogous federal title.

Comment: In part (9)(a)2 of Rule 0400-12-01-.03, EPA points out that Tennessee appropriately kept the reference to the federal “RCRA” but could add “and/or the Tennessee Hazardous Waste Management Act.”

Response: The Board is adding “and/or the Tennessee Hazardous Waste Management Act” following “RCRA.”

Comment: In the definition of “Exporter, also known as primary exporter on the RCRA hazardous waste manifest” in subparagraph (9)(b) of Rule 0400-12-01-.03, EPA suggests that Tennessee amend the phrase “subpart B of part 262” to read “subpart B of 40 CFR part 262.”

Response: The Board has made the change to the definition.

Comment: In the definition of “recovery operations” in subparagraph (9)(b) of Rule 0400-12-01-.03, EPA points out that Tennessee failed to add the phrase “for RC14 (for transboundary shipments with Canada only)” to parts 11, 12, and 13.

Response: The Board has revised the definition.

Comment: In subpart (9)(c)2(i) of Rule 0400-12-01-.03, EPA suggests that Tennessee change the phrase “recovery operations or disposal” to read “recovery or disposal operations,” which is the same as the federal analog because both “recovery operations” and “disposal operations” are defined terms.

Response” The Board has revised the subpart.

Comment: In subparts (9)(c)5(i) and (ii) of Rule 0400-12-01-.03, EPA requests that Tennessee update addresses.

Response: The Board has updated the addresses.

Comments: In items (9)(d)2(i)(XI) and (9)(e)2(i)(XI) of Rule 0400-12-01-.03, EPA points out that because EPA implements this provision, Tennessee should have kept the federal references in this item instead of inserting its Tennessee-specific analogs. The Tennessee analogs would be covered by the “or the state equivalent” language.

Response: The Board has revised the items to restore the federal citations.

Comment: In item (9)(d)2(i)(XII) of Rule 0400-12-01-.03, EPA points out that Tennessee failed to add the phrase “or disposal” after “recovery.”

Response: The Board has revised the item to add the missing phrase.

Comment: In item (9)(d)9(i)(V) of Rule 0400-12-01-.03, EPA identified a typographical error: the word “per” should to be inserted between “established” and “subparagraph.”

Response: The Board has revised the item to correct the typographical error.

Comment: In subparts (9)(d)9(iii) and (9)(e)8(iv) of Rule 0400-12-01-.03, EPA points out that Tennessee appropriately kept “Administrator” but could have added the phrase “or the Commissioner.”

Response: The Board has revised the subparts to add the additional phrase.

Comment: In part (10)(h)3 of Rule 0400-12-01-.03, EPA points out that Tennessee replaced the federal reference to 40 CFR 265.16(e) with its analog to 262.16(e), which is not correct. The reference should be to Tennessee’s analog to 40 CFR 265.16(e).

Response: The Board has revised the part.

Comment: EPA notes that the bracketed language following the title of paragraph (11) of Rule 0400-12-01-.03 should be changed from “40 CFR Subpart L” to “40 CFR 262, Subpart L.”

Response: The Board has changed the reference.

Comment: In the note following subpart (3)(a)6(ii) of Rule 0400-12-01-.04, EPA points out that the word “either” following the word “sign” should be deleted.

Response: The Board has revised the note following subpart (3)(a)6(ii) of Rule 0400-12-01-.04.

Comment: In subpart (3)(b)2(iv) of Rule 0400-12-01-.04, EPA points out an incorrect reference. The phrase “subpart 1(iii) of this subparagraph” should read “subpart 2(iii) of this subparagraph.”

Response: The Board has corrected the subpart.

Comment: In subpart (2)(c)1(iv) of Rule 0400-12-01-.05, EPA points out the phrase “for shipments recycled or disposed of” is not included in the federal analog to this subpart and recommended that it be deleted.

Response: The Board has deleted the phrase from the subpart.

Comment: In item (29)(h)4(iv)(I) of Rule 0400-12-01-.05 and in item (32)(g)4(iv)(I) of Rule 0400-12-01-.06, EPA notes that the word “is” as missing in the first sentence of both items and recommends it be added after the word “container” and before the word “accepted.”

Response: The Board has corrected the items by adding the missing word.

Comment: In part (5)(b)4 of Rule 0400-12-01-.06, EPA notes that the word “foreign” as missing in the first sentence and recommends it be added after the word “the” and before the word “exporter.”

Response: The Board has corrected the part by adding the missing word.

Comment: In subparts (7)(a)1((viii), (ix), and (x) of Rule 0400-12-01-.09, EPA requests that the incorrect references used when the state analogs were substituted for the federal references be corrected.

Response: The Board has revised the subparts so that the federal references now include the correct state analogs.

Regulated Community Comments

Comment: In regard to subparagraph (1)(g) of Rule 0400-12-01-.01, a commenter is concerned about the broad authority this new subparagraph proposes to allow the Commissioner to require the submission from a person of any information “deemed necessary to determine compliance with the Act or these rules” and for that information to be submitted by the date specified and in accordance with the instructions accompanying the request. In addition, the commenter believes the Commissioner should have to obtain approval from the Board before seeking compliance-related information from a class or type of industry regulated under the Act or these rules.

Response: Tennessee Code Annotated section 68-212-107 gives the Commissioner authority to gather information for the purpose of developing or enforcing any rule or regulation authorized by Title 68, Chapter 212, Part 1, or enforce any requirement of Title 68, Chapter 212, Part 1 or order issued by the Commissioner or Board. The Commissioner is not required to seek approval of the Board prior to gathering the information. The Commissioner is limited to only requesting information deemed necessary to determine compliance with the Act or rules promulgated by the Board.

Comment: In regard to the new definition of “airbag waste” in subparagraph (2)(a) of Rule 0400-12-01-.01, a commenter acknowledges that the proposed definition mimics the federal definition; however, the commenter believes that the federal definition does not provide sufficient detail to be particularly useful to regulated entities. The commenter wants the definition to be modified, or additional definitions added, to distinguish "hazardous waste airbag modules" and "hazardous waste airbag inflators" from those that are not wastes or those that are non-hazardous solid wastes in the same manner as described in EPA's July 19, 2018 Memorandum on "Regulatory Status of Automotive Airbag Inflators and Fully Assembled Airbag Modules."

Response: The Board agrees that not all airbag modules or airbag inflators are wastes. While the Board declines to deviate from the federal language, the Board did add a note following the definition of “airbag waste” to remind the regulated community that not all airbag modules or airbag inflators are wastes and to encourage contact with the Division of Solid Waste Management for guidance.

Comment: In regard to the new definition of “conditionally exempt small quantity generator” being added to subparagraph (2)(a) of Rule 0400-12-01-.01, a commenter suggests that it is unnecessary, and that if it is being added to give the Department time to change the forms to reflect its new term “very small quantity generator,” the new term could be clarified on the forms’ website and with any distributed forms.

Response: The regulated community has been using the term “conditionally exempt small quantity generator” for over 30 years and may be confused by the new term for a few years after these amendments become effective. The Board believes the new definition will be helpful.

Comment: In regard to the new definition of “weekly” means at least once every seven calendar days added to subparagraph (2)(a) of Rule 0400-12-01-.01, a commenter points out that the federal regulations do not include a definition of "weekly" and state regulations have not included such a

definition in the 35 years of implementation of the hazardous waste management regulations. The commenter believes that the term "weekly" can be interpreted to mean either "once every seven calendar days" or "once each calendar week." The commenter believes it inappropriate to resolve this issue by simply adopting the more stringent interpretation as a definition. Instead, the Board should review the regulations and replace each use of the term "weekly" with the appropriate interpretation.

Response: The Board disagrees that the definition of “weekly” can be interpreted as the commenter believes to include “once each calendar week.” This definition was added to clarify for the regulated community that an inspection frequency of weekly means “once every seven calendar days” as opposed to once every seven business days or once each calendar week. This clarification is in keeping with the Commissioner’s longstanding interpretation of “weekly.” If inspections were intended to be once each calendar week, then the rules would use the term “calendar week” for the inspection frequency. In numerous places in the rules, the word “calendar” is added to the inspection frequency requirement when that is its intended meaning. For example, see subpart (28)(c)1(ii) of Rule 0400-12-01-.05 or subpart (31)(c)1(ii) of Rule 0400-12-01-.06 for an inspection frequency of “each calendar week.”

Comment: In regard to subparagraph (2)(b) of Rule 0400-12-01-.01, a commenter wants the language introducing the References to be clarified. The commenter finds the words "Here is a list" confusing.

Response: The Board agrees to make it clearer that the publications and materials identified in 40 CFR 260.11 and 40 CFR 270.6 are incorporated by reference into Chapter 0400-12-01 as they exist on the effective date of these amendments. The notes immediately following part (2)(b)2 of Rule 0400-12-01-.01 reprint 40 CFR 260.11 as amended in the Federal Register on November 28, 2016, (81 FR 85713 and 85806), and 40 CFR 270.6 as amended in the Federal Register on October 12, 2005 (70 FR 59576).

Comment: Regarding the note added to item (1)(b)5(i)(II) of Rule 0400-12-01-.02, a commenter is concerned about the lack of clarity with wording of the second sentence and recommends its rewording.

Response: The Board also received a comment from EPA regarding the second sentence. In response to the EPA comment that the second sentence is not needed, the Board has decided to delete the second sentence from the note to avoid confusion.

Comment: Regarding subpart (1)(d)2(vi) of Rule 0400-12-01-.02, a commenter makes multiple comments about the trivalent chromium exclusion amendments.

(a) The commenter is concerned that requiring a petitioner to pursue a regulatory amendment is overly burdensome and doubts that it is required for equivalency to federal regulations. The commenter recommends that petitions be processed in the same manner as variances are processed in accordance with [subparagraph (4)(a) of] Rule 0400-12-01-.01.

(b) In regard to the undefined phrase “exclusively (or nearly exclusively)” in subitems (1)(d)2(vi)(I)I and II of Rule 0400-12-01-.02, the commenter requests the rules include guidance as to its meaning.

(c) In regard to the undefined phrase “typically and frequently” in subitem (1)(d)2(vi)(I)III of Rule 0400-12-01-.02, the commenter requests the rules include guidance as the its meaning.

(d) In regard to subitem (1)(d)2(vi)(II)X of Rule 0400-12-01-.02, the commenter believes that this facility-specific exclusion should be deleted as unnecessary if the subpart (1)(d)2(vi) of Rule 0400-12-01-.02 is revised as suggested in (a) of this comment.

Response: (a) To determine what is necessary for equivalency to federal regulations, the Department, on behalf of the Board, sought a determination from EPA. EPA said in response that they have stated in preamble and interpretive letter discussions that any additions to the list of wastes that are exempt under 40 CFR 261.4(b)(6) will be implemented by a petition for rulemaking, however, the federal regulation does not specify or require a rulemaking process. So, when

states adopt analogs to 40 CFR 261.4(b)(6), it is likely that many of them similarly did not specify the process by which additional wastes could be approved in the text of their regulations either. EPA did state, however, that EPA's preference would be for authorized states to follow EPA's procedures and initiate rulemaking, though not strictly required. The Board has decided to not require the initiation of a rulemaking to exclude additional qualifying waste but, as the commenter suggests, to require petitions to be processed in the same manner as general variances.

(b) EPA does not provide the meaning of the phrase "exclusively (or nearly exclusively) in 40 CFR 261.4(b)(6)(i)(A) and (B)." Likewise, the Board is not providing guidance in the rule and believes it more appropriate for the generator or group of generators to make the case, based upon the facts at hand, that the waste to be considered for the exemption is exclusively (or nearly exclusively) trivalent chromium or the waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively).

(c) EPA does not provide a definition of the phrase "typically and frequently" in 40 CFR 261.4(b)(6)(i)(C). Likewise, the Board is not providing guidance in the rule and believes it more appropriate for the generator or group of generators to make the case, based upon the facts at hand, that the waste to be considered for exemption is "typically and frequently" managed in non-oxidizing environments.

(d) Including the facility-specific exemption at subitem (1)(d)2(vi)(II)X of Rule 0400-12-01-.02 may not be the only way to exclude those additional wastes under subpart (1)(d)2(vi) of Rule 0400-12-01-.02, but it remains a prudent practice. The Board will retain the subitem as written.

Comment: In regard to item (5)(b)1(v)(IX) of Rule 0400-12-01-.02, a commenter points out that the second sentence seems quite dated and suggested that it could be deleted or otherwise appropriately revised.

Response: Export requirements are administered by EPA and not the states because the exercise of foreign relations and international commerce powers is reserved to the federal government under the U.S. Constitution. However, EPA strongly encourages states to incorporate export requirements into their rules for the convenience of the regulated community and for completeness. The current 40 CFR 261.39(a)(xi) contains the language the commenter pointed out as dated, however, the Board believes it best to have the state analog to read the same as the current EPA language.

Comment: In regard to subparts (1)(a)2(i) and (vii) of Rule 0400-12-01-.03, commenters point out that items (1)(a)2(i)(I) and (II) distinguish between the "independent requirements" and "conditions for exemption" to which generators are subject, and that subpart (1)(a)2(vii) of Rule 0400-12-01-.03 describes the different enforcement responses applicable to violation of each. The commenters are concerned that a violation of any condition for exemption by a generator accumulating hazardous waste would subject the generator to penalties under the requirements for a higher-level generator and/or subject to the need for a RCRA permit even for minor concerns. A commenter requests a clarification of the Department's enforcement approach. Another commenter requests that the Department issue guidance to inspectors to ensure that there is fair and reasonable application of the rule.

Response: Effective March 2, 1981, part (4)(b)1 of Rule 1200-1-11-.03 allowed generators of hazardous waste to accumulate hazardous waste on-site without a permit or without interim status provided a set of conditions were met. Although this conditional exemption has been amended several times since March 2, 1981, the rules have consistently provided a conditional exemption for a generator to accumulate hazardous waste on-site without a permit or without interim status. A condition for exemption is a requirement that is contingent in nature. It is only necessary to meet the condition if the generator is using it to obtain an optional exemption from other requirements. The primary legal consequence of not complying with the condition for exemption is that the generator who accumulates waste on-site is not exempt from obtaining a permit or obtaining interim status, and therefore, can be cited with operating a non-exempt storage facility (unless it is meeting the conditions for exemption of another category). This has been the case since 1981, and these amendments only clarify the difference between an independent requirement and a

condition for exemption. As a result, there should be no significant change in the way the Department responds to violations of conditional exemptions, except possibly the use of more precise enforcement language.

Comment: In regard to part (1)(b)6 of Rule 0400-12-01-.03, a commenter suggests that “The” in the nineth line be changed to “the.”

Response: The Board will make the change.

Comment: In regard to part (1)(e)1 of Rule 0400-12-01-.03, a commenter points out that subparts (iii) and (iv) are improperly silent on how the hazardous wastes accumulated in excess of the relevant quantity limitations must ultimately be managed. Both subparts impose the relevant large quantity generator or small quantity generator on-site accumulation standards on the excessively accumulated wastes but somehow fail to specify how such wastes must be further managed. The commenter was concerned that this silence could lead to the mismanagement of hazardous waste and recommends that the Board specify how very small quantity generators must manage such excessively accumulated hazardous waste.

Response: In response to this comment, the Board is revising item (1)(a)2(i)(III) of Rule 0400-12-01-.03 to make it clear that the item applies to all generators transporting hazardous waste off-site, including very small quantity generators. The Board is also revising subitem (1)(a)2(i)(I)I of Rule 0400-12-01-.03 by adding sections C and D to make it clear which independent requirements apply to very small quantity generators if the quantity limits of subpart (1)(e)1(iii) or (iv) of Rule 0400-12-01-.03 are exceeded.

Comment: In regard to subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03, a commenter is concerned with ambiguity in the language regarding labeling and requests that the Board clarify that there are multiple ways of communicating the hazards contained in the storage unit and that it is not limited to the examples provided in the rules. The commenter also requested the Board provide additional examples such as use of a modified hazardous waste label, with check boxes for possible hazards.

Response: Subparagraphs (1)(f), (g), and (h) of Rule 0400-12-01-.03 requires, among other things, tanks or containers to be marked or labeled with the words “hazardous waste” and with an indication of the hazards of the contents. The Board confirms that these subparagraphs provided examples of acceptable ways a generator may indicate the hazards of the contents in tanks or containers, but the generator is not limited to those examples. The Board has no additional examples of how a generator may provide an indication of the hazards of the contents of tanks or containers. In regard to a modified hazardous waste label with check boxes, if it adequately indicates the hazards of the contents of a tank or container, then the Board sees no reason why it would not satisfy the conditional exemption criteria for labeling.

Comment: In regard to subparagraph (1)(f) of Rule 0400-12-01-.03 concerning satellite accumulation area (“SAA”) regulations for small and large quantity generators, a commenter points out that the EPA has not provided any regulatory text to define the phrase "under the control of the operator”; rather, EPA provided various examples of what would satisfy this condition. The commenter is concerned that other states that have already adopted the hazardous waste generator improvements rule have been using a stricter approach requiring continuous line of sight or a similar variant. In the commenter’s opinion, that makes little sense at secured facilities where SAAs for used aerosol cans are often located across a site due to their widespread use. The commenter requested the Board to concur that "under the control of the generator" is not limited to meaning direct line of sight on a near-continuous basis by the operator, for example, when a SAA drum is just outside a room or building door a few feet away from an operator but doesn't have direct line of sight to the operator while at the operator’s duty station.

Response: Following the lead of EPA, the Board has deliberately not proposed any regulatory text to define the term “under the control of the operator.” The condition that wastes accumulated under the satellite provision “be under the control of the operator of the process generating the waste” is met provided the generator demonstrates that the personnel responsible for generating or accumulating the waste have adequate control over the temporary storage of these wastes. The

Board recognizes that for many wastes, the person who first generates the waste may not be the same person responsible for the accumulation of all these wastes; rather another worker may have responsibility of overseeing the temporary storage of wastes. The goal of this condition is to ensure that this temporary accumulation of hazardous waste is performed responsibly and safely, with adequate oversight and control. For each satellite accumulation area, at a minimum, a generator must provide someone who is familiar with the operations generating the hazardous waste and is aware of and able to attend to the operations, if needed, while also providing some measure of controlled access.

Comment: In regard to part (1)(g)2 of Rule 0400-12-01-.03, a commenter points out a cross-reference error in the introductory language in the phrase “unless in compliance with the conditions for exemption for longer accumulation in subparts (iv) and (v) of this part” and the references should be to “parts 4 and 5 of this subparagraph.” The commenter also suggests that the Board include a reference to part 3 since it is a conditional exemption allowing a longer accumulation period, so that as amended the phrase should read: “unless in compliance with the conditions for exemption for longer accumulation in parts 3, 4, and 5 of this subparagraph.”

Response: The Board agrees and has made the change to part (1)(g)2 of Rule 0400-12-01-.03 as suggested.

Comment: In regard to item (1)(g)2(viii)(VI) of Rule 0400-12-01-.03 and subparagraph (12)(g) of Rule 0400-12-01-.03 concerning arrangements with local authorities, a commenter points out that many local responders are requesting that the arrangements of emergency plans be communicated electronically. The commenter requests concurrence that that arrangements with local authorities may be communicated electronically.

Response: Item (1)(g)2(viii)(VI) of Rule 0400-12-01-.03 requires a small generator to make arrangements with local authorities, unless a waiver is obtained pursuant to subitem III of that item. The Board concurs that the arrangements can be made electronically if allowed by the organization(s) needed in an emergency.

Comment: In regard to subpart (1)(h)1(viii) of Rule 0400-12-01-.03 concerning the closure requirements for large quantity generators, a commenter is concerned that an entire site may be considered a centralized accumulation area requiring closure, since various areas of a facility could be used for event-related (i.e., maintenance events, spill cleanups, etc.) short-term accumulation (i.e., less than 90 days), and that inspectors often require generators to collect soil samples despite the lack of evidence of a release. The commenter asked for guidance in light of the fact that the federal preamble suggests that simply removing the containers containing hazardous waste may suffice in meeting the closure performance standard in most cases.

Response: For the purposes of the conditions applicable to large quantity generators for closing a centralized accumulation area, these rules define clean closure to mean complying with the closure performance standards of item (1)(h)1(viii)(III) of Rule 0400-12-01-.03. The closure performance standards do not require mandatory collection of soil samples in every case. If a large quantity generator has been managing its hazardous waste in containers in accordance with the accumulation conditions of part (1)(h)1 of Rule 0400-12-01-.03, including compliance with proper accumulation standards, documented weekly inspections, and spill cleanup, then clean closure may consist of removing the containers from the accumulation area.

Comment: In regard to part (1)(h)6 of Rule 0400-12-01-.03, consolidation of hazardous waste received from very small quantity generators, a commenter supports this amendment but is requesting clarification as to how these types of transfers are to be handled in the Hazardous Waste Reports and at shipping and receiving sites.

Response: The very small quantity generator that accumulates hazardous waste in amounts less than or equal to the limits in subparts (1)(e)1(iii) and (iv) of Rule 0400-12-01-.03 and ships that hazardous waste to a large quantity generator in compliance with item (1)(e)1(v)(VIII) of Rule 0400-12-01-.03 is exempt from annually reporting these shipments. The large quantity generator consolidating hazardous waste from a very small quantity generator pursuant to part (1)(h)6 of Rule 0400-12-01-.03 is required by part (5)(b)3 of Rule 0400-12-01-.03 to submit annual reports that include the

quantities of hazardous waste received from very small quantity generators. The Commissioner will provide a source code in the annual report instructions that large quantity generators will use to identify the hazardous waste received from a very small quantity generator to differentiate from hazardous waste the large quantity generator generates on-site.

Comment: In regard to part (4)(c)2 of Rule 0400-12-01-.03, the commenter noted that the introductory text indicates the requirements of its subparts (i) through (v) must be complied with before transporting hazardous waste or offering hazardous waste for transportation off-site. The commenter requests that the Board clarify that the hazardous waste codes are not required to be on the containers until just before shipping the wastes off-site and not when they are being accumulated.

Response: The Board agrees with the commenter that although the generator must start the process of identifying the applicable hazardous waste codes when the wastes are first generated, that information is not required to be marked on the container until just before shipping the waste off-site.

Comment: In regard to paragraph (11) of Rule 0400-12-01-.03, a comment supports the adoption of this amendment.

Response: The Board appreciates the support for this amendment.

Comment: In regard to parts (12)(j)1 and 2 of Rule 0400-12-01-.03, a commenter questions the necessity of a generating facility that maintains its own spill response and fire-fighting teams and equipment to submit a copy of its contingency plan or associated quick reference guide to the Local Emergency Planning Committee.

Response: A large quantity generator is required to attempt to make arrangements with a local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee (LEPC) if it is the appropriate organization with which to make arrangements (i.e., it is the authority having jurisdiction). A generating facility that maintains its own spill response and fire-fighting teams and equipment may seek a waiver from the authority having jurisdiction that some or all of the outside organizations are not needed in the event of an emergency. Once a waiver is obtained in accordance with part (12)(g)3 of Rule 0400-12-010-.03, the Board agrees that it is not necessary for a generating facility that maintains its own spill response and fire-fighting teams and equipment to submit a copy of its contingency plan or associated quick reference guide to a local emergency response organization. The Board is adding part (12)(j)4 to Rule 0400-12-01-.03 to make this clearer.

Comment: In regard to part (12)(j)2 of Rule 0400-12-01-.03, a commenter points out that the rule requires a large quantity generator to provide a quick reference guide to local responders when the existing contingency plan is being amended, and that these rules when effective will require contingency plans be amended to include satellite accumulation areas. The commenter requests:

(a) Additional time to incorporate the satellite accumulation areas into the contingency plan; and

(b) That the Board consider exemptions comparable to those being proposed by Louisiana:

(i) In the case of satellite accumulation areas that are designed for managing small quantities of wastes at multiple locations throughout a facility, identification of general waste generation locations is acceptable; and

(ii) Short-term (i.e., temporary) central waste accumulation units used for no more than 90 days (unless an extension is granted) that are primarily event related (e.g., maintenance events, spill cleanups, etc.) need not be identified in the quick reference guide or contingency plan.

Response: (a) The Board is unsure why additional time is needed to incorporate the satellite accumulation

areas into the contingency plan, since EPA published this condition on November 28, 2016, and it became effective in non-authorized states on May 30, 2017. The commenter has known this condition would be adopted into these rules since that date.

(b) The commenter did not include any information as to whether EPA has evaluated these exemptions and found them acceptable to support hazardous waste program authorization. However, in regard to the suggested exemptions, the Board believes it best for the large quantity generator to work with the local emergency responders that may have a need for the information and include in the contingency plan and quick reference guide the information determined to be needed, if any. These arrangements are required to be included in the records required pursuant to part (12)(g)2 of Rule 0400-12-01-.03.

Comment: In regard to the proposed part (5)(b)10 of Rules 0400-12-01-.05 and 0400-12-01-.06, a commenter questions why the clarifying parenthetical notes in the previous parts (5)(b)10 in both rules are being removed and believed these notes provided useful information.

Response: The notes in the current parts (5)(b)10 of Rules 0400-12-01-.05 and 0400-12-01-.06 were based upon 40 CFR 264.71(j) and 265.71(j) as published February 7, 2014 (79 FR 7518). On January 3, 2018, EPA published amendments to 40 CFR 264.71(j) and 265.71(j) (83 FR 420) that deleted the previous regulatory language (including the language in the parenthetical notes) and substituted new regulatory language. The amendments to the proposed parts (5)(b)10 of Rules 0400-12-01-.05 and 0400-12-01-.06 are intended to be the state analogs to 40 CFR 264.71(j) and 265.71(j) as amended by EPA. The Board will retain the amendment as proposed.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The vast majority of this rulemaking substantially codifies existing federal law, which is included in this rulemaking to support continuing hazardous waste program authorization, and pursuant to Tenn. Code Ann. § 4-5-404 is exempt from this regulatory flexibility addendum. Other amendments in this rulemaking were required because existing state law requires the agency and the Commissioner to make annual reports to the legislature regarding hazardous waste generation and management. These other amendments include: a reference to Chapter 0400-01-40 when required documents are submitted electronically; requiring additional reports when needed to clarify generator status, types, and quantities of hazardous waste generated; to continue to require annual reports for episodic generation of hazardous waste; to maintain updated generator notification files; and shift the annual hazardous waste generator annual maintenance fee away from being generator status-based to being quantity-based in order to maintain the current level of fee collection. This regulatory flexibility addendum is applicable to these non-exempt amendments contained in this rulemaking.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from, the proposed rule.

Currently there are 2,813 generators of hazardous waste in Tennessee that have requested installation identification numbers from the Department. Of these 2,813 generators, 519 are large quantity generators, 566 are small quantity generators, and 1,679 are very small quantity generators. The Commissioner has issued 68 hazardous waste transporter permits, and there are 21 permitted hazardous waste treatment, storage, or disposal facilities (TSDFs) operating in Tennessee. The Board is unsure of the number of small businesses that are hazardous waste generators, transporters, or permitted TSDFs since this information in not required to be submitted. The type and amount of hazardous waste generated is not related to the number of full-time employees.

(2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

The only additional reporting that is not required by the existing rules is the report to gather information needed to accurately report annually to the legislature about hazardous waste generation and management in Tennessee. This additional report is already required by statute. There is no additional recordkeeping caused by this rulemaking, and any additional administrative cost is minimal.

(3) A statement of the probable effect on impacted small businesses and consumers.

This rulemaking makes many existing requirements easier to understand. For all generators of hazardous waste, including small businesses, it will be easier to comply with rules that are easier to understand. These amendments will not result in a significant impact on small business, and commenters on the proposed amendments did not identify any significant impact.

(4) A description of any less burdensome, less intrusive, or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

There are no alternative methods for achieving the purpose and objectives of these amendments. The type and amount of hazardous waste generated is not related to the number of full-time employees.

(5) A comparison of the proposed rule with any federal or state counterparts.

This rulemaking is primarily intended to make Tennessee's hazardous waste program comparable to our state counterparts and with the EPA, unless required otherwise by state law. Surrounding states must also develop a means by which required reports are submitted electronically and gather critical information about the types and quantities of hazardous waste generated. Surrounding states also fund a portion of their hazardous waste programs by collecting fees in some manner.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Exempting small businesses from all or any part of the requirements of this rulemaking is not possible since the number of full-time employees does not necessarily relate to the type or amount of hazardous waste generated.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The Department does not anticipate an impact on local governments from this rulemaking.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The primary purpose of this rulemaking is to incorporate the five federal rulemakings published from November 28, 2016, to November 30, 2018. Of these five federal rulemakings, all but the hazardous waste generator improvements rule are incorporated into Chapter 0400-12-01 essentially as written. These four are summarized as follows:

- As published on November 28, 2016, the federal regulations were amended regarding the export and import of hazardous wastes from and into the United States.
- As published on December 26, 2017, the federal regulations were amended to disallow claims of business confidentiality by any person with respect to export documentation of cathode ray tubes.
- As published on January 3, 2018, the federal regulations were amended to establish the methodology the agency will use to determine and revise the user fees applicable to the electronic and paper manifest system (e-Manifest system) that EPA is developing under the Hazardous Waste Electronic Manifest Establishment Act.
- As published on November 30, 2018, the federal regulations were amended to exempt the collection of airbag waste from hazardous waste requirements if certain conditions are met so that removal of defective airbag inflators by dealerships, salvage yards, and other locations for safe and environmentally sound disposal is expedited.

The federal hazardous waste generator improvements rule was published November 28, 2016, and it:

- Reorganizes the hazardous waste generator regulations to make them more user-friendly;
- Increases understanding of the hazardous waste generator requirements;
- Addresses gaps in the existing regulations;
- Provides greater flexibility for hazardous waste generators to manage their hazardous waste in a cost-effective and protective manner; and
- Makes technical corrections and conforming changes to address inadvertent errors.

Incorporating the federal hazardous waste generator improvements rule modifications into Chapter 0400-12-01, it is necessary and desirable to make the following modifications because of either existing state law or long standing policies of the Underground Storage Tanks and Solid Waste Disposal Control Board ("Board") as described in this paragraph. Tenn. Code Ann. § 68-212-118 requires the Board and the Commissioner to annually submit a written report to the Speaker of the Senate and the Speaker of the House of Representatives on hazardous waste generation and management in Tennessee. It has been the Board's longstanding interpretation for hazardous waste generators to keep records of inspections. Tenn. Code Ann. §§ 68-212-110 and 68-203-103 requires the Board, among other things, to establish a schedule of fees for hazardous waste generators and for the various services and functions performed.

This rulemaking also includes revisions that are necessary to update the hazardous waste rules to add a reference to Chapter 0400-01-40 when documents are submitted electronically; to revise the trivalent chromium evaluation criteria and add two additional waste sources that meet the trivalent chromium exclusion criteria; and to make various technical corrections and conforming changes to various parts of the rules.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

These rules are specifically mandated by federal or state law. These rules are being promulgated under the authority of Tenn. Code Ann. Title 68, Chapter 212, and Tenn. Code Ann. Title 4, Chapter 5, Part 2. The federal requirements adopted are compiled in 40 CFR Parts 260 through 266, 268, 270, and 273.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Generators of hazardous waste, hazardous waste transporters, and owners or operators of hazardous waste

treatment, storage, and disposal facilities. A representative of these entities and one corporation made comments on these rules and were generally supportive of adoption.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Board is not aware of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

There will be no fiscal impact resulting from this rulemaking.

(F) Identification of the appropriate agency representative or representatives possessing substantial knowledge and understanding of the rule;

Wayne Gregory
Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 253-5420
Wayne.gregory@tn.gov

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Horace Tipton
Office of General Counsel

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 253-5339
Horace.Tipton@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Economic Impact Statement [Tenn. Code Ann. § 4-33-104(b)]

(1) A description of the action proposed, the purpose of the action, the legal authority for the action and the plan for implementing the action.

This rulemaking incorporates five federal rulemakings into Tennessee's hazardous waste management rules as summarized in section (A) above. The main purpose of this rulemaking is to support continuing program authorization from EPA in a way that also complies with state law. Under section 3006 of the Resource Conservation and Recovery Act (RCRA), EPA may authorize qualified states to administer and enforce the RCRA hazardous waste program within the state. Tennessee is an authorized state. When the federal rules are amended to include more stringent requirements, an authorized state is required to amend its rules to include the more stringent requirements. Chapter 0400-12-01 is promulgated under the authority of Tenn. Code Ann. Title 68, Chapter 212, Part 1 and Title 68, Chapter

203, Part 1. Tennessee's hazardous waste program has existed since the early 1980's, and amendments contained in this rulemaking will be implemented within the existing hazardous waste management program.

(2) A determination that the action is the least-cost method for achieving the stated purpose.

The Board has determined that this rulemaking is the least-cost method for achieving the stated purpose above because it remains revenue neutral and is implemented within the established hazardous waste management program.

(3) A comparison of the cost-benefit relation of the action to nonaction.

To take no action would result in Tennessee's rules being misaligned with the federal regulations and surrounding states. It could possibly lead to Tennessee losing federal program authorization. Losing federal authorization will result in the regulated community in Tennessee having to comply separately with federal and state law, which would dramatically increase the cost of compliance by reporting twice and obtaining two permits when applicable. Tennessee would also no longer be competitive with other states that have federal program authorization when maintaining existing businesses or competing for new businesses.

(4) A determination that the action represents the most efficient allocation of public and private resources.

The Board has determined that this rulemaking, for the reasons stated in subsections (I)(1) through (3), is the most efficient allocation of public and private resources. The rulemaking is designed to comply with state law, support continuing program authorization from EPA, be revenue neutral, and be implemented within the existing hazardous waste program without increasing the cost of maintaining that program.

(5) A determination of the effect of the action on competition.

This rulemaking will not have a positive or negative impact on competition within Tennessee, but if Tennessee lost program authorization from EPA for the lack of taking this action then Tennessee would not be competitive with other states when attracting new business or retaining existing businesses.

(6) A determination of the effect of the action on the cost of living in the geographical area in which the action would occur.

This rulemaking will not impact the cost of living in any geographical area.

(7) A determination of the effect of the action on employment in the geographical area in which the action would occur.

This rulemaking will not impact employment in any geographical area.

(8) The source of revenue to be used for the action.

This rulemaking was promulgated using existing revenue.

(9) A conclusion as to the economic impact upon all persons substantially affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.

This rulemaking amends existing hazardous waste rules to make them, in many cases, easier to comply with, easier to understand, revenue neutral, and supports continuing program authorization which benefits the whole regulated community.