

§ 262.88

40 CFR Ch. I (7-1-08 Edition)

§ 262.42 with the Administrator if any of the following occurs:

(1) He has not received a copy of the tracking documentation signed by the transporter stating point of departure of the waste from the United States, within 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 notifier has not received written confirmation from the recovery facility that the hazardous waste was received;

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

(c) *Recordkeeping.* (1) Persons who meet the definition of primary exporter in § 262.51 shall keep the following records: § 262.89

(i) A copy of each notification of intent to export and all written consents obtained from the competent authorities of concerned countries for a period of at least 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; and

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

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

[61 FR 16310, Apr. 12, 1996, as amended at 71 FR 40272, July 14, 2006]

§ 262.88 Pre-approval for U.S. Recovery Facilities. [Reserved]

§ 262.89 OECD Waste Lists.

(a) *General.* For the purposes of this Subpart, a waste is considered hazardous under U.S. national procedures, and hence subject to this Subpart, if the waste:

(1) Meets the Federal definition of hazardous waste in 40 CFR 261.3; and

(2) Is subject to either the Federal RCRA manifesting requirements at 40 CFR part 262, subpart B, to the universal waste management standards of 40 CFR part 273, or to State requirements analogous to 40 CFR part 273.

(b) If a waste is hazardous under paragraph (a) of this section and it appears on the amber or red list, it is subject to amber- or red-list requirements respectively;

(c) If a waste is hazardous under paragraph (a) of this section and it does not appear on either amber or red lists, it is subject to red-list requirements.

(d) The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in § 262.82.

(e) The OECD Green List of Wastes (revised May 1994), Amber List of Wastes and Red List of Wastes (both revised May 1993) as set forth in Appendix 3, Appendix 4 and Appendix 5, respectively, to the OECD Council Decision C(92)39/FINAL (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) are incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 on July 11, 1996. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the FEDERAL REGISTER. The materials are available for inspection at: the U.S. Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, first floor, Arlington, VA 22203 (Docket # F-94-IEHF-FFFFF) or at the National Archives and Records Administration (NARA), and may be obtained from the Organisation for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, 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/

code_of_federal_regulations/ibr_locations.html.

[61 FR 16310, Apr. 12, 1996, as amended at 69 FR 18803, Apr. 9, 2004]

Subpart I—New York State Public Utilities

SOURCE: 64 FR 37636, July 12, 1999, unless otherwise noted.

§ 262.90 Project XL for Public Utilities in New York State.

(a) The following definitions apply to this section:

(1) A *Utility* is any company that operates wholesale and/or retail oil and gas pipelines, or any company that provides electric power or telephone service and is regulated by New York State's Public Service Commission or the New York Power Authority.

(2) A *right-of-way* is a fixed, integrated network of aboveground or underground conveyances, including land structures, fixed equipment, and other appurtenances, controlled or owned by a Utility, and used for the purpose of conveying its products or services to customers.

(3) A *remote location* is a location in New York State within a Utility's right-of-way network that is not permanently staffed.

(4) A *Utility's central collection facility (UCCF)* is a Utility-owned facility within the Utility's right-of-way network to which hazardous waste, generated by the Utility at remote locations within the same right-of-way network, is brought.

(b) A UCCF designated pursuant to paragraph (e) of this section may consolidate hazardous waste (with the exception of mixed waste) generated by that Utility at its remote locations (and at that UCCF) for up to 90 days without a permit or without having interim status, provided that:

(1) The Utility complies with all applicable requirements for generators in 40 CFR part 262 (except §262.34 (d) through (f) for hazardous waste generated at its remote locations and at the UCCF, including the manifest and pretransport requirements for all shipments greater than 100 kilograms sent from a remote location to a UCCF.

(2) The Utility transports the hazardous waste from the remote location to a UCCF immediately after collection of all hazardous waste at the remote location is complete or when the staff collecting the hazardous waste leave the remote location, whichever comes first.

(3) The Utility complies with all applicable requirements for transporters in 40 CFR part 263 for each shipment of hazardous waste greater than 100 kilograms which is sent from remote location to the UCCF, and all applicable Department of Transportation requirements.

(4)(i) The Utility complies with 40 CFR 262.34 (a) through (c), regardless of the total quantity of hazardous waste generated or consolidated at the UCCF per calendar month;

(ii) The Utility complies with 40 CFR 264.178; and

(iii) Secondary containment is provided for all liquid hazardous waste consolidated in containers if:

(A) The UCCF is consolidating 8,800 gallons or more of liquid hazardous waste, or

(B) The UCCF is consolidating 185 gallons or more of liquid hazardous waste and is located in an area designated by New York State that overlies a sole-source aquifer.

(5) The Utility submits a biennial report in accordance with 40 CFR 262.41 including all hazardous waste shipped from remote locations to the UCCF. This UCCF biennial report may be submitted in lieu of submitting a biennial report for each remote location. However, for hazardous waste generated at a particular remote location that exceeds 1000 kg per calendar month and that is not sent to the UCCF, the Utility must submit a separate biennial report.

(6) Waste generated at a remote location that is not sent to a UCCF is managed according to the requirements of parts 260 through 270 of this chapter.

(7) The Utility maintains records at the UCCF in accordance with all the recordkeeping requirements set forth in subpart D of 40 CFR part 262, including 40 CFR 262.40, and maintains records on any PCB test results for hazardous wastes brought to the facility from remote locations.