

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 263, 264, 265, 267, 270, 271, and 761

[EPA-HQ-OLEM-2021-0609; FRL-7308-02-OLEM]

RIN 2050-AH12

Integrating e-Manifest With Hazardous Waste Exports and Other Manifest-Related Reports, PCB Manifest Amendments, and Technical Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) or (the Agency) is finalizing certain amendments to the hazardous waste manifest regulations, and the hazardous waste electronic manifest (e-Manifest) regulations under the Resource Conservation and Recovery Act (RCRA) to increase utility of the e-Manifest system in delivering benefits to reduce administrative burden and improve tracking of hazardous waste shipments, and to various related regulations. Among other things, EPA is finalizing changes to manifest regulations for shipments of hazardous waste that are exported for treatment, storage, and disposal. EPA is also finalizing regulatory changes to the hazardous waste export and import shipment international movement document-related requirements to more closely link the manifest data with the international movement document (hereafter referred to as “movement document”) data. In addition, EPA is finalizing regulatory amendments to three manifest-related reports (*i.e.*, Discrepancy, Exception, and Unmanifested Waste Reports). EPA is also finalizing conforming regulatory changes to the manifest regulations under the Toxic Substances and Control Act (TSCA) for polychlorinated biphenyls (PCB) wastes to better align these requirements with the RCRA manifest regulations and the e-Manifest program. Lastly, this action makes technical corrections to fix typographical errors in the e-Manifest and movement document regulations.

DATES: This rule is effective on January 22, 2025.

ADDRESSES: The docket for this action, identified by docket identification (ID) number, EPA-HQ-OLEM-2021-0609, is available at <https://www.regulations.gov> or at the Office of Land and Emergency Management Docket (OLEM Docket), Environmental Protection Agency

Docket Center (EPA/DC), William Jefferson Clinton West Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OLEM Docket is (202) 566-0270. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: For further information regarding specific aspects of this document, contact Bryan Groce, Program Implementation and Information Division, Office of Resource Conservation and Recovery, (202) 566-0339; email address: groce.bryan@epa.gov or David Graham, Program Implementation and Information Division, Office of Resource Conservation and Recovery (202) 566-2847; email address: graham.david@epa.gov. In addition, please refer to EPA’s e-Manifest web page for further information www.epa.gov/e-manifest.

SUPPLEMENTARY INFORMATION:

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The information presented in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

The hazardous waste manifest program affects approximately 106,617 federally regulated entities and almost an equal number of entities handling State-only regulated wastes in at least 750 industries. These industries are involved in the off-site shipping, transporting, and receiving of several million tons of wastes that are required under either Federal or State regulation to use the RCRA hazardous waste manifest. EPA estimates that these entities currently use between 1,834,512 hazardous waste manifests (EPA Form 8700-22) and continuation sheets (EPA Form 8700-22A) annually to track RCRA hazardous wastes, TSCA polychlorinated biphenyls (PCB) wastes, and State-only regulated wastes from generation sites to destination facilities designated on a manifest for treatment, storage, or disposal. The affected entities include hazardous waste generators, hazardous waste transporters, owners or operators of treatment, storage, and disposal facilities (TSDFs), as well as the corresponding entities that handle State-only regulated wastes and PCB wastes subject to tracking with the RCRA manifest.

Additionally, this final rule affects entities (including exporter, importer, disposal facility owner/operator, or recovery facility owner/operator) who are involved in transboundary movements of hazardous waste for recovery or disposal that are subject to the manifest regulations to track their import or export shipments in the United States, or to the movement document requirements to track their import or export shipments both inside and outside of the United States.

Finally, this final rule affects entities who are required to complete any of the following manifest-related reports: (1) An Exception Report when the generator has not received a final manifest from the receiving facility; (2) a Discrepancy Report when the materials received do not match with the quantities or types of materials indicated as being shipped by generators; or (3) an Unmanifested Waste Report when hazardous wastes that should have been manifested arrive at a facility without a manifest.

Potential affected entities include, but are not limited to:

| Industrial sector | NAICS code(s) |
|---|---------------|
| Agriculture, Forestry, Fishing, and Hunting | 11 |
| Mining | 21 |
| Utilities | 22 |
| Construction | 23 |
| Manufacturing | 31-33 |
| Wholesale Trade | 42 |
| Retail Trade | 44-45 |
| Transportation and Warehousing | 48-49 |
| Information | 51 |
| Waste Management & Remediation Services | 562 |
| Public Administration | 92 |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in the title 40 of the Code of Federal Regulations (CFR) parts 262, 263, 264, 265, and 761. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the Agency taking?

EPA is finalizing regulatory amendments to the RCRA manifest regulations, e-Manifest regulations, and other related regulations. Among other things, EPA is finalizing regulatory amendments to require hazardous waste exporters of manifested hazardous waste

shipments out of the U.S. to submit the export manifests to EPA's e-Manifest system and pay the requisite user fee to process these export manifests. With respect to the movement document requirements, EPA is finalizing regulatory amendments to allow movement document confirmations to link to RCRA manifest tracking for export and import shipments. In addition, EPA is finalizing regulatory amendments to integrate existing Discrepancy Reports, Exception Reports, and Unmanifested Waste Reports into the e-Manifest system which would allow entities to use the e-Manifest system to complete these reports electronically. Also, the Agency is finalizing conforming changes to the TSCA manifest regulations for PCB wastes to align them with the RCRA manifest regulations and the e-Manifest program. Finally, this action fixes typographical errors and makes other technical corrections to certain e-Manifest, movement document, and PCB regulations.

Although this final rule becomes effective on January 22, 2025, EPA needs additional time to implement e-Manifest system changes related to the final rule and is, thus, establishing a compliance date for certain final regulations. Specifically, EPA's final regulations associated with the collection of hazardous waste export manifests in the e-Manifest system, use of electronic manifests for hazardous waste export shipments, and use of electronic Exception, Discrepancy, and Unmanifested Waste Reports will not go into effect until December 1, 2025. Affected entities must continue to comply with the existing manifest requirements until and on November 30, 2025, for hazardous waste export shipments and the manifest requirements for exception, discrepancy, and unmanifested waste reporting. EPA is implementing a delayed compliance for these revised requirements so that the Agency can ensure completion of the system updates and necessary preparations for collection of hazardous waste export manifests and Exception, Discrepancy, and Unmanifested Waste Reports in the system. The compliance date is also needed so that EPA has adequate time to work with State regulating agencies to ensure that these manifest related reports are disseminated immediately to the appropriate staff (e.g., enforcement) in authorized State agencies.

EPA intends that the provisions of this rule be severable. In the event that any individual provision or part of the rule is invalidated, EPA intends that this would not render the entire rule

invalid, and that any individual provisions that can continue to operate will be left in place.

C. What is the Agency's authority for taking this action?

The authority to finalize this rule is found in sections 1002, 2002(a), 3001–3004, and 3017 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), and as amended by the Hazardous and Solid Waste Amendments, 42 U.S.C. 6901, 6906 et. seq., 6912, 6921–6925, 6937, and 6938, and further amended by the Hazardous Waste Electronic Manifest Establishment Act, Public Law 112–195, section 6939g, and in sections 6, 8, 12, 15, and 17 of the Toxic Substances Control Act, 15 U.S.C. 2605, 2607, 2611, 2614, and 2616.

D. What are the incremental costs and benefits of this action?

EPA prepared an economic analysis of the potential costs and benefits associated with this proposed action. The Regulatory Impact Analysis for EPA's Final Rule Integrating e-Manifest with Hazardous Waste Exports and Other Manifest-related Reports, PCB Manifest Amendments and Technical Corrections (RIA), is available in the docket for this rulemaking. EPA estimates that these regulatory changes will decrease the aggregate burden across all entities manifesting waste by approximately \$4.71 million annually. However, this rulemaking consists of a series of provisions that affect the various regulated entity types differently (see chapter 2 of the RIA). See RIA Exhibit 3–10 for a summary of annual costs across all regulatory changes.

II. Detailed Discussion of the Final Rule

A. Background

On April 1, 2022, EPA published a notice of proposed rulemaking (hereafter referred to as “NPRM”) to revise the hazardous waste manifest regulations.¹ The proposed revisions aimed to increase the utility of the e-Manifest system to reduce overall burden on the regulated community while enhancing the effectiveness of the manifest forms and e-Manifest system as tools to track Federal and State waste shipments as required under Federal or State laws. EPA proposed to accomplish this by amending the manifest regulations to: (1) Incorporate hazardous waste export manifests into the e-Manifest system; (2) incorporate three manifest-related reports (e.g.,

Discrepancy, Exception, and Unmanifested Waste reports) in the e-Manifest system; (3) expand the required international shipment data elements on the manifest form; (4) revise certain aspects of the manifest form to improve compliance with import and export consents and tracking requirements; (5) allow for greater precision in waste data reported on the manifest; (6) make conforming changes to the PCB manifest regulations under TSCA; and (7) make other technical corrections to remove obsolete requirements, correct typographical errors, establish definitions, and/or improve alignment with the e-Manifest program. In addition, EPA included in the proposed rule a discussion regarding potential future integration of the e-Manifest system with Biennial Reporting requirements.

EPA received 17 sets of public comments in response to the April 2022 NPRM from hazardous waste generators, transporters, waste management firms, consultants, and State hazardous waste agencies. Commenters generally supported the proposals for the collection of export manifests in the e-Manifest system and use of electronic exception, discrepancy, and unmanifested wastes reports to satisfy the manifest-related reporting requirements. Commenters also generally supported the proposals regarding conforming changes to the PCB manifest regulations under TSCA and other technical corrections to address obsolescence of certain RCRA and TSCA requirements and typographical errors. Commenters had differing opinions regarding EPA's proposed revisions to remove the requirement for the receiving facility to transmit completed manifest paper copies to unregistered generators, which included the addition of an email address field in the generator block of the manifest so that the e-Manifest system can email copies of completed paper manifests to the generator's email address.

Moreover, there were a substantial number of comments that took issue with EPA's conceptual approach regarding integration of the Biennial Report (BR) with the e-Manifest system, particularly with respect to the feasibility of EPA's BR conceptual approach and BR integration in general. EPA believes that commenters raised significant substantive issues that merit further analysis and external outreach prior to adopting a final approach. These issues include but are not limited to: (1) How to address challenges and data gaps that exist between the current approach and the BR conceptual data

¹ 87 FR 19290; April 1, 2022.

collection approach; (2) What additional BR data elements such as form codes, source codes, waste descriptions, etc., should be recorded on paper manifests; (3) What quantity formats (e.g., decimals) should be used to ensure better accuracy of manifest data; (4) What units of measure should be required for BR so that they match those for manifests; (5) Should EPA require large quantity generators (LQGs) and receiving facilities to document the BR information on manifests for each shipment every year, or for each shipment only during each odd-numbered year (called the “collection year” or “reporting year”); (6) Should EPA establish a similar conceptual approach for e-Manifest integration with the Generation and Management (GM) Form and would such an approach would work for the GM Form; (7) How should EPA revise the conceptual approach to better integrate facility workflows and data management to minimize differences between facility in-house systems and the e-Manifest system; and (8) Should EPA replace the BR in its current format with a report produced directly from the e-Manifest system using the information currently available in e-Manifest to satisfy the BR requirements under §§ 264.75 and 265.75 for permitted and interim status hazardous waste treatment, storage, and disposal facilities, respectively. EPA appreciates public comments received on its BR conceptual approach as part of the April 2022 NPRM and will be considering these comments in developing future approaches related to BR integration. Any further action on BR integration will be addressed in separate action, as needed; the Agency is not further considering BR integration in this final rulemaking.

B. Collection of Export Manifests in the e-Manifest System

1. Submission of Export Manifests and Payment of User Fees

To date, the e-Manifest system’s submission and fee collection requirements have applied to receiving facilities in the United States that are clearly within the jurisdiction of EPA’s manifest regulations. Export manifests track wastes that are received at foreign consignees, and EPA lacks jurisdiction to require these foreign destination facilities to submit manifests to e-Manifest and pay user fees to EPA. Therefore, the e-Manifest system has not previously tracked export manifests.

What EPA Proposed on This Issue

In the April 2022 NPRM, EPA proposed regulatory changes to require

hazardous waste exporters to submit export manifests to the system and pay the requisite manifest processing fee. EPA cited practicality and efficiency reasons to focus fee collections and payments in the system on exporters rather than working to allow foreign transporters who have obtained an EPA ID number to transport manifested hazardous waste in the U.S with access to the system. These transporters may not be domiciled in the U.S but are allowed to transport export shipments to and across the U.S. border; thus, these foreign transporters close out the manifest at the U.S. port of exit. EPA also explained other EPA programs have encountered regulatory challenges imposing Federal regulations on foreign entities. The Agency also noted in the NPRM that although transporters, under current regulations, close out the export manifest at a U.S. port of exit, EPA believes the exporter is better suited to submit the manifest and continuation sheet to the system. EPA considered the following regulatory amendments to require an exporter to submit the manifest form and continuation sheet (whether paper or electronic manifests are used) to EPA and pay the requisite processing fee for the submission.

- EPA proposed revisions to paragraph (c) under § 262.83 to adopt the existing manifest provisions at §§ 262.20(a)(3) and 262.24 for electronic manifest use and the electronic signature requirements at § 262.25 for export manifests.

- EPA proposed new paragraph (c)(4) under § 262.83 that would require an exporter to submit manifests (whether paper or electronic manifests are used) to the e-Manifest system within 30 days of receipt of the export manifest signed by the last transporter who carried the export shipment to a U.S. seaport for loading onto an international carrier or to a U.S. road or rail port of exit.

- EPA proposed new paragraph (c)(5) under § 262.83 to adopt the fee provisions of the electronic hazardous waste manifest program under part 265, subpart FF for hazardous waste export shipments.

- EPA proposed new paragraphs (c)(6) through (8) under § 262.83 to require electronic signature requirements in § 262.25; address special procedures applicable to replacement manifests; and address post-receipt data corrections.

- EPA proposed to modify § 263.20(g)(3) to require the transporter who transports the hazardous waste export shipment out of the U.S. via road or rail border crossing or delivers the export shipment to a seaport for loading onto an international carrier to send

paper copies of the manifest and continuation sheet (or images of the paper copies) to the exporter instead of to the generator, or transmit the export manifest and continuation sheet electronically to the exporter via the e-Manifest system in accordance with the existing manifest requirement for electronic manifest use at § 263.20(a)(4).

- EPA proposed to remove the current transporter requirement in § 263.20(g)(4)(i) because transporters are not best suited for submitting the export manifest to the system and paying the requisite processing fee based on the above modification to § 263.20(g)(3).

Description of Public Comments

Generally, EPA did not receive adverse comment on the proposals to collect export manifests (whether paper or electronic manifests are used) in the e-Manifest system and charge user fees for their submission. Several commenters strongly supported the proposed amendments to the manifest regulations that would require export manifests to be collected in the e-Manifest system. One commenter stated support for the proposed manifest fee and the fee formula and methodology and fee revisions to calculate the fees based on the exporter’s manifest activities in the system.

One commenter concurred with EPA that transporters are not best suited for submitting the export manifest to the system and paying the requisite processing fee. Another commenter noted that exporters and traders who export hazardous waste are fewer in number, are reasonably expected to be more sophisticated and able to consistently manage manifest submissions and are more knowledgeable about the hazardous waste being exported than the transporters who currently close out export manifests. This commenter reasoned that applying the primary regulatory responsibility to exporters and traders who are already required to be domiciled in the U.S. would reduce the difficulty in communications with and regulatory oversight over entities domiciled in a foreign country.

However, one industry commenter who supported requiring exporters to submit export manifests to the system did not support making the last transporter who carried the export shipment to a U.S. seaport for loading onto an international carrier or to a U.S. road or rail port of exit solely accountable for returning the paper copy of the manifest to the exporter or transmitting the electronic manifest electronically to the exporter via the e-Manifest system. This commenter

recommended that, instead, EPA require the foreign receiving facility to return the manifest to the exporter and suggested EPA incorporate into the final rule a mandatory requirement that all export contracts or equivalent legal arrangements established among all parties (e.g., exporter, foreign importer, and foreign receiving facility) require that the foreign receiving facility return the manifest to the exporter.

Discussion of Final Rule

EPA did not receive adverse comment on the proposals to require exporters to submit export manifests into the e-Manifest system; therefore, EPA is finalizing the proposed changes to the introductory text of paragraph (c) under § 262.83 to adopt the existing manifest provisions at §§ 262.20(a)(3) and 262.24 for electronic manifest use and the electronic signature requirements at § 262.25 for export manifests. EPA is also finalizing the proposed export manifest requirements under paragraphs (c)(4) through (8) to collect export manifests (whether paper or electronic manifests are used) in the e-Manifest system, charge user fees for their submission, and submit manifest corrections to the EPA e-Manifest system. This final rule codifies these proposals as revised § 262.83(c)(4). EPA notes that the new post-receipt manifest data corrections procedures for hazardous waste export shipments are discussed under section II.H.4 of this final rule. Finally, EPA is finalizing the proposed changes to the transporter regulations for hazardous waste export shipments under § 263.20(g).

Although this final rule will be effective on January 22, 2025, implementation of the revised manifest requirements for the collection of export manifests in the e-Manifest system, use of electronic manifests for tracking of hazardous waste export shipments, imposition of user fees on hazardous waste exporters, and the revised transporter manifest requirement for returned export manifest manifests and continuation sheets to the exporter will have a delayed compliance date that begins on December 1, 2025. As stated above, this compliance date will provide EPA time to implement the necessary e-Manifest system changes to incorporate these final requirements.

Prior to December 1, 2025, hazardous waste exporters will not be required to submit paper manifests to the e-Manifest system and pay user fees, nor will exporters be able to use electronic manifests to track their hazardous waste export shipments. Additionally, prior to December 1, 2025, transporters who transport hazardous waste out of the

United States must continue to return a signed copy of the manifest to the generator. (In addition, such transporters must also submit the continuation sheet to the generator during this period of time.)

Beginning on December 1, 2025, regulated entities must comply with the revised hazardous waste export regulations discussed below.

Regarding the exporter requirements under § 262.83(c)(4), collectively, these new provisions require that exporters submit export manifests and manifest continuation sheets (whether electronic or paper manifests are used) to the e-Manifest system and pay the requisite fees for those submissions. Therefore, any entity acting as the U.S. exporter that originated the manifest for an export shipment of hazardous waste in accordance with the manifest requirements under part 262, subpart B and § 262.83(c), whether they be a generator, receiving facility, or recognized trader, must submit the export manifests and manifest continuation sheets to the e-Manifest system and pay the requisite fees. Further, in accordance with § 262.83(c) (per §§ 262.20(a)(3) and 262.24 for electronic manifest use and the electronic signature requirements at § 262.25 for export manifests), a person exporting a shipment out of the U.S. (e.g., a generator or a recognized trader located separate from the site initiating the shipment) may, in lieu of using a paper manifest form, use an electronic manifest to track the export shipment within the United States. These electronic manifests are considered the legal equivalent of paper manifests signed with conventional ink signatures.

Therefore, per § 262.83(c)(4), an exporter who elects to use an electronic manifest and continuation sheet for an export shipment, must complete, sign, and submit the manifest and continuation sheet electronically in the e-Manifest system for the waste shipment within 30 days of receipt of the electronic manifest signed by the last transporter who carried the export shipment to a U.S. seaport for loading onto an international carrier or to a U.S. road or rail port of exit.

Revised § 262.83(c)(4) also provides an exporter the same options as a U.S. receiving facility to submit the original paper manifests to the system. Per § 265.71(a)(2)(v)(B), if the waste shipment was transported within and then exited the U.S. under a paper manifest and continuation sheet, the exporter must submit images of the paper forms, or uploaded data plus images of the paper forms. EPA notes that exporters may also use hybrid

manifests to track export shipments under this final rule. If an export shipment was initiated by the initial transporter under a hybrid manifest in accordance with § 262.24(c), then an exporter must complete and sign that manifest electronically in the system.

To submit export manifests (whether paper or electronic manifests are used) to the system, exporters will need a registered user with at least Certifier level permissions in the e-Manifest module (a permission level that requires identity proofing and an electronic signature agreement). Exporters may also register users to view their manifest records in the e-Manifest system. Such viewer-only users of the e-Manifest system are only required to obtain Viewer level permissions (or equivalent) to access the manifests for their site.

Pursuant to the new provisions under paragraph (c)(4), an exporter must pay the requisite use fee for manifest submissions. The fee provisions of the electronic hazardous waste manifest program are codified under part 265, subpart FF (§§ 265.1300, 265.1311, 265.1312, 265.1313, 265.1314, 265.1315, and 265.1316). EPA finalized these provisions in the User Fee Final Rule (83 FR 420, January 3, 2018) and utilizes them for domestic receiving facilities of hazardous waste and other Federal or State regulated wastes. Currently, EPA sets user fees based on the Highly Differentiated Fee Formula (§§ 264.1312(b) and 265.1312(b)). EPA refreshes its user fees every two years based on the manifest usage projections and processing costs for each manifest type.

Exporters of a waste shipment subject to the manifest requirements must make payments to EPA for manifest activities conducted during the prior month per § 265.1314. Under § 265.1311, EPA will impose a per manifest fee for each manifest submitted to the system based on the mode of submission (data upload, image file upload, or electronic). Exporters will receive an electronic invoice or bill displaying their manifest activity during the prior month and must make payments in full within 30 days from the date of the invoice. Exporters must submit electronic payments to the U.S. Department of Treasury through the e-Manifest system using one of the acceptable electronic payment options, which include commercial credit cards, commercial debit cards, and Automated Clearinghouse (ACH) debits. An exporter's Site Managers will be able to receive and pay invoices for their site(s). These invoices cannot be forwarded to or paid by someone other than a Site Manager. Therefore, exporters must

register a user(s) for the e-Manifest module within the RCRAInfo Industry Application with the Site Manager permission level to submit payment. Further information regarding e-Manifest user fees and payment information is discussed on EPA's "User Fees/Payments" web page.² Per the late fee and collection provisions at § 265.1315, exporters who do not pay their invoices in full and on time will be charged late fees. Late fees begin to accrue for bills not paid in full within 30 days from the date of the invoice. The fees include a penalty (currently 1% annualized of the billable invoice total) and a handling charge (currently \$15) for each month the bill is unpaid. A one-time increase of this penalty is charged if a bill is not paid four months after the invoice has been issued; currently this charge is a one-time increase of the penalty to 6%. After four months, the unpaid invoice is forwarded to the U.S. Treasury Department for collection and further action. Per § 265.1316, exporters can dispute an invoice using the informal dispute process, if they believe an invoice to be in error (*e.g.*, the invoice does not accurately describe the numbers of manifests submitted in the prior billing period, the types of manifests (paper vs. electronic) submitted in the prior billing period, or, because the invoice appears to have made a mathematical error in generating the amount of fees due under the invoice).

Regarding the proposed changes to the transporter provisions under § 263.20(g)(3) and (4), this final rule finalizes the proposed changes but finalizes them with slight modifications. Specifically, this final rule revises the proposed paragraph (g)(3) slightly to reflect the fact that EPA will not implement the new hazardous waste export requirements under § 262.83(c)(4) until December 1, 2025. As a result, EPA will finalize the proposed paragraph (g)(3) with a slight modification to reflect that a transporter must submit the manifest and continuation sheet to the generator (and not to the exporter) until December 1, 2025. This proposed paragraph (g)(3) has also been revised to no longer apply on December 1, 2025 (and thus will end through November 30, 2025). Starting on December 1, 2025, revised paragraph (g)(4) will apply, at which time the transporter must submit the manifest and continuation sheet to the exporter.

EPA appreciates the commenter's suggestion that EPA establish a new

requirement making the foreign facility return the manifest to the exporter and accepts the commenter's claim that foreign facilities generally return completed manifests along with the movement document. EPA, however, is not persuaded to establish the new requirement for a few reasons. First, EPA believes this approach is common practice if the foreign transporter hauls the hazardous waste out of the U.S. to a foreign facility located in Canada or Mexico via road or rail border crossing. However, EPA notes that waste exported to foreign facilities in Asia or Europe generally are transported by an international carrier. In such instances, the transporter delivers export shipments to a seaport for loading onto an international carrier and leaves the export manifest at the seaport. Therefore, in this instance, the foreign facility could not return the manifest to the exporter. Second, EPA explained in the NPRM that foreign entities have posed regulatory challenges including challenges verifying the identity of foreign users for electronic signatures as the current e-signature methods are designed to be used in the United States.³ Third, EPA also points out that the Agency did not provide notice and opportunity to comment on this approach in the NPRM.

Therefore, this final rule modifies § 263.20(g)(3) to require that beginning on December 1, 2025, the last transporter (who transports the hazardous waste export shipment out of the U.S. via road or rail border crossing or delivers the export shipment to a seaport for loading onto an international carrier) must send a signed copy of the manifest and continuation sheet to the exporter, instead of the generator. EPA notes that beginning on December 1, 2025, transporters will be able to use electronic manifests in lieu of paper manifests to transport RCRA-manifested waste shipments out of the U.S. in accordance with § 263.20(a)(4). Transporters would need to obtain a RCRAInfo Industry Application account to access and use the e-Manifest system.

This final rule also removes the current transporter requirement under § 263.20(g)(4)(i). As explained in the NPRM, transporters are not best suited for submitting the export manifest to the system and paying the requisite processing fee based on the above modification to § 263.20(g)(3).⁴

2. Changes to Manifest Form and Continuation Sheet and Manifest Requirements for Hazardous Waste Export and/or Import Shipments

EPA proposed a few changes to the manifest form and manifest continuation sheet to align the forms with the proposals to capture export manifests in the e-Manifest system and to better track hazardous waste export and import shipments using the manifest forms. As mentioned previously, EPA proposed exporters submit the manifest to EPA's e-Manifest system and pay the appropriate per manifest fee to EPA for each export manifest submitted to the e-Manifest system. The existing manifest requirements under § 262.83(c) require a hazardous waste exporter comply with the manifest requirements at §§ 262.20 through 262.23 which require the exporter use the manifest—and if necessary, the manifest continuation sheet—when exporting hazardous waste out of the U.S. Generally, the current manifest form does not provide adequate space to provide the exporter's EPA ID Number on the manifest unless the exporter is the generator or the site from where the export manifest is initiated. In such instances, the manifest instructions require the exporter to list its EPA ID number in Item 1 of the manifest and its name, mailing address, and phone number is Item 5. However, if the exporter is a recognized trader located separate from the site initiating the export shipment, then while the exporter must ensure that the items noted above are recorded on the manifest, Item 1 and Item 5 will reflect the generator or shipping site's information rather than the exporter's information. An exporter's EPA ID number is needed to ensure that the exporter can use electronic manifests, upload paper manifests to its site account in the system, track its manifest activity (for both electronic and paper manifests) in the system, and receive accurate invoices for each billing cycle.

Regarding other manifest form changes, currently, § 262.83(c)(2) requires the exporter to check the export box and enter the U.S. port of exit (city and State) from which the hazardous waste export shipment exits the U.S. In addition, § 262.83(c)(3) requires hazardous waste exporters to list the consent numbers for each waste stream entered in Item 9b, the U.S. Department of Transportation (DOT) shipping description, on the export manifest. Similarly, §§ 264.71(a)(3)(i) and 265.71(a)(3)(i) require domestic receiving facilities list the consent numbers on import manifests.

² <https://www.epa.gov/e-manifest/e-manifest-user-fees-and-payment-information#upcoming>.

³ *Ibid.*

⁴ 87 FR 19290; April 1, 2022. See page 19298.

Currently, these consent numbers are recorded generally in Item 14 “Special Handling Instructions and Additional Information” on the paper manifest form due to the lack of dedicated fields for listing such numbers. This is problematic for data key entry of manifest data from paper manifests because consent numbers typically are not listed clearly in Item 14 and often are grouped together with other manifest information. As a result, it can be difficult for the paper processing center (PPC) to match the relevant consent numbers with the correct waste streams. The addition of a separate data field to the paper and electronic manifests for consent numbers would facilitate the electronic upload or manual data entry of data from paper export and import manifests as the manifest would more clearly list the consent number for each waste stream. The additional field would also facilitate the retrieval of export and import manifest data from the e-Manifest system for all manifested hazardous waste export and import shipments.

What EPA Proposed on This Issue

EPA proposed changes to the manifest forms, manifest instructions, and the hazardous waste manifest requirements corresponding to completion of the manifest forms for international shipments. Regarding proposed changes to the manifest forms, EPA proposed and/or requested comment on several changes to the manifest form and continuation sheet related to hazardous waste international shipments in a February 2019 **Federal Register** notice and more recently in the April 2022 NPRM. First, EPA proposed to add a new data field on the paper and electronic manifest so hazardous waste stream consent numbers can be recorded in a separate, distinct field on a manifest.⁵ Second, EPA requested comment in the February 2019 FRN whether the Agency should add space to the International Shipment field (Item 16) on the paper manifest to accommodate the consent numbers corresponding to each of the waste streams listed in Item 9 of the manifest.⁶ Finally, as a second option, EPA requested comment on whether the Agency should revise the manifest continuation sheet so that the International Shipment Field is removed from the paper manifest and appears instead on the manifest continuation sheet with an expanded

area that is able to more easily accommodate four 12-digit consent numbers and the primary exporter’s EPA ID number, if the exporter is not the generator or is a recognized trader located separate from the site initiating the export shipment.⁷ The February 2019 FR explained in both options, the exporter would enter its EPA ID Number in Item 1 and its name and address on the left side of Item 5 and supply the name and address of the generator site on the right side of Item 5, if not the same as the primary exporter.

Lastly, EPA discussed whether the Agency should modify the instructions under both options to clarify that the exporter must enter its EPA ID number in a separate new data field so that the generator site’s EPA ID number is retained in Item 1 of the manifest.

Except for the alternative option regarding designating a new, distinct field in Item 16 of the manifest to accommodate the recording of consent numbers in it, EPA requested comment in the NPRM seeking further input on the addition of new fields for consent numbers and the exporter’s EPA ID Number on the manifest continuation sheet and proposed re-designating Item 16 on the manifest continuation sheet as Items 33a and 33b on the continuation sheet. In addition, EPA proposed to add an email address to the International Shipments field. EPA explained in the proposed rule that if these proposed form changes are finalized, then EPA also would revise the current manifest instructions for completing the International Shipments field to reflect these new changes.

Regarding changes to the hazardous waste export requirements corresponding to the proposed manifest form revisions, EPA proposed conforming changes under § 262.83(c)(2) and (3) as follows:

- Moving the existing requirements under paragraph (c)(2) to new paragraphs (c)(2)(i) and (iii). Provisions (c)(2)(i) and (iii) would continue to require the exporter to check the export box and enter the U.S. port of exit (city and State) from the United States, respectively, on the manifest. However, this information would be entered in the new International Shipments Field (Item 33a) of the proposed Continuation Sheet.

- Revising (c)(2) to reflect the new requirement that exporters must complete both the manifest and the International Shipment Field of the new manifest continuation sheet for export shipments.

- Adding a new paragraph (c)(2)(ii) to require that the exporter enter its EPA ID number, if the exporter is not identified in Item 5 of the manifest (EPA Form 8700–22) for the export shipment, and email address in the new email address field in Item 33a of the Continuation Sheet.

- Noting that the requirement under the existing manifest instruction for the final transporter to sign the manifest on the date the waste departs the country would be removed.

- Moving the existing paragraph (c)(3) to new paragraph (c)(2)(iv) and revising it to require that the exporter list each consent number from the Acknowledgment of Consent (AOC) for each waste stream recorded on the manifest form(s) in the new designated field of the International Shipment Field (Item 33b) of the Continuation Sheet. EPA also proposed to move the existing requirement under § 262.83(c)(4) to paragraph (c)(3). This requirement indicates that exporters may be able to obtain paper manifest forms 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).

Description of Public Comments

Commenters strongly supported the proposed manifest form changes related to export and import hazardous waste shipments. EPA did not receive adverse comment regarding moving the International Shipment field (Item 16) from the manifest to the continuation sheet and adding new fields for the consent number and exporter’s EPA ID Number and email address to the International Shipments field. Some of these commenters reasoned that moving Item 16 (International Shipments field) from the manifest to the continuation sheet would be much clearer and easier for the regulated community and noted that one field (*i.e.*, Item 5) would not be used for two different sets of required information (information for waste generator and information for the waste exporter).

One commenter suggested collecting all the export information, including the exporter name and address in Item 5, on the manifest continuation sheet, rather than having it on both the manifest and continuation sheet. The commenter reasoned that using Item 5 to collect two distinct types of information (*i.e.*, generator and exporter name and address) would create confusion for manifest users. This commenter also stated that a clearly defined area for the collection of exporter information is their preferred option. Finally, this commenter recommended that, for

⁵ 84 FR 2854; February 9, 2019. See pages 2855–2856.

⁶ 84 FR 2854; February 9, 2019. See page 2856.

⁷ *Ibid.*

imports, the instructions for the manifest form and continuation sheet should include the importer's requirements for Items 1 and 5 of EPA Form 8700-22 that are relevant to § 262.84(c)(1)(i). This commenter stated that for hazardous waste shipments entering the U.S., the manifest regulations for importers are similar to the requirements for exporters. The importer must also comply with manifest requirements at §§ 262.20 through 262.23, and the importer is considered the RCRA generator whose EPA ID Number will be entered in Item 1. Additionally, the importer's information must be entered in Item 5, except that the importer must enter the name and site address of the foreign facility on the right side of Item 5 of the manifest in lieu of entering its physical site address. The importer must also enter the name, site address, and EPA ID Number of the domestic designated facility in Item 8 of the manifest. If the domestic designated facility is also the importer, then its information would be entered in both locations on the manifest.

Discussion of Final Form Changes and Corresponding Manifest Requirements

Commenters strongly supported the proposed changes to the manifest forms, instructions, and the manifest requirements for export shipments, and EPA did not receive adverse comment to the proposals. Therefore, EPA is finalizing the proposed changes to the manifest forms and instructions. EPA is also finalizing the proposed conforming changes to the previous hazardous waste export requirements under § 262.83(c) but with slight modification. EPA accepts one commenter's suggestion that EPA should not require the exporter to enter its name and site address on the left side of Item 5 and the generator's information on the right side of Item 5. EPA agrees with the commenter's suggestion that a clearly defined area on the manifest continuation sheet for the collection of exporter information is a better approach than entering it on the right side of Item 5. However, like the manifest form, the manifest continuation sheet is a one-page paper form that is already full of many data elements, and thus it does not have adequate space left for the addition of exporter information normally recorded in Item 5 of the manifest (*i.e.*, the exporter's name, mailing address, and phone number).

Therefore, in establishing a clearly defined area for exporter information, this final rule removes the International Shipments field (Item 16) from the

manifest form, re-designates it as Items 33a and 33b on the continuation sheet and adds new fields for consent numbers and the exporter's EPA Identification (ID) Number to the International Shipments field. EPA is also revising the current manifest instructions for completing the International Shipments field to reflect these new changes. Under the new manifest form and manifest continuation sheet, if the exporter is the generator or is the site from where the export manifest is initiated, then the exporter must record its information—name, address, and phone number—in Items 1 and 5 of the manifest form. Such exporters are not required to provide its EPA ID number on the manifest continuation sheet. However, if the exporter is a recognized trader located separate from the site initiating the export shipment, then the exporter must enter its EPA ID number in the new exporter EPA ID space in the International Shipment field (Item 33a) of the manifest continuation sheet. However, such exporters will not be required to enter their name, mailing address, and telephone number in Item 33a. EPA notes that exporters must submit an export notification and the AOC associated with the manifested export shipment to the Waste Import Export Tracking System (WIETS) module in the RCRAInfo application. The consent numbers recorded on the manifest are linked to the AOC document in WIETS. Since exporters must register and obtain an account in the RCRAInfo for access to both the e-Manifest and WIETS modules, EPA will obtain the name, mailing address, and telephone number of the recognized trader from the AOC using the consent numbers recorded on the manifest. For Item 33a, the exporter must check the box indicating an export shipment and enter the port of exit (city and State) from the U.S. In addition, if located separate from the site initiating the shipment, then the exporter must enter its EPA ID Number in this field.

EPA is not finalizing the proposed form change to add an exporter email address field in Item 33a of the Continuation Sheet. In addition, EPA is not finalizing the removal of the requirement under the existing manifest instruction for the final transporter to sign the manifest on the date the waste departs the country. EPA has decided that these form changes are not needed. Thus, in this final rule, the final transporter must sign and date Item 33a to indicate the day the shipment left the U.S. via a road or rail border crossing or the date the shipment was delivered to

a seaport of exit for loading onto an international carrier. The exporter will not be required to record its email address in Item 33a. For import shipments, the importer must check the box indicating an import shipment and enter the port of entry (city and State) into the U.S. in new Item 33a of the continuation sheet. For Item 33b, destination facilities of import shipments and exporters must record the consent numbers on the manifest for each waste stream listed in Items 9b and 27b of the manifest and continuation sheet.

However, based on the Agency's final decision not to include the generator email address field on the manifest, EPA is not finalizing the proposed requirement that exporters must enter their email address in the International Shipment Field (Item 33a) of the manifest continuation sheet. Finally, EPA accepts the one commenter's recommendation about revising the manifest instructions of Items 1 and 5 of the manifest form for hazardous waste import shipments. EPA agrees that the manifest instructions for these fields should align with the existing importer requirement at § 262.84(c)(1)(i) and has revised the manifest instructions accordingly.

3. Other Changes to Manifest Requirements for Hazardous Waste International Shipments

EPA is finalizing its proposal to remove the requirement in § 262.84(c)(4) that the importer must provide an additional copy of the manifest to the transporter to be submitted by the receiving facility to EPA. EPA explained in the proposed rule that this additional copy of the manifest is no longer necessary because the receiving facility is now required to always submit the top copy of the paper manifest and any continuation sheets to the e-Manifest system. EPA did not receive adverse comment to this proposal.

C. Removal of Requirement for Receiving Facility To Return Final Copy of Manifest to Unregistered Generators

4. What EPA Proposed on This Issue: Mailing Back Final Copies of Manifests

EPA proposed to revise §§ 264.71(a)(2)(iv) and 265.71(a)(2)(iv) so that, rather than mailing generator copies of completed manifests (Page 2) to generators, receiving facilities would only need to submit the top copies (Page 1) of manifests to the e-Manifest system. Generators would thus receive their completed manifests directly from the e-Manifest system via email, or they

would access them directly in the e-Manifest system.

EPA proposed to add an email address field to Item 5 of the generator block of the paper manifest (*i.e.*, the Generator's Name and Mailing Address block). This would allow the e-Manifest system to send automated emails to unregistered generators containing copies of completed paper manifests in lieu of receiving facilities having to mail final copies back to generators. Thus, generators who track their wastes using a paper manifest or a hybrid manifest but are not registered for the e-Manifest system would be required to record an email address in the email address field. The e-Manifest system would also send automated emails alerting generators about manifests from receiving facilities that are late (Exceptions), and when materials received by the facility designated on the manifest do not match with the quantities or types of materials indicated as being shipped by generators (Discrepancies). (See sections II.D and II.E, respectively, for further details).

To ensure that the automated email is not undelivered or left unnoticed or unopened, EPA proposed to require the generator to enter an email address associated with the company site and shared among site employees who are directly, or indirectly, involved with arranging the waste shipment for off-site transportation, or who have day-to-day responsibilities of the site's operations. In addition, the system-generated email to the generator would also provide a link to EPA's e-Manifest user registration web page and encourage the generator to register at least two Site Managers in RCRAInfo to access their manifests in the e-Manifest system.

EPA also requested comment on an alternative option to the proposed email approach. Under the alternative option, EPA would mandate that generators register for access to the e-Manifest system so that generators could receive completed manifests in their registered accounts in e-Manifest rather than from system-generated emails. Under the alternative approach, EPA would not need to collect generator email addresses on the manifest form because individual personnel for the generator would be providing a verifiable email address upon registration. Registered generators would then access final copies of manifests from e-Manifest and receive notification emails from e-Manifest regarding their sites' recent manifest activity. Finally, under this alternative approach, as with the proposed approach, receiving facilities would not be required to mail hard copies of manifests to generators as all

generators would be required to register in the system and have access to their manifests.

Finally, EPA proposed conforming changes to requirements for printing paper manifests at § 262.21(f)(6). The printing distribution of the five-copy form is as follows:

Page 1 (top copy): "Designated facility to EPA's e-Manifest system;";

Page 2: "Designated facility to generator;";

Page 3: "Designated facility copy;";

Page 4: "Transporter copy;"; and,

Page 5 (bottom copy): "Generator's initial copy."

Under EPA's proposal, Page 2 (Designated facility to generator) would no longer be needed and thus would be removed from the five-copy set of forms. As a result, the proposed rule would create a new four-copy form as follows:

Page 1 (top copy): "Designated facility to EPA's e-Manifest system;";

Page 2: "Designated facility copy;";

Page 3: "Transporter copy;"; and

Page 4 (bottom copy): "Generator's initial copy."

EPA also requested comment on removing Page 3 (Designated facility copy) from the manifest form and continuation sheet since submission of paper manifests to the e-Manifest system via postal mail are no longer permissible. The manifest form could then be a new three-copy form as follows:

Page 1 (top copy): "Designated facility to EPA's e-Manifest system;";

Page 2: "Transporter facility copy;"; and

Page 3: (bottom copy): "Generator's initial copy."

5. Description of Public Comments: Mailing Back Final Copies of Manifests

Commenters supported the removal of the requirement that receiving facilities mail paper manifests to generators. One commenter stated that removing the existing requirement that receiving facilities mail paper manifests to the generators would improve e-Manifest functionality by allowing generators to receive final manifest copies from the system, rather than continuing to impose costs on receiving facilities to mail or email paper manifest copies back to their customers. Another commenter stated that this proposal would facilitate lowering receiving facilities' burden by allowing the elimination of any need to mail or otherwise return final signed manifest copies to generators.

Most commenters supported EPA's proposed approach to add a new generator email address field to the manifest form; however, some expressed

concerns about the part of the proposal in which the e-Manifest system would email copies of completed paper manifests to the generator's email address. One commenter stated that the collection of a generator email address on manifest forms is beneficial as it creates another avenue for ensuring generator receipt of final manifest copies via the e-Manifest system, assists generators with accessing these forms electronically, and reinforces the electronic copy as the primary source of information for all parties involved. Another commenter wrote that requiring an email address to be entered each time a generator initiates a shipment of hazardous waste would be a *de minimis* burden on generators and result in a significant benefit for both the regulated generators and relevant regulatory agencies alike.

Some commenters expressed concerns about requiring generators to use an email address, including allowing generators to use a shared email box associated with the company site, as an option for completing the generator email address field citing that there is a possibility that email addresses could be entered on the manifest or into the e-Manifest system incorrectly, leading to manifests being sent to the wrong entity or sent to email addresses that do not exist. One commenter indicated that hand-written email addresses on paper manifests can be of poor quality and may result in frequent errors when uploaded to the e-Manifest system and that generator personnel may not know the correct email address to write on the manifest. A few opposing commenters stated that providing copies of the final manifests directly to generators without requiring them to register for e-Manifest will run directly counter to EPA's goal of increasing the adoption of e-Manifest by the regulated community. These commenters further stated if copies of the manifests are provided directly to generators, then it will remove the main incentive for generators to register for e-Manifest.

Several commenters supported EPA's alternative option that would mandate that generators register with the e-Manifest system. One commenter stated that requiring all generators (including very small quantity generators (VSQGs)) to register in the e-Manifest system would aid in finding and evaluating manifests for a particular generator. The commenter also stated that doing so would make it easier to use the data in the e-Manifest system to replace State systems used for generator reporting.

One commenter who supported the idea of requiring all generators to register with the e-Manifest system

indicated that it had some concerns with the option because: (1) It would require VSQGs to have EPA ID Numbers, which is a major departure from the current Federal program that extends beyond the scope of e-Manifest, and (2) the description of how it would work seems to be inconsistent with the RCRAInfo Industry Application's user account requirement. RCRAInfo restricts user accounts to one person; a registered account cannot be shared or transferred. One supporting commenter stated that, if EPA decides to not require generators to register with e-Manifest, then a very simple method should be developed for unregistered generators to view their manifests. This commenter described providing generators 'one-button' access to their manifests, such as a web page that functions much like checking into an airline reservation. This website would request simple information, such as the manifest number, generator ID number, and/or zip code, to allow the generator to see the completed manifest. If the generator wanted to do more than simply see the manifest, then the website can direct the generator to register for e-Manifest.

One commenter stated that they oppose any element of the proposed rule that would require generators (whether under the RCRA or TSCA PCB program) to register and obtain an account in the e-Manifest system. This commenter indicated that this does not address the fundamental concern that waste handlers, particularly generators, are not able to universally adopt the e-Manifest program and thus should not be compelled to do so under any final rule.

One commenter supported elimination of only the designated facility copy (Page 3) of the manifest forms, but most commenters supported elimination of both the designated facility to generator copy (Page 2) and the designated facility copy (Page 3). One commenter stated that it makes sense to eliminate the designated facility copy of the manifest form because designated facilities who want to keep a paper copy can (and should) keep the top copy (Page 1), which is the copy scanned and uploaded to the e-Manifest system. This commenter stated that it is good business practice to keep this paper copy (Page 1) in case there is any problem with the data upload and/or scan and upload of the PDF.

One commenter supported removal of the designated facility copy of the manifest forms urging EPA to adopt a 3-page form that eliminates the copy sent by the receiving facility to the generator (Page 2), as well as the designated facility copy (Page 3). This

commenter stated that the generator copy is not needed because EPA intends to revise the regulations to remove the requirement that receiving facilities mail a paper copy back to the generator, and instead would provide generators with electronic access to all completed manifests. Further, receiving facilities do not need the designated facility copy which is routinely discarded when the image copy of the final manifest is uploaded to the e-Manifest database. The receiving facility only needs the top copy to submit the image file to the system, and that data file is then the manifest of record.

A few commenters who supported electronic manifest adoption favored removal of the generator and designated facility copy of the manifest form. One commenter stated that removal of the generator and designated facility copies (Pages 2 and 3, respectively) of the paper manifest is sound and will further encourage generators to use the e-Manifest system. This commenter also stated removing these obsolete pages reduces the administrative costs of managing the paper pages and reduces the costs and paper material resources associated with printing manifests. Furthermore, removing these obsolete pages in no way impedes the usability of the paper manifest nor impacts hazard communication. Another supporting commenter stated that the removal of manifest copy Pages 2 and 3 is logical and justified by EPA's proposal to make manifest final copies available electronically in the e-Manifest system. Further, this paper copy reduction would continue to incentivize e-Manifest adoption due to the ease of accessing manifest copies electronically, as well as a presumption that final manifest copies would likely be available for viewing sooner than by current methods. Finally, one commenter indicated that beyond the reduction in printing burden, unnecessary paperwork, and simplicity, each sufficient reasons on their own for making this change, reducing the copies in a multi-part 'carbon copy' form consistently results in increased transfer and legibility of handwritten and even impact-printed information on sheets below the top.

In addition to comments discussed above, EPA received recommendations on the following issues:

- *Recordkeeping of original paper manifest.* One commenter stated that, considering the massive data quality problems that state regulators have documented, EPA should take into account adding a regulatory requirement for receiving facilities to retain the original paper manifest for three years.

If generators receive completed manifests only by email or through the e-Manifest system, it will be even more important for receiving facilities to be required to retain the original paper manifest to deal with any data errors or other manifest corrections because they will be the only party with access to the original.

- *Arrangements between receiving facilities and generators that have unreliable internet connection.* One commenter stated that generators without on-site internet can plan to visit a nearby facility that has internet, such as a local business, municipal building, or community library.

- *Burden and costs to waste handlers.* Three State commenters provided comment on the proposal's burden impact. One State commenter stated that the proposed changes would provide a process efficiency and cost savings for the receiving facility. Another State commenter stated that the receiving facility's burden of providing a manifest copy to generators would be exchanged for a large burden on generators (to figure out how to properly set up individual user accounts from a very confusing starting point of being required to provide a shared email address that cannot be used to set up those accounts) and on State regulators (to help generators navigate the account setup problem to handle assigning EPA ID Numbers to VSQGs) or at the expense of EPA's ability to incentivize generators to register for the e-Manifest system. Finally, one State commenter stated that elimination of Pages 2 and 3 of the manifest form would facilitate lowering receiving facilities' burden by allowing the elimination of any need to mail or otherwise return final signed manifest copies to generators.

1. Background: Mailing Back Final Copies of Manifests

The current manifest requirements under §§ 264.71(a)(2)(iv) and 265.71(a)(2)(iv) require permitted and interim status treatment and storage facilities to mail final copies of paper manifests to generators if those generators do not yet have access (*i.e.*, are not registered) to view their final manifests in the e-Manifest system.⁸ In

⁸ Currently, §§ 264.71(a)(2)(iv) and 265.71(a)(2)(iv) can be satisfied if a generator initiates the manifest electronically in the e-Manifest system and thus will automatically receive the completed electronic manifest in its account once the designated facility electronically signs and submits the electronic manifest in the system. Generators who elect to use paper or hybrid manifests to track their hazardous waste may also register with the e-Manifest system and use their e-Manifest account to store and retrieve scanned copies of paper manifests in the system. In such

the NPRM, EPA cited that the e-Manifest Advisory Board stated in their 2019 meeting and reiterated in their 2020 meeting that the inability or reluctance of generators to register in the e-Manifest system has caused lasting burden to receiving facilities because they must continue to incur the cost of mailing paper manifest copies to generators, in addition to submitting copies to EPA's e-Manifest system. To mitigate this problem, the Advisory Board recommended that EPA: (1) Mandate generators register for access to the e-Manifest system, and (2) design the system to generate automated emails that could notify and encourage generators to register for e-Manifest so that they can access their completed manifests in the system. The Advisory Board asserted automated email notifications could eliminate the need of receiving facilities to mail paper copies of manifests to generators and could incentivize generators to register in the e-Manifest system for access to initiate fully electronic manifests or to view uploaded images of their paper manifests if they continue to track their shipments using paper. EPA accepts the Advisory Board's recommendations and considered proposals and requested comment on approaches in the NPRM that could reduce receiving facilities' burden and possibly increase electronic manifest adoption. The sections below detail the options considered in the NPRM.

2. Discussion of Final Rule: Mailing Back Final Copies of Manifests

EPA appreciates the numerous comments favoring the removal of the existing requirement under §§ 264.71(a) and 265.71(a) that receiving facilities must mail the completed manifests to generators. EPA agrees with comments asserting that removal of the existing paragraph (a)(2)(iv) of these sections would improve e-Manifest functionality by allowing generators to receive final manifest copies from the system. Therefore, this final rule removes the existing final copy transmittal requirements at §§ 264.71(a)(2)(iv) and 265.71(a)(2)(iv) for designated receiving facilities and commercial storage and disposal facilities, respectively, to send paper copies of manifests to the generator.

EPA is also making conforming changes to the manifest discrepancy requirements for hazardous waste rejected shipments and container

residues at §§ 264.72 and 265.72. EPA overlooked proposing changes in the NPRM for paragraph (g) of those sections. These manifest discrepancy regulations require a receiving facility to send signed copies of amended manifests for rejected waste or container residues to the generator or transporter, if a facility rejects a waste—or identifies a container residue that exceeds the quantity limits for “empty” containers set forth in § 261.7—after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator. This final rule makes conforming changes to §§ 264.72(g) and 265.72(g) so that these sections are consistent with EPA's decision to finalize the proposed changes to paragraph (a)(2)(iv) under §§ 264.71 and 265.71. The final rule also revises paragraph (g) to clarify that facilities must continue to send hazardous waste transporters amended copies of manifests for rejected waste shipments or container residues unless the transporter is registered with EPA's e-Manifest system. Registered transporters may obtain the signed and dated copy of an amended completed manifests from the EPA e-Manifest system in lieu of receiving the manifest through U.S. postal mail.

In this final rule, the Agency is not finalizing its proposal to use generator email addresses collected on paper manifests to send completed copies of manifests to generators. Rather, in § 262.20(a), EPA is requiring large and small quantity generators (LQGs and SQGs) to register for the e-Manifest module in the RCRAInfo Industry Application to access completed copies of manifests.

EPA is not requiring VSQG and PCB generators to register for the e-Manifest module. VSQGs are generally exempt from the Federal manifest requirements and the EPA identification numbers and re-notification requirements, provided certain conditions described in § 262.14 are met. EPA notes, however, a few RCRA authorized States administer their hazardous waste programs more stringently than the Federal program; thus, these States require VSQGs use manifests and obtain EPA ID numbers. PCB generators are required to use manifests under Federal law but are not required to obtain EPA ID numbers. If the VSQG or PCB generator has a registered user, receiving facilities may use the e-Manifest system to send completed copies in lieu of sending completed manifest copies via postal mail. Otherwise, receiving facilities must continue to send completed manifests copies to unregistered VSQGs and PCB generators via postal mail.

However, EPA notes that VSQGs and PCB generators can voluntarily register with e-Manifest. VSQG and PCB generators that have registered with e-Manifest can use their e-Manifest account to store and retrieve their completed manifest copies from the EPA e-Manifest system; thus, receiving facilities would not be required to send completed manifest copies to registered VSQG and PCB generators via postal mail.

EPA is not removing Page 2 (“Designated Facility to Generator” Copy) of the manifest forms in this final rule because VSQGs and PCB generators who elect to not register with e-Manifest must continue to receive Page 2 of the manifest form or manifest continuation sheet to verify shipment receipt by the designated facility. EPA is, however, removing Page 3 (“Designated Facility” Copy) in § 262.21(f)(6) as this copy is redundant with the top copy that can be retained by the receiving facility, if needed.

EPA's decision not to implement its proposed approach to use generator email addresses collected on paper manifests to send completed copies of manifests to generators is based on two factors. First, EPA is persuaded by several State and/or industry commenters asserting use of a recorded email address on the paper manifest may cause completed manifests to be misdirected or undelivered due to incorrect entry of the email addresses. Further, illegible handwritten email addresses recorded on manifests may prevent the EPA's paper processing center (PPC) from processing this recorded data properly in the system. Thus, causal effects of the generators' inability to verify receipt of their waste by the designated receiving facility may result in generators overreporting unverified shipments via exception reporting. Second, EPA accepts and agrees with opposing State commenters' viewpoint that providing copies of the final manifests directly to generators without requiring them to register for e-Manifest will disincentivize generators to register for e-Manifest, thus reducing the likelihood or delaying the transition to electronic manifest adoption in the future.

In lieu of its proposed approach, EPA is instead implementing its alternative approach in the NPRM to require LQGs and SQGs to register for e-Manifest. EPA is revising § 262.20(a)(1) to reflect that LQGs and SQGs must obtain their manifests from the e-Manifest system rather than receive them from designated receiving facilities identified in Item 8 of manifests. The final rule also revises paragraph (a)(2) to indicate

instances, the generator will receive a scanned copy of the completed manifest in its account once the designated facility uploads the top copy (Page 1) of the paper manifest in the e-Manifest system.

that LQGs and SQGs, transporters, and receiving facilities must electronically submit manifest data corrections for their manifest records if they receive correction notifications from EPA or States requesting that manifest records must be corrected. The new post-receipt manifest data correction requirements for generators are discussed in preamble section II.H.4.

To obtain completed and signed manifests in the e-Manifest system, generators need to register personnel to access the manifest records for their site. EPA recommends that each generator site register at least two employees as Site Managers. The “Site Manager” permission level enables LQGs and SQGs to verify shipment receipts per § 262.42(a)(1) and (b), respectively, as well as satisfy the other electronic exception reporting and other mandatory reporting requirements (*i.e.*, post-receipt manifest data corrections) established in this final rule. Generators should also designate a limited number of personnel with only “Viewer” permission levels in the e-Manifest module. Unlike the Site Manager permission level, persons with “Viewer” permissions would be restricted to only accessing manifests in their registered accounts to verify that shipments arrived at designated facilities.⁹ In other words, the “Viewer” permission level would ensure LQGs and SQGs can verify shipment receipts by the receiving facility but would not afford them the ability to prepare and submit electronic Exception Reports (whether for electronic or paper manifests) in the event that a shipment cannot be verified. LQGs and SQGs must still verify receipt of their shipments by the designated receiving facilities per the exception reporting requirements under § 262.42.¹⁰

As mentioned previously, the EPA is not requiring registration for VSQGs and PCB generators who are required under Federal or State law to track their hazardous waste or PCB wastes, respectively, under a manifest. The EPA agrees with one commenter’s claim that mandating all generators to register for access to their manifests in e-Manifest would also require VSQGs and PCB generators to obtain EPA ID numbers; these generators are not currently required to obtain EPA ID numbers, and they would not be able to access manifests for their site without one.

VSQGs and PCB generators without EPA ID numbers generally record the generic identification number “VSQG,” or “CESQG,” or “40 CFR PART 761” on paper or hybrid electronic manifests, but this identification number is not suitable for locating manifests within e-Manifest for a specific site. The EPA accepts the commenter’s concern that such a requirement is a major departure from the current Federal program and extends beyond the scope of e-Manifest.

Since VSQGs and PCB generators currently are not federally required to obtain EPA ID numbers, and the EPA has not provided VSQGs nor PCB generators adequate notice and opportunity to comment on a new notification requirement to obtain EPA ID numbers for e-Manifest purposes, this final rule does not require VSQGs nor PCB generators to register in the system to monitor manifest activity for their site. As mentioned previously, this final rule removes the existing final copy transmittal requirements at §§ 264.71(a)(2)(iv) and 265.71(a)(2)(iv). However, the EPA is not removing the existing requirement at section § 761.213(a)(2)(iv) for designated receiving facilities and commercial storage and disposal facilities to send paper copies of manifests to PCB generators via postal mail; however, this final rule makes conforming changes to paragraph (a)(2)(iv) under § 761.213 for PCB manifest shipments. These Commercial storage and disposal facilities must continue to send signed and dated copies of (Page 2) of completed manifests and any continuation sheets to PCB generators who are exempt from obtaining an EPA ID number under the TSCA PCB manifest regulations. The changes also clarify that commercial storage and disposal facilities would not be required to send completed manifests to a PCB generator if the generator is registered in the EPA’s e-Manifest system.

Although the EPA is not requiring PCB generators register in the EPA’s e-Manifest system, the EPA encourages those generators to register with e-Manifest so that receiving facilities and commercial storage and disposal facilities may transmit completed copies of manifests to them via the e-Manifest system. The EPA notes that while the final manifest return requirement is unchanged for VSQG and PCB generators, EPA may consider in a separate rulemaking whether to require them to obtain EPA ID numbers and thus register in the e-Manifest system so that their manifest records can be accessed in their registered system accounts.

The EPA is implementing the alternative approach to require LQGs and SQGs to register to receive completed manifests rather than implementing the proposed email option for several reasons. First, like the proposed email option, the alternate option ensures that LQGs and SQGs receive final manifest copies via the e-Manifest system, enables generators to access their manifests, and reinforces that images of paper manifests uploaded in the system are the primary source of information for all parties involved with the shipment. However, unlike the proposed option, completed manifests would not be misdirected or undelivered due to incorrect email addresses nor would paper manifest uploads be prevented due to illegible handwritten emails recorded on the manifests. In this final rule, LQGs and SQGs must register with the e-Manifest system and maintain an accurate email address in their registered accounts. Further, commenter’s concerns regarding uncertainty of appropriate email use are unlikely under the alternative approach. Under the alternative approach, the generator companies’ personnel who register in e-Manifest must use an individual email address to access their site’s completed manifests in the system. The registered emails should not be shared with others. In other words, a person could not use a shared email address to register in the e-Manifest system. Thus, commenter’s concerns regarding receipt of the completed copy under the proposed email option are improbable under the alternative approach.

Second, the EPA finds that mandating registration for LQGs and SQGs assists in implementing its final rule regarding integration of exception reporting in the e-Manifest system (see section II.D.4). Third, the EPA is persuaded by commenters’ recommendation that entities (*e.g.*, generators and designated receiving facilities) on a paper manifest must correct errors to the manifests, if the EPA or States identify and require corrections. Generators must be registered in e-Manifest to make post-receipt corrections in the e-Manifest system; and thus, mandating registration for LQGs and SQGs enables implementation of this requirement.

Fourth, the EPA is not persuaded by commenters’ concerns about this alternative approach. Some opposing commenters indicated that some generators do not have adequate internet connections to register in e-Manifest. The EPA believes it is nearly impossible to operate modern business in the U.S.—taking payments, reaching customers and/vendors, and otherwise

⁹ Ibid.

¹⁰ For explanations regarding how to register and the different permissions available to users of the e-Manifest system, please refer to the EPA’s e-Manifest user registration web page; <https://www.epa.gov/e-manifest/e-manifest-user-registration>.

facilitating commerce—without internet service. The EPA accepts one industry commenter's recommendation that generators who do not have reliable internet connections or email accounts should plan to visit a nearby facility that has internet capabilities (e.g., a local business, municipal building, or community library) to access their manifests in e-Manifest. In addition, the EPA notes that email accounts are free, easy to establish, and nearly universal for businesses and commercial enterprises. However, to the extent that there are actually some generators who do not have adequate internet access, the EPA points to the Biden-Harris administration's announcement of the Broadband Equity Access and Deployment (BEAD) program in June 2023—a \$42.45 billion grant program created in the Bipartisan Infrastructure Law and administered by the Department of Commerce—which was established to connect small businesses and families in the U.S. with reliable, affordable high-speed internet by the end of 2029. As part of the program announcement, the Biden-Harris Administration stated that with these allocations and other Biden administration investments, all 50 States, DC, and the territories now have the resources to connect every resident and small business to reliable, affordable high-speed internet by 2030.¹¹ Thus, the EPA finds that high-speed internet access should be more accessible in the future.

In addition, the EPA is not persuaded by the one opposing industry commenter's assertion that the alternative approach does not address the fundamental concern that waste handlers, particularly generators, are not able to universally adopt the e-Manifest program and thus should not be compelled to do so under any final rule. The EPA also is not persuaded by the State commenter stating receiving facilities' burden of providing a manifest copy to generators would be exchanged for a large burden on generators (to figure out how to properly set up individual user accounts from a very confusing starting point of being required to provide a shared email address that cannot be used to set up those accounts). The EPA points out that the current registration process for e-Manifest is similar to the current notification process for obtaining an

EPA ID number, which LQGs and SQGs already must do according to the existing RCRA regulations under § 262.18.

The registration requirement established in this final rule only requires LQGs and SQGs to obtain accounts in the RCRAInfo application so that the generators can access their completed manifests in the e-Manifest system using their registered accounts. Therefore, the new registration requirement is not intended to mandate generators use electronic manifests to track their waste shipments. In fact, registered generators may continue to opt out of completing and transmitting electronic manifests via the e-Manifest system and may continue to track their hazardous waste shipments using the paper manifest forms. The EPA acknowledges obtaining registered accounts with the e-Manifest system may cause incremental burden to generators. However, the EPA notes that approximately 63% and 50% of LQGs and SQGs, respectively, have registered users with access to the e-Manifest system and thus already satisfy the final rule requirement. Thus, the EPA believes that the benefits of registration for e-Manifest—including receiving and retrieving manifests, electronic manifest-related reporting, and post-receipt manifest data corrections—outweigh the costs of registering for access to the e-Manifest system. Regarding this commenter's concern about the shared email approach, the EPA notes its proposed shared email was not intended for user registration with e-Manifest and was only intended to provide manifest copies back to unregistered generators. However, as explained above in this preamble section, the EPA is not finalizing this approach.

In response to other comments on this issue, the EPA does not accept one State commenter's recommendation that the EPA consider the addition of a new recordkeeping requirement that designated facilities retain the original paper manifest for three years if generators receive completed manifests by email or through accessing the e-Manifest system. The EPA believes addition of such a requirement would significantly increase receiving facilities' regulatory recordkeeping burden, substantially reduce cost savings to receiving facilities, and would not move the needle towards improving the quality of manifest data captured in the system. Therefore, the EPA is sustaining its current policy that receiving facilities need only retain their on-site paper copy, which is now Page 1, until such time as a legible scanned

image of the manifest is entered in the system and accessible to the facility in e-Manifest.

The EPA acknowledges that the poor quality of paper manifest data captured in the system has adversely impacted compliance monitoring of waste shipments by the EPA and State regulators. However, the EPA continues to believe the best approach to dramatically improve data quality and compliance monitoring is use of electronic manifests rather than the continual use of paper manifests. However, the EPA appreciates the commenter's concern about manifest errors/omissions of data currently recorded on paper manifests and ultimately captured in the e-Manifest system. Therefore, through this final rulemaking, the EPA has codified new manifest data correction requirements for paper and electronic manifests under parts 262, 263, 264, and 265 for generators, transporters, and permitted or interim status treatment, storage, and disposal facilities, respectively. The EPA has also made conforming changes to the proposed manifest data corrections requirements for PCB manifests under part 761, subpart K to align with the new manifest corrections requirements under the RCRA manifest regulations. The EPA believes these regulatory additions will significantly improve the data quality of paper manifests. The new manifest data corrections process and requirements are discussed in this final rule under preamble sections II.H.4 for hazardous waste and II.I.2 for PCB waste.

Finally, the EPA appreciates one industry commenter's support for an alternative approach for an EPA website for unregistered generators to view their manifests if the EPA decides not to implement the proposed alternative option (required generator registration). However, the EPA is not persuaded to adopt this approach for a few reasons. First, the EPA did not provide generators adequate notice and opportunity to comment on using a website to verify shipment receipt by designated facilities. Second, the EPA believes this approach may have unintended consequences such as enabling access for entities not named on a manifest before the EPA's existing 90-day public release policy. Lastly, this approach would require system amendments that would bypass necessary security related to 90-day manifest information restrictions. Instead, the EPA is implementing the alternative approach to require LQGs and SQGs to register with e-Manifest to access completed manifests for their site.

¹¹ <https://www.whitehouse.gov/briefing-room/statements-releases/2023/06/26/fact-sheet-biden-harris-administration-announces-over-40-billion-to-connect-everyone-in-america-to-affordable-reliable-high-speed-internet/#:~:text=President%20Biden's%20American%20Rescue%20Plan,internet%20is%20an%20eligible%20use.>

The EPA is not finalizing its proposal to remove Page 2 (“Designated Facility to Generator” Copy) of the manifest forms in this final rule. As explained above, the EPA is not requiring that VSQGs, nor certain PCB generators, register with e-Manifest to access completed manifests for their site. Therefore, VSQGs and PCB generators who elect to not register with e-Manifest must continue to receive Page 2 of the manifest form or manifest continuation sheet to verify shipment receipt by the designated facility. Regarding the designated facility copy (Page 3), the EPA is persuaded by commenters favoring removal of Page 3 (“Designated Facility” copy). The EPA agrees with commenters that this copy is no longer needed since a completed, top paper copy of the manifest which is uploaded to the e-Manifest system by the receiving facility can just be retained, if needed, by the receiving facility. Therefore, the EPA is revising § 262.21(f)(5) through (7) in this final rule to align these provisions with the removal of the designated facility copy of the manifest form and manifest continuation sheet. The EPA is also revising the marginal words pre-printed in the bottom margins of Page 1 to read as follows: “Designated facility or U.S. Exporter to the EPA’s e-Manifest system.” These marginal words indicate copy distribution for Page 1 of the paper manifest form and reflect that an exporter is now required to supply the EPA the top copy via the e-Manifest system. Therefore, these provisions together announce the revised printing specification for the now four-copy paper manifest and continuation sheet paper forms, the revised copy distribution requirements to be printed on each copy of the form, and the revised specification for printing the appropriate manifest instructions on the back of the form copies. Specifically, the new four-copy manifest form (EPA Form 8700–22) and manifest continuation sheet (EPA Form 8700–22A) will be distributed as follows:

Page 1 (top copy): “Designated facility or U.S. Exporter to the EPA’s e-Manifest system”;

Page 2: “Designated Facility to Generator”;

Page 3: “Transporter facility copy;” and;

Page 4: (bottom copy): “Generator’s initial copy.”

The EPA is also revising paragraph (f)(7) by removing the words “and published to the e-Manifest program’s website” from the end of the first sentence of the paragraph. The EPA does not publish the manifest forms to its website. Therefore, the statement that

the EPA publishes them on our website is inaccurate and misleading. Paper manifests must be obtained from an EPA authorized printing source and cannot be obtained from the EPA’s Manifest Registry nor e-Manifest website.¹²

D. Exception Report Requirements

1. Background: Exception Reports

Exception Reports are intended to address the situation in which the generator does not receive timely confirmation that their hazardous or PCB wastes, tracked with a manifest, arrived at the facility designated by the generator to receive its waste. Exception Reports are required in the Federal regulations at § 262.42 (Hazardous Waste) and § 761.217 (PCBs). For LQGs and all PCB waste generators, exception reporting is a two-step process under the existing regulations. In the first step, if the generator has not received the signed, returned copy of the manifest from the designated facility within 35 days from the date the transport of the waste shipment began, the generator must contact the transporter and/or the designated facility to determine the status of the generator’s waste and document their efforts. In the second step, if the status of that waste is not resolved within 45 days (from the start of transport), the generator must file an Exception Report with their EPA Regional Administrator (or State Director in authorized States). The Exception Report, as currently implemented by regulation, is a written report that consists of: (1) A legible copy of the manifest for which the generator does not have confirmation of delivery; and (2) a cover letter signed by the generator explaining its efforts to locate the waste and the results of those efforts. There is a similar exception reporting requirement applicable to SQGs at § 262.42(b), except that SQGs do not have to initiate contact before 35 days and have an additional 15 days (60 days total) to reconcile the status of their waste before an Exception Report must be submitted. SQGs must provide a legible copy of the manifest with some indication that the generator has not received confirmation of delivery (a separate cover letter is not required for SQGs).

¹² The four-copy paper manifest and manifest continuation sheet may be obtained from one of the EPA approved sources authorized by the EPA to produce and sell the forms. See the EPA’s web page at <https://www.epa.gov/hwgenerators/approved-registered-printers-epas-manifest-registry>.

2. What EPA Proposed on This Issue: Exception Reports

During the e-Manifest Advisory Board meeting in June 2019, titled “Increasing Adoption of the e-Manifest system,” the Advisory Board recommended that EPA integrate Exception Reports into the e-Manifest system. EPA accepted the Advisory Board’s recommendation and proposed in the NPRM regulatory amendments to the existing Exception Report requirements in § 262.42 by adding new paragraphs (d) and (e) and amending § 761.217 by adding new paragraphs (c) and (d). The proposed paragraph (d) under § 262.42 and paragraph (c) under § 761.217 establish the legal and policy framework for the use of electronic Exception Reports for hazardous waste and PCB waste, respectively. Under the proposal, Exception Reports originating in the e-Manifest system would be considered the legal equivalent of paper Exception Reports signed with conventional ink signatures. Further, wherever the existing regulations require an Exception Report to be completed, signed, provided, and sent to the EPA Regional Administrator (or the State Director in authorized States), the execution of an electronic Exception Report would be deemed to comply with the requirements to complete, sign, provide, send, or otherwise use the Exception Report.

The proposed regulatory amendments would not apply to exporters of waste shipments subject to the manifest requirements. Exporters must file export Exception Reports, in lieu of the requirements of § 262.42, according to the existing requirements specified at § 262.83(h). Electronic export Exception Reports under § 262.83(h) will be developed as part of the WIETS module in the RCRAInfo Industry Application (see section below on changes to related international shipment requirements for further details).

Under §§ 262.42(e) and 761.217(d), EPA proposed to restrict electronic exception reporting to manifested shipments using electronic manifests (hybrid or fully electronic) pursuant to § 262.24(c). This was proposed because in order to leverage the e-Manifest system to assist with exception reporting, the system must “know” the date of shipment from the generator. When an electronic manifest is used, this information is readily available. Conversely, paper manifests are not submitted to the e-Manifest system until after the signed, final manifest is uploaded and submitted by the receiving facility, rendering it impossible for the system to identify

paper manifests initiated by the generator but not yet completed by the receiving facility.

For hybrid manifests, a generator would be required to register for e-Manifest to take advantage of electronic exception reporting in the e-Manifest system. EPA also requested comment on whether all generators should be required to register for access to the e-Manifest system (see preamble section II.C for a discussion of requiring generators to register).

EPA explained in the proposed rule that that Agency was not proposing to collect, and upload written, paper-copies of Exception Reports in the e-Manifest system. EPA stated that maintaining paper Exception Report submissions would be more expensive and thus would result in the need for EPA to contemplate a distinct or additional fee premium related to entering Exception Reports into e-Manifest to ensure related costs are recovered. Therefore, to avoid incurring costs related to paper processing and data entry activities necessary to enter the Exception Report information into the e-Manifest system, EPA would require LQGs and SQGs who use paper manifests to comply with the existing exception reporting requirements at § 262.42(a) and (b) respectively for written, hard copy Exception Reports sent to EPA or the authorized State.

Under the proposed approach for electronic exception reporting, the NPRM explained that EPA would upgrade the e-Manifest system's functionality to alert LQGs and SQGs based on their notified Federal generator category, as well as PCB waste generators, if a receiving facility designated on their manifests had not submitted final, signed manifests to the system for confirmation of delivery within the required timeframes at §§ 262.42(a)(1), 262.42(b), or 761.217(a)(1), respectively. Additionally, the system could alert the respective receiving facility on the manifest. The system would allow generators to submit Exception Reports electronically (for hybrid and fully electronic manifests) and disseminate the Exception Report to the relevant EPA Region or the authorized State Agency. LQGs and PCB waste generators would still be required to contact the transporter and/or the owner or designated facility per §§ 262.42(a) or 761.217(a) to determine the status of the hazardous or PCB waste and provide an explanation of their efforts to locate the hazardous or PCB waste and the results of those efforts. Such generators, however, would not be required to mail the report to EPA or the States, but

instead would be required to submit the report electronically to the e-Manifest system (to which EPA and States have access).

EPA also proposed to revise the current 35/45-day timeframes for LQGs in §§ 262.42(a) and (c)(2), and 761.217(a) and (b) to better conform to timeframes for submittal and processing of paper manifests in the e-Manifest system. For example, for entities using paper manifests, receiving facilities have 30 days from receipt of a generator's shipment to submit the final, signed paper manifest to EPA. In addition, EPA's PPC needs time to enter data, e.g., from image copies of paper manifests, especially if the paper manifests contain incorrect, illegible, or incomplete data. Thus, the Agency realized that LQGs may not be able to access the final, signed paper manifest in e-Manifest until past the first 35-day exception reporting timeframe in the regulations.

Therefore, EPA proposed that all LQGs have five additional days to verify receipt of the shipment, reconcile the late manifests with the transporter and/or destination facility, and complete and submit Exception Reports to the EPA Regional Administrator or authorized State. Under the proposed amendments, LQGs and PCB waste generators would have up to 40 days to verify that their waste was received by the facility designated on the manifest. The 40-day timeframe would begin from the date the manifest was accepted by the initial transporter for off-site transportation; if an LQG did not receive notification from the e-Manifest system that the final, signed manifest was received within this timeframe, then the LQG would be required to contact the transporter and/or the designated facility to determine the status of the waste. If the status of the shipment is not resolved within 50 days (from the start of transport), then the LQG must file an Exception Report with the EPA Regional Administrator or authorized State. EPA did not propose any changes to the timeframe for SQGs to verify receipt of their shipments by the destination facility (§ 262.42(b)).

3. Description of Public Comments: Exception Reports

Commenters unanimously supported the idea of integrating exception reporting into the e-Manifest system; however, some commenters did not fully agree with or support certain aspects of EPA's proposed approach for the implementation of electronic exception reporting. One commenter supported the proposal because it would allow for a uniform submission

format that is efficient and quick to process and allow for greater transparency between all impacted parties. Another commenter noted that use of electronic exception reporting would both eliminate paper processing and consolidate all manifest-related communications within the e-Manifest system, thereby enhancing utility to the regulated community and allowing for easier access to these records for regulators.

Commenters were not in agreement on EPA's proposal to restrict electronic exception reporting to manifested shipments using electronic manifests (hybrid or fully electronic). Some commenters noted that requiring offline submission (*i.e.*, paper submission) of Exception Reports for paper manifests was counter to the e-Manifest Program's goal of burden reduction. They also noted that, currently, electronic manifests comprise a very small fraction of all manifests and that limiting exception reporting to only electronic manifests would not incentivize generators to register and use the e-Manifest system. EPA, instead, should, require generators to register with the e-Manifest system. The commenter further stated that EPA should amend the regulations to require registered generators to submit electronic Exception Reports whenever they do not receive a notification from the e-Manifest system of a completed manifest within the required timeframe. The commenter asserted that the responsibility should clearly be on the generator to monitor the manifests and determine if, and when, an Exception Report should be electronically filed.

Three commenters generally agreed with EPA's proposal to adjust the exception reporting timeframes; however, these commenters also suggested that EPA consider aligning the exception reporting timeframe for both LQGs and SQGs to make the timeframes the same. One commenter added that the risk presented by each shipment cannot be assumed by the 'size' of the generator, and the exception reporting timeframe differential serves only to add unnecessary complexity to generators attempting to understand if, and when, they must file an Exception Report.

Two commenters stated that they do not believe that modifying the exception reporting timeframe is necessary. One commenter noted that as more handlers adopt electronic manifesting, the time to identify issues with shipments should decrease, not increase. Another commenter asserted that increasing the timeframe would disincentivize receiving facilities to complete data

entry in a timely manner and add to existing e-Manifest data quality issues.

4. Discussion of Final Rule: Exception Reports

EPA appreciates the numerous comments favoring integration of exception reporting into e-Manifest to allow generators to submit Exception Reports electronically. EPA also appreciates comments recommending that EPA not restrict usage of electronic exception reporting to electronic manifests that originate in the system. The Agency agrees with commenters who assert that allowing users of paper manifests to submit electronic Exception Reports would decrease the amount of paper processing required by States and provide a unified format for reporting regardless of the manifest type (*i.e.*, paper or electronic). Therefore, EPA is not finalizing the proposed addition of new paragraph (e) to § 262.42 to restrict electronic exception reporting to manifested shipments using electronic manifests. EPA is finalizing revisions to allow LQGs and SQGs to submit electronic exception reporting in e-Manifest for both paper and electronic manifests. However, EPA is delaying implementation of the electronic exception reporting requirements under § 262.42(a) and (b) until December 1, 2025. Prior to December 1, 2025, LQGs and SQGs must continue to supply Exception Reports directly to EPA Regional Administrators or authorized States via postal mail. However, beginning on December 1, 2025, LQGs and SQGs must comply with the electronic reporting requirements discussed below, including the requirement that LQGs and SQGs must submit Exception Reports directly in EPA's e-Manifest system. Beginning December 1, 2025, LQGs and SQGs will no longer have the option to supply written, paper Exception Reports to the EPA Regional Administrators or authorized States via postal mail.

EPA is modifying existing § 262.42(a)(2) and (b) to require LQGs and SQGs to submit Exception Reports to the e-Manifest system in lieu of supplying them directly to Federal or State regulatory agencies. The final rule also revises paragraph (a) by removing the existing requirement that LQGs must sign the cover letter of an Exception Report "by hand". A separate cover letter is no longer necessary since an explanation of the efforts taken to locate the hazardous waste and the results of those efforts will be prepared directly in EPA's e-Manifest system as part of the electronic Exception Report. The final rule also revises paragraph (b) to clarify that VSQGs that meet the conditions

under § 262.232(a) for managing hazardous waste from an episodic event may continue to submit the Exception Reports directly to EPA or the States in lieu of submitting them via the e-Manifest system. The final rule also finalizes the proposed additions of § 262.42(d)(3) and (4) in this final rule. However, these new requirements are codified under § 262.42(d) as new paragraphs (d)(1) and (2). New paragraphs (d)(1) and (2) clarify that: (1) Retention of electronic Exception Reports in the e-Manifest system satisfy any requirement for a generator to keep or retain a copy of an Exception Report; and (2) Generators may not be held liable for the inability to produce an Exception Report through the e-Manifest system for inspection if the report is inaccessible due to the system being down and thus a denial of services occurs.

For shipments accompanied by paper manifests, LQGs and SQGs must prepare the Exception Reports according to § 262.42(a)(2) and (b), respectively, by uploading an image file of their initial copy of the manifest (Page 4 of the new manifest form) for which the generator does not have confirmation of delivery and entering select information from the manifest. LQGs must also provide an explanation in the e-Manifest system describing the efforts the LQG has taken to locate the waste shipment and the results of those efforts. Per revised § 262.42(b), SQGs only need to upload an image file of their initial copy of the manifest along with a statement that the return copy was not received. EPA notes that the PPC will not process the image file of the manifest uploaded by the generator for the Exception Reports as these manifests are not the final, completed copies that receiving facilities must submit to the system to satisfy the paper manifest submission requirements under §§ 264.71(a)(2)(v)(B) and 265.71(a)(2)(v)(B) for hazardous waste and § 761.213(a)(2)(v) for PCB waste. For fully electronic and hybrid manifests, the generator will be able to use the information already in the e-Manifest system to fill out the electronic Exception Report. EPA will provide access to Exception Reports to EPA and State personnel through the e-Manifest system.

EPA notes that only generators with an EPA ID number and a registered user for access to e-Manifest will be able to submit an Exception Report electronically. Federally, EPA only requires LQGs and SQGs to submit Exception Reports, and these generators are already required to have an EPA ID number and, with today's rule, are now required to have a registered user (see

section II.C for further discussion on the requirements for generators to register). To submit electronic Exception Reports, generators will need a registered user with at least Certifier level permissions in the e-Manifest module (a permission level that currently requires identity proofing and an electronic signature agreement).

PCB generators are subject to exception reporting requirements under § 761.217; however, PCB generators are not currently required to obtain an EPA ID number or register for access to e-Manifest. PCB generators, however, who choose to obtain an EPA ID number and register for e-Manifest can also choose to submit electronic Exception Reports through the e-Manifest system. In lieu of having an EPA ID number and a registered user, a PCB generator must continue to submit paper reports to the EPA Regional Administrator.

EPA is persuaded by comments asserting that EPA should take this opportunity to streamline the exception reporting timeframes and remove unnecessary complexity in the regulations. The Agency believes that a uniform exception reporting timeframe for all generators, regardless of their status (*i.e.*, LQG, SQG), would benefit all parties. Therefore, EPA is amending the proposed timeframes for which an LQG or PCB generator must initiate contact with other parties on a manifest to determine the status of the waste shipment. The finalized revisions under §§ 262.42(a)(1) and 761.217(a)(1) for LQG and PCB generators, respectively, state that the generator must contact the transporter and/or the owner or operator of the designated facility within 45 days to determine the status of the hazardous waste after not receiving a final copy of the manifest. This is an additional 10 days beyond the proposed 35-day requirement. (SQGs are not subject to this requirement in the existing regulations.) The final 45/60-day timeframes for LQGs and PCB generators provide additional time for the receiving facility to submit final copies of the manifest to the e-Manifest system and for the EPA paper processing center to enter the paper manifest, if necessary, in order for the generator to receive its final copy. The 45/60-day timeframes also serve to simplify the exception reporting regulations for generators: all generators must submit an Exception Report after 60 days. EPA has also made a conforming change to §§ 262.42(c)(2) and 761.217(b)(2) to reflect the 45/60-day timeframe. EPA notes that the Agency is not delaying compliance of the new 45/60-day exception reporting timeframes for LQGs and PCB

generators to submit Exception Reports. Thus, these new timeframes shall apply on the final rule's effective date, January 22, 2025.

E. Discrepancy Report Requirements

1. Background

The regulations governing manifest discrepancies are at §§ 264.72, 265.72, and 761.215. The manifest form enables the receiving facility to flag several types of "discrepancy" events on the manifest. Under the existing regulations and on the manifest form, the designated facility must check boxes in the discrepancy field (Item 18) when the designated facility finds or produces one of these shipment irregularities:

- Significant differences in the quantity of waste shown on the manifest as having been shipped, and what the designated facility determines to have been received. By regulation, significant quantity discrepancies occur when there is any variation in piece count (*e.g.*, four drums received instead of five), as well as when there is a variance of 10% or more by weight for any bulk or batch wastes shipped on a manifest.

- Significant differences between the type of waste shown as shipped and what the designated facility received. Significant type discrepancies are defined as obvious differences which can be discovered by inspection or waste analysis, such as a solvent substituted for an acid, or toxic constituents that were not listed on the manifest.

- A full rejection by the designated facility of an entire waste shipment, which typically occurs when the materials received do not meet the facility's waste acceptance criteria, or, when the facility lacks the capacity to manage the waste.

- A partial rejection of waste, which occurs when a facility rejects some portion of the wastes shipped to it on the manifest but accepts some other portion at its facility.

- Container residues, meaning that the facility could not remove all the waste from a container (*e.g.*, drum or rail car), and the amount that remains in the container is sufficient to cause the residue to be considered a regulated hazardous waste.¹³

While five types of discrepancies can be checked off on the manifest form, only significant discrepancies in quantity and type are treated as major irregularities requiring additional,

separate reporting requirements. The RCRA regulations refer to these reporting requirements as Discrepancy Reports. Under the existing Federal regulation, §§ 264.72, 265.72, and 761.215 provide a two-step process for handling significant quantity and type discrepancies in hazardous and PCB waste shipments, respectively. First, upon discovering a significant quantity or type discrepancy, the receiving facility must attempt to reconcile the discrepancy with the generator or transporter. Second, if the significant discrepancy remains unresolved on the date 15 days after receipt of the waste, the receiving facility must immediately send a letter to the EPA Regional Administrator or to the authorized State describing the discrepancy and attempts to reconcile it. This letter report must also include a copy of the manifest at issue.

During the June 2019 Advisory Board meeting, the Advisory Board recommended that EPA integrate Discrepancy Reports into the e-Manifest system. EPA accepts the Advisory Board's recommendation and believes integration of Discrepancy Reports in the e-Manifest system would reduce paperwork burden and may incentivize users to transition to fully electronic or hybrid manifests by increasing the value of the system. Accordingly, in the NPRM, EPA proposed two changes related to Discrepancy Reports.

2. What EPA Proposed on This Issue: Discrepancy Reports

In the NPRM, EPA proposed changes to integrate Discrepancy Reports with the e-Manifest system by adding requirements under §§ 264.72(c) and 265.72(c) (Hazardous Waste) and 761.215(c) (PCBs) that would address the legal equivalency of the electronic reports to the written, paper reports and allow for electronic discrepancy reporting for wastes shipped on electronic or hybrid manifests. The proposed new §§ 264.72(c)(1) and (2), 265.72(c)(1) and (2), and 761.215(c)(1) and (2) establish that wherever the existing regulations require a Discrepancy Report to be completed, signed, and sent to the EPA Regional Administrator (or the authorized State), the execution of an electronic Discrepancy Report in the national e-Manifest system would be deemed to comply with the requirements to complete, sign, provide, send, or otherwise use the Discrepancy Report.

EPA proposed to allow electronic reporting of Discrepancy Reports to all manifest types, including paper manifests (which are submitted to the system as image only or image plus

data) and electronic manifests. EPA believes this approach is appropriate for discrepancy reporting because Discrepancy Reports must be completed by receiving facilities, and receiving facilities already are registered in the e-Manifest system, *e.g.*, for billing purposes.

However, EPA acknowledged in the NPRM the challenges with electronic discrepancy reporting for paper manifests. The existing regulations currently require receiving facilities to submit final, signed manifests to EPA, or the authorized State, within 30 days after a shipment is received. In addition, time is needed for EPA's PPC to process paper manifests, which can be extended due to data quality and submission errors. Consequently, facilities may be unable to submit the final, signed paper manifests to the e-Manifest system until past the 15-day discrepancy reporting timeframe in the existing regulations. A receiving facility then would be required to submit a written report to the EPA or State. To mitigate this issue, EPA proposed revisions to §§ 264.72(c) and 265.72(c) to adjust the current 15-day reporting timeframe for significant discrepancies to allow receiving facilities up to 20 days to reconcile a shipment with the generator and/or transporter for such discrepancies. EPA's proposed timeframe is also consistent with the average number of days that pass before receiving facilities upload copies of paper manifests to the e-Manifest system. The proposed 20-day timeframe would begin at the date of receipt of the shipment by the receiving facility and would apply to users of both paper and electronic manifests.

EPA requested comment on whether EPA should limit electronic discrepancy reporting only to electronic manifests (*i.e.*, fully electronic or hybrid). EPA also requested comment on other approaches that should be considered for electronic discrepancy reporting associated with digital copies of paper manifests.¹⁴

EPA also requested comment on an alternate approach that would eliminate the requirement to submit Discrepancy Reports altogether, and instead, address discrepancy events through the e-Manifest corrections process. Under this approach, receiving facilities or EPA's PPC would upload/enter discrepancies identified under Item 18. Generators would receive alerts regarding Item 18 discrepancies, review the final manifest in e-Manifest, and submit post-receipt manifest corrections. Thus, disagreements would be worked out by handlers via the current e-Manifest

¹³ The Federal RCRA regulation at 40 CFR 261.7 specifies criteria for determining when a container is "empty" or when the residues are sufficient to render them non-empty and thus regulated hazardous wastes.

¹⁴ 87 FR 19290 at page 19305.

corrections process in lieu of a formal Discrepancy Report to Federal or State regulators. All manifest corrections would be available to regulators through e-Manifest.

3. Description of Public Comments: Discrepancy Reports

Most commenters supported the Agency proposal to integrate Discrepancy Reports with the e-Manifest system to allow receiving facilities to fulfill their discrepancy reporting requirement electronically. Commenters stated that such changes would help to facilitate more effective communication between the receiving facility and the generator. Another commenter remarked that electronic Discrepancy Reports would be more efficient and fulfill all the environmental protection needs currently met by hard copy reports. Most commenters opposed limiting electronic Discrepancy Reports to only manifests that originated in the e-Manifest system (fully electronic and hybrid manifests). Commenters reasoned that receiving facilities have all the necessary information available in their systems, regardless of the manifest submission type, and should be able to file Discrepancy Reports electronically.

Two commenters supported the alternate proposed approach of eliminating formal Discrepancy Reports and, instead, relying solely on the e-Manifest corrections process to address discrepancies. These commenters reasoned that such an approach would reduce reporting burdens, and the corrections process is well suited to track and resolve discrepancies as receiving facilities already use the corrections process to address most discrepancies. The commenter also remarked that eliminating the Discrepancy Reports underscores the need for EPA to require generators to register with the e-Manifest system and delivers benefits to both State agencies and the regulated community. One of the two commenters that generally supported the alternate approach to eliminate formal discrepancy reporting also concluded that the approach does not address scenarios in which disagreements cannot be resolved by the relevant waste handlers.

Two commenters opposed the alternate approach to eliminate discrepancy reporting. One opposing commenter reasoned that discrepancy corrections must be easily identified, tracked, investigated, and evaluated by State and EPA enforcement personnel and a requirement for a formal acknowledgement of discrepancies should be retained. The other

commenter urged EPA not to adopt the alternate approach stating that Discrepancy Reports serve a vital function of indicating critical compliance issue(s) with the generator or receiving facility and often serve as a clue of improper waste management or shipment of hazardous waste to facilities that cannot safely handle it. This commenter also stated that the alternate approach would cause regulatory agencies to spend considerable time and effort searching the e-Manifest system for numerous manifest corrections to determine if any indicate a larger compliance or systemic issues and could result in many hazardous waste management problems going unresolved.

Commenters generally supported the Agency's proposal to allow receiving facilities an additional 5 days to submit electronic Discrepancy Reports to the e-Manifest system. One commenter supported EPA's proposal to allow up to 20 days to reconcile discrepancies stating that the extra 5 days would allow for much needed extra time to resolve issues with unresponsive generators. The commenter requested that EPA clarify that the requirement is measured in calendar days, not business days.

Another commenter stated concern that some TSDF permits have a 15-day timeline incorporated into the permit conditions, potentially creating a reporting conflict with the proposed 20-day timeline. The commenter requested a transition period be created requiring permitted facilities to adhere to their current permit requirements until such time as the permit is modified or renewed to incorporate the new manifest discrepancy reporting timeframe.

4. Discussion of Final Rule: Discrepancy Reports

EPA appreciates the numerous comments favoring integration of Discrepancy Reports into e-Manifest to allow receiving facilities to submit reports electronically. In this final rule, EPA is finalizing most of the proposed revisions and additions to §§ 264.72(c), 265.72(c) (Hazardous Waste) and 761.215(c) (PCB Waste). This final rule modifies existing paragraph (c) of those sections by requiring that a receiving facility must submit a Discrepancy Report to the e-Manifest system in lieu of submitting written reports to Federal or State regulatory agencies. This requirement applies to both paper and electronic manifests. EPA is delaying implementation of the electronic discrepancy requirements under §§ 264.72(c) and 265.72(c) for Federal or State-regulated hazardous waste and

under 761.215(c) for TSCA PCBs for electronic discrepancy reporting until December 1, 2025. Prior to December 1, 2025, receiving facilities of Federal or State-regulated hazardous waste and commercial disposal or storage facilities of TSCA PCB waste must continue to supply Discrepancy Reports directly to EPA Regional Administrators or authorized States via postal mail., Beginning on December 1, 2025, however, TSDFs must comply with the electronic reporting requirements in this final rule. Beginning December 1, 2025, receiving facilities of RCRA Federal or State-regulated hazardous waste and commercial disposal or storage facilities of TSCA PCB waste must submit Discrepancy Reports directly in EPA's e-Manifest system. Beginning December 1, 2025, these facilities will no longer have the option to supply written, paper Discrepancy Reports to the EPA Regional Administrators or authorized States via postal mail.

EPA is also revising the timeframe requirement under paragraph (c) from 15 days to 20 days after receipt of shipment for when Discrepancy Reports must be submitted by the receiving facility. EPA agrees with commenters who support the proposed extension in timing to more align with typical timeframes needed by receiving facilities to upload final paper manifests to EPA's e-Manifest system. In response to a comment requesting that EPA clarify whether we mean 20 calendar days or business days, EPA confirms that the 20-day period in this regulation means 20 calendar days. The 20-day timeframe would begin at the date of receipt of the shipment by the receiving facility. This timeframe applies to users of both paper and electronic manifests. EPA notes that the Agency is not delaying compliance of the new 20-day timeframe for receiving facilities to submit Discrepancy Reports. Thus, this new discrepancy reporting timeframe will apply on the final rule's effective date, January 22, 2025.

Receiving facilities that are required in their permit to submit Discrepancy Reports 15 days after receipt of shipment must continue to comply with that 15-day timeframe unless or until their permit is modified.

EPA notes that the revisions and additions to paragraph (c) do not change the manifest discrepancy reconciliation procedures specified in paragraph (c). Thus, upon discovering a significant difference in quantity or type for Federal hazardous and PCB waste and State-only regulated waste shipments, the owner or operator of the receiving facility must attempt to reconcile the discrepancy with the generator or

transporter by the timeframe specified under §§ 264.72(c) and 265.72(c) for hazardous waste shipments and 761.215 for PCB shipments. If a facility must prepare a Discrepancy Report for an irregular shipment using a paper manifest, the facility must upload the image file of the top copy of the manifest (Page 1 of the new manifest form) and must provide an explanation in EPA's e-Manifest system detailing the efforts taken to reconcile the manifest discrepancy(s). The Discrepancy Report will include the manifest tracking number so that the report can be connected to the manifest when submitted prior to the paper manifest submission deadline. EPA notes that Discrepancy Reports submitted in this manner satisfy the discrepancy reporting requirements under §§ 264.72(c), 265.72(c), and 761.215(c). However, the e-Manifest PPC will not process the image file of the paper manifest used for the Discrepancy Report. To satisfy the paper submission requirement for hazardous waste and PCB waste under sections §§ 264.71(a)(2)(v)(B), 265.71(a)(2)(v)(B), and 761.213(a)(2)(v), respectively, facilities must still upload the image file of the manifest and any continuation sheet, or upload both a data file and the image file corresponding to the manifest and any continuation sheet within 30 days of delivery of the waste shipment. For fully electronic and hybrid manifests, the receiving facility will be able to use the information already in the e-Manifest system to fill out the electronic Discrepancy Report. The e-Manifest system will make Discrepancy Reports available to State and EPA personnel through RCRAInfo upon completion.

This final rule does not codify the proposed addition of paragraphs (c)(1) through (4) under §§ 264.72 and 265.72. These proposed provisions prescribed the conditions under which electronic Discrepancy Reports are the full legal equivalent of written, paper Discrepancy Reports and satisfy record retention requirements for all RCRA purposes. As explained above, this final rule removes the existing requirements under which receiving facilities can supply Discrepancy Reports directly to EPA or States via postal mail. However, unlike Exception Reports, there is no separate recordkeeping requirement for receiving facilities to keep these reports. Therefore, the proposed additions of paragraphs (c)(1) through (4) are no longer needed. EPA notes that the revisions to paragraph (c) do not change the manifest discrepancy reconciliation procedures specified in paragraph (c).

EPA is also making conforming changes to the discrepancy reporting requirement under part 270, subpart C regarding RCRA permits (40 CFR 270.30(l)(7)). EPA did not propose changes to § 27.30(l)(7) in the NPRM. However, as explained above, this final rule revises the manifest discrepancy requirements under § 264.72. Therefore, this final rule makes conforming changes to the manifest discrepancy requirements under § 270.30(l)(7) so that they are consistent with the revisions to § 264.72(c) regarding the conditions under which the permitted facility must submit Discrepancy Reports to EPA via the EPA e-Manifest system in lieu of supplying hard copy reports to Federal or State regulatory agencies via postal mail.

In the final rule, EPA is not persuaded by comments supporting adoption of the alternative approach that would eliminate the requirement for Discrepancy Reports altogether. As mentioned previously, the alternative approach would address/resolve significant discrepancy events through the current e-Manifest manifest data corrections process in lieu of a formal Discrepancy Report to Federal or State regulators. EPA accepts State commenters' opposition to the alternative particularly the one State commenter who asserted that the e-Manifest corrections process does not fulfill the necessary requirements for all scenarios that the Discrepancy Report supports, such as when the generator and receiving facility cannot come to an agreement through the e-Manifest corrections process. EPA agrees with State commenters that asserted, in these instances, the Discrepancy Report acts as a crucial piece of evidence for State and Federal regulators. EPA also accepts one State commenter's concern that superseding the Discrepancy Report with the alternative approach would cause regulatory agencies to spend considerable time and effort searching the e-Manifest system for numerous manifest corrections to determine if any indicate a larger compliance or systemic issue and may result in many hazardous waste management problems going unresolved. Therefore, EPA is not eliminating the manifest Discrepancy Report.

F. Unmanifested Waste Report Requirements

1. Background: Unmanifested Waste Reports

If a receiving facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or

without an accompanying shipping paper, and is not excluded from the manifest requirements, then the owner or operator must prepare and submit an Unmanifested Waste Report to EPA. Under the existing regulations, the Unmanifested Waste Report must be submitted within 15 days of receipt and contain all the information required under §§ 264.76(a)(1) through (7) and 265.76(a)(1) through (7).

In their recommendations from the June 2019 Advisory Board meeting, the Advisory Board recommended that the Agency also integrate Unmanifested Waste Reports into the e-Manifest system, in addition to the previously discussed Exception and Discrepancy Reports, as a method to incentivize electronic manifest adoption. The Discrepancy, Exception, and Unmanifested Waste Reports generally serve similar purposes and are all required when specific, unresolved problems or irregularities occur to waste shipments that are subject to manifesting. However, electronic reporting in the e-Manifest system for unmanifested waste shipments presents unique implementation issues that do not arise with the other reports.

Unlike manifested shipments that require Discrepancy or Exception Reports, there is no existing manifest in the system, or on paper, when an unmanifested report is required. The system cannot readily accommodate electronic Unmanifested Waste Reports, like it can Discrepancy Reports and Exception Reports, because there is no existing manifest data captured in the e-Manifest system that can support flagging, tracking, and follow-up actions. In addition, EPA must determine whether a user fee is required for the manifest that was required for the unmanifested shipments.

2. What EPA Proposed on This Issue: Unmanifested Waste Reports

EPA proposed to revise §§ 264.76 and 265.76 for hazardous waste and 761.216 for PCB waste submissions of Unmanifested Waste Reports by the receiving facility. Under the proposed regulations, EPA would accept only electronic submissions of Unmanifested Waste Reports; written, hard copy reports would no longer be accepted. These proposed revisions would require an electronic reporting format that would be very similar to the current electronic form for manifests, except that the receiving facility would not be expected to complete all the fields currently required on the manifest.

For the electronic Unmanifested Waste Report, receiving facilities would submit the generator information,

similar to what is currently required on manifests (*i.e.*, Items 1, 5, and 10 thru 13), if available; the transporter information (*i.e.*, Items 6 and 7), if available; and the receiving facility information (*i.e.*, Items 8 and 19) to the e-Manifest system. The receiving facility would be required to provide the density or specific gravity information for a waste if it is reporting volumetric measures (gallons, liters, or cubic yards). Finally, the receiving facility must provide a brief explanation of why the waste was unmanifested, if known, as well as a certification by the owner/operator of the facility or authorized representative. Receiving facilities would not be expected to obtain generator signatures (Item 15 of the manifest) nor transporter signatures (Item 17 of the manifest), nor would they be expected to provide the DOT shipping description of the waste, which would normally appear in Items 9a and 9b (*i.e.*, the identification number, the proper shipping name, the hazard class or division number, and the packing group). Upon completion of the electronic Unmanifested Waste Report, the e-Manifest system would distribute the electronic report to the appropriate EPA Regional Administrator (or appropriate authorized State). Thus, submission of the Unmanifested Waste Report would be completed electronically in lieu of written reports to Federal or State regulatory agencies; hard copy reports would no longer be an option for submission to EPA or the States.

EPA requested comment on whether Unmanifested Waste Reports should incur a user fee, equivalent to the user fees for electronic manifests, that would be applicable to receiving facilities for each submission of an Unmanifested Waste Report. Specifically, EPA proposed to modify §§ 264.76, 265.76, and 761.216 by adding new paragraph (b) to assess a user fee on a per report basis that is electronically signed and submitted to the e-Manifest system by receiving facilities. The Agency noted that receiving facilities are already required to register and set up a billing account for the submission of manifests to the e-Manifest system. The Agency also noted that unmanifested waste shipments would have incurred a user fee had the shipment used a manifest in compliance with the RCRA regulations and thus imposing a user fee for unmanifested wastes would not impose any new burden.

3. Description of Public Comments: Unmanifested Waste Reports

Commenters generally agreed with the Agency's proposal to accept only

electronic submissions of Unmanifested Waste Reports; however, some did not agree with the Agency's approach to completely eliminate a paper version of the report. Commenters who favored electronic report submission believed that the integration would aid the accuracy and completeness of the e-Manifest system's data. Commenters that did not support the Agency's proposal noted that confining the submission of Unmanifested Waste Reports to electronic format would likely not support all edge cases (scenarios outside normal use cases where problems may arise), such as instances where an unmanifested shipment was sent to a destination that was not a permitted receiving facility (and therefore would not be registered in the RCRAInfo Industry Application with a billing account).

Commenters provided varying support for implementing a user fee for the electronic submissions of Unmanifested Waste Reports. Two commenters stated that a user fee would disincentivize receiving facilities from submitting reports, and reports would often simply go unmade. One commenter stated that the receiving facility should be allowed, but not required, to create a manifest, identifying the generator and transporter(s) if known instead of a submitting a report. Another commenter opposed a user fee requirement, stating that many of the incurred user fee costs to the receiving facility are often passed onto the generator, often at a marked-up rate.

4. Discussion of Final Rule: Unmanifested Waste Reports

EPA appreciates input it has received on whether the Agency should integrate the Unmanifested Waste Report into the e-Manifest system in lieu of written, hard copy reports. EPA believes that eliminating written, hard copy Unmanifested Waste Reports will alleviate the burden associated with processing and will aid e-Manifest users by providing a more accurate and complete picture of hazardous waste shipments. Therefore, the Agency is finalizing revisions in section §§ 264.76 and 265.76 for hazardous waste and 761.216 for PCB wastes that will require all Unmanifested Waste Reports to be submitted electronically through the e-Manifest system, as proposed in the NPRM.

However, like the electronic exception and discrepancy reporting requirements, EPA is delaying implementation of the electronic unmanifested waste discrepancy requirements under §§ 264.76(b) and

265.76(b) for Federal or State-regulated hazardous waste and under 761.216(b) until December 1, 2025. Prior December 1, 2025, receiving facilities of Federal or State-regulated hazardous waste and commercial disposal or storage facilities of TSCA PCB waste must continue to supply Unmanifested Waste Reports directly to EPA Regional Administrators or authorized States via postal mail. On December 1, 2025, regulated entities must comply with the electronic reporting requirements in this final rule. Beginning December 1, 2025, receiving facilities of RCRA Federal or State-regulated hazardous waste and commercial disposal or storage facilities of TSCA PCB waste must submit Unmanifested Waste Reports directly in EPA's e-Manifest system. Beginning December 1, 2025, these facilities will no longer have the option to supply written, paper Unmanifested Waste Reports to the EPA Regional Administrators or authorized States via postal mail.

EPA acknowledges comments that did not support eliminating paper versions of the Unmanifested Waste Reports, but EPA believes that the commenters' concerns are addressable. Regarding one commenter's concern for unsupported edge cases, the Agency expects that the number of edge case instances will represent a small portion of the unmanifested shipments. EPA estimates that approximately 491 Unmanifested Waste Reports need to be filed every two years. The Agency believes that the number of Unmanifested Waste Reports that cannot be submitted electronically, for example, the edge case scenario described by the commenter, can be directly managed by EPA.

EPA is finalizing the procedures for submitting electronic Unmanifested Waste Reports through the e-Manifest system under §§ 264.76(a), 265.76(a) and 761.216(a) for hazardous waste and PCB waste shipments, respectively. As explained in the NPRM, the electronic Unmanifested Waste Report requires an electronic reporting format that is very similar to the current electronic form for manifests. The report includes information on the handlers involved (generator, transporter, receiving facility), the date the waste was received, management method, in addition to a brief explanation of why the waste was unmanifested, if known, and a certification by the owner or operator of the receiving facility.

The Agency is persuaded by comments that assessing a user fee for the electronic submission of Unmanifested Waste Reports would disincentivize receiving facilities from submitting these reports. Based on the

FY2024/2025 manifest usage projections, EPA estimates the e-Manifest system will process 4,909,578 manifests during the two-year fee cycle. EPA also estimates that approximately 0.01% of waste shipments will require an Unmanifested Waste Report (approximately 491 reports for the FY2024/2025 fee cycle). In the NPRM, EPA proposed requiring user fees that are equivalent to the user fees for electronic manifests; the FY2024/2025 user fee for an electronic manifest is \$6 per manifest. As a result, the EPA projects that approximately \$2,946 would be collected in revenue over two years if the Agency finalized the proposal to collect user fees for electronic Unmanifested Waste Reports. The relatively small number of unmanifested shipments and the resulting negligible impact on revenue will not affect the Agency's ability to recover the full cost of operating the e-Manifest System. The Agency also believes that incentivizing the submission of Unmanifested Waste Reports, and the resulting benefits for the quality of e-Manifest data, far outweigh the small potential uncovered costs. Therefore, EPA is not finalizing a user fee for Unmanifested Waste Reports.

EPA is also making conforming changes to the unmanifested waste reporting requirement under part 270, subpart C regarding RCRA permits (40 CFR 270.30(l)(8)). EPA did not propose changes to § 270.30(l)(8) in the NPRM. However, as explained above, this final rule revises the Unmanifested Waste Report requirements under § 264.76. Therefore, this final rule makes conforming changes to the manifest unmanifested waste report requirements under § 270.30(l)(8) so that they are consistent with the revisions to § 264.76(a) regarding the conditions under which the permitted facility must prepare an electronic Unmanifested Waste Report in the EPA e-Manifest system for submission to the EPA within 15 days after receiving the waste.

G. International Shipment Requirements

1. What EPA Proposed on This Issue: International Shipment Requirements

EPA proposed revisions to the export and import shipment movement document-related requirements to more closely link the manifest data with the movement document data (see 87 FR 19290; April 1, 2022. See pages 19300–19301). The proposed changes would also enable future linking of the manifest data with the confirmation of receipt and confirmation of recovery or disposal for an individual export or

import shipment. On January 18, 2022, EPA transitioned WIETS to a module integrated within the RCRAInfo Industry Application (RCRAInfo WIETS) that allows more efficient data sharing between WIETS and the other modules and improved access by State agencies and the public to export and import final data. The RCRAInfo WIETS module currently includes industry-created and submitted export notices, import notices, and export annual reports; allows for EPA review and processing of such submittals; and an Application Programming Interface-based electronic exchange of notice and response data with Mexico and Canada. The next stage of RCRAInfo WIETS development intends to add functionality to enable the establishment of an electronic import-export reporting compliance date discussed in the November 28, 2016, final rule revising hazardous waste import and export requirements (81 FR 85700). Once the second stage is fully completed, EPA intends RCRAInfo WIETS to include the additional electronic documents such as: export confirmations of receipt, export Exception Reports, export confirmations of recovery or disposal, import confirmations of receipt, receiving facility notifications of the need to arrange alternate management or the return of an import shipment, and import confirmations of recovery or disposal. Lastly, EPA proposed revisions that reflect potential future electronic data exchange of movement document data, confirmation of receipt data, and confirmation of recovery or disposal data between the U.S. and another country such as Canada. Should such an electronic data exchange agreement be established, facilities in both countries could utilize the exchange to transmit required data more efficiently (see 87 FR 19290; April 1, 2022. See page 19301).

2. Description of Public Comments: International Shipment Requirements

Two commenters expressed support for EPA's proposed revisions to the export and import shipment movement document-related requirements to more closely link the manifest data with the movement document data. No commenters opposed the proposed requirements.

One of the commenters expressed support for EPA's proposal to capture international shipment information and to assign roles and responsibilities, reasoning that incorporating this information into the system would complete the shipment records for both industry and regulatory users of the

system and simultaneously increase its utility for both groups. The other commenter stated support for: (1) Revisions to require the movement document to list the RCRA manifest tracking number from Item 4 of the manifest form if the shipment is required to be manifested while being transported in the U.S. and (2) revisions to add the unique movement document tracking number as an acceptable alternative to listing the shipment number and total number of shipments for the EPA AOC or the foreign export permit number on the generic movement document. This commenter, however, suggested EPA provide industry with a reasonable amount of time to make changes in their data management systems. The commenter also requested that industry be allowed to use their current paper forms until the supplies are exhausted. The same commenter stated that the bulk of imports and exports of hazardous wastes occurs between Canada and the United States, and therefore recommended that the Canadian system be responsible for submitting the confirmation of receipt and confirmation of recovery or disposal for each export shipment after a data exchange was established. The commenter supported establishing a data exchange for shipments between the U.S. and Canada. Lastly, the commenter supported requiring U.S. receiving facilities to submit confirmations of receipt and confirmations of recovery or disposal to EPA using RCRAInfo WIETS but cautioned that this will only be possible if EPA ensures that the compliance dates do not go into effect until the industry application in RCRAInfo for submittal of such confirmations and the data exchange are operational.

3. Discussion of Final Rule: International Shipment Requirements

In today's action, EPA is finalizing the proposed revisions to §§ 262.83(d)(2)(i) and 262.84(d)(2)(i) to require the movement document to list the RCRA manifest tracking number from Item 4 of the manifest if the shipment is required to be manifested while being transported in the United States. Additionally, since Canadian movement documents have unique tracking numbers similar to manifest tracking numbers, EPA is finalizing its proposed revisions to §§ 262.83(d)(2)(ii) and 262.84(d)(2)(ii) to add the unique movement document tracking number as an acceptable alternative to listing the shipment number and total number of shipments from the EPA Acknowledgement of Consent (AOC) or

the foreign export permit on the generic movement document available at <https://www.basel.int/Procedures/NotificationMovementDocuments/tabid/1327/Default.aspx>.

Parallel to the manifest submittal requirements, EPA is also finalizing the proposed revisions to §§ 262.83(d)(2)(xv) and 262.84(d)(2)(xv) to require the exporter and U.S. receiving facility to submit a copy of the signed movement document to WIETS. Exporters are required to submit the copy to WIETS within three days of receiving the copy from the foreign facility, and U.S. receiving facilities would be required to submit the copy to WIETS within three days of shipment delivery to confirm receipt of the shipment for shipments occurring on or after the electronic import-export reporting compliance date. Revised § 262.83(d)(2)(xvi) requires exporters to submit a copy of the signed confirmations of recovery or disposal that it receives from the foreign receiving facility to WIETS within three days of the exporter's receiving the copy of the signed confirmation of recovery or disposal for shipments occurring on or after the electronic import-export reporting compliance date. To reflect the possible establishment of an electronic exchange of shipment tracking data with another country like Canada, The EPA is also finalizing the proposed revisions to §§ 262.83(f)(4) and (5), 262.83(f)(6)(ii), 262.84(d)(2)(xv), 262.84(g)(1) and (2), and new § 262.83(d)(2)(xvii) to allow an established data exchange to be used to comply with the transmittal of shipment confirmations for export and import shipments between the exporter or receiving facility and the foreign receiving facility or foreign exporter, respectively, and between the receiving facility and the competent authority for the country of export for import shipments. In parallel, the EPA is finalizing the proposed new requirements §§ 262.83(f)(3)(iii) and 262.84(f)(4)(iii) to allow the use of an established data exchange to comply with the transmittal of notifications across borders concerning the need to arrange for the alternate management or return of an individual shipment for export and import shipments per §§ 262.83(f)(3)(i) and 262.84(f)(4)(i).

Lastly, the EPA is finalizing the following proposed technical corrections and conforming amendment to import and export requirements. First, the EPA is finalizing the proposed revisions to §§ 261.39(a)(5)(v)(B) and (a)(5)(xi), 262.83(a)(6) and (g), and 263.20(g)(4) to reflect that the AES compliance date of December 31, 2017

(which was specified in an announcement in a **Federal Register** notice dated August 28, 2017 (82 FR 41015)) has passed and requirements concerning shipments made prior to that date no longer apply. Next, the EPA is finalizing the proposed revisions to § 262.84(b)(1) to reflect that all import notices are submitted electronically using WIETS at this time. Electronic import notices have made EPA's processing more efficient and allows importers and receiving facilities to store and download EPA AOC letters and import consent documentation within WIETS rather than keeping paper copies for recordkeeping on site. Additionally, the EPA is finalizing the proposed revisions to the text in §§ 261.6(a)(3)(i)(A) and (B) and 262.20(a)(2) to reflect that part 262, subparts E and F no longer exist as of December 31, 2016, and part 262, subpart H now applies. The EPA is also finalizing the proposed revisions to §§ 262.83(d)(2)(xv), (f)(4) and (5), (f)(6)(ii), and 262.84(d)(2)(xv), (g)(1) and (2) to clarify that confirmations of receipt and confirmations of recovery or disposal for export and import shipments are only required to be sent to the competent authorities of the countries that control such shipments as exports, transits, or imports of hazardous wastes, consistent with existing text in §§ 264.12(a)(2) and (4) and 265.12(a)(2) and (4). EPA is also finalizing the proposed revisions to §§ 261.4(a)(25)(i)(A) and (H), 261.39(a)(5)(i)(A) and (F), 262.83(b)(1)(i) through (iv), (b)(3), (d)(2)(iii) through (v), (viii) and (ix), 262.84(b)(1)(i) through (iv), (b)(2), (c)(1)(i), (d)(2)(iii) through (v), (viii) and (ix), to specify the listing of the site address in notices, manifests and movement documents in place of the existing requirement to list "address" in order to facilitate country review of the documents. The EPA also finalizing the proposed revisions to §§ 260.2(d)(1) and (2) and 261.4(a)(25)(v) to make hazardous secondary material export documents prepared, used, and submitted under § 261.4(a)(25) available to the public when these electronic documents are considered by the EPA to be final documents which is March 1 of the calendar year after the related hazardous secondary material exports occur. The EPA is finalizing this conforming change to make hazardous secondary material exports, reinstated as part of the EPA's response to vacatur of certain provisions of the definition of solid waste rule effective May 30, 2018 (83 FR 24664), consistent with the EPA's earlier rule regarding confidentiality

determinations related to all exports, imports or transits of hazardous waste and exports of conditionally excluded materials (*i.e.*, cathode ray tubes) subject to export, import, or transit requirements (82 FR 60894) when the final rule was published on December 26, 2017.

The compliance date for the electronic submittal of confirmations of receipt and confirmations of recovery or disposal to the EPA by the U.S. exporter for completed export shipments and by the U.S. receiving facility for completed import shipments is defined in the regulations as the "electronic import-export reporting compliance date" that will be established in a future **Federal Register** document. The date will not be established until the industry application in RCRAInfo for such submittals is operational. The electronic import-export reporting compliance date is separate from the future establishment of a data exchange with Canada, although such an exchange would facilitate future submittals related to shipments with Canada. Since December 31, 2016, U.S. exporters have been required to receive confirmations of receipt and confirmations of recovery or disposal from the foreign receiving facilities, and U.S. receiving facilities have been required to send out confirmations of receipt and confirmations of recovery or disposal to the foreign exporter and relevant countries of export and transit. Additionally, while many exports are shipped to Canada, exports of hazardous waste are also shipped to other countries, so the requirements need to be implementable regardless of the destination country. The U.S. exporter and U.S. receiving facility will therefore need to submit the confirmations into RCRAInfo WIETS on the electronic import-export reporting compliance date once it has been established. If, and when, a country-to-country data exchange is established for shipment tracking, the regulations will allow use of the exchange to meet the transmittal requirements more efficiently between the two countries. Lastly, there is no required movement document form, so use of older forms is not prohibited so long as all the required data items are included.

H. Manifest Data Corrections

1. Background: Manifest Data Corrections

Since launching the e-Manifest system in June 2018, the EPA has collected more than 9,000,000 manifests in e-Manifest. Since that time, EPA has identified data quality issues associated

with paper manifests submitted to the EPA that reduce the overall effectiveness of the system. Paper manifests submitted to the e-Manifest system often have inaccurate or missing EPA ID numbers and errors in the manifest tracking number. Manifest errors also occur during the paper digitization process while converting the paper manifests to digital format for submission. These errors may be due to typographical errors or illegible information on the paper manifest that result in major discrepancies between the hazardous waste shipment and what is reflected in the e-Manifest system. Other data issues arise when industry systems upload manifest data that do not match the image file of the paper manifest; in this case, it's difficult to tell if there is an error or not and whether the error lies with the data upload or image file.

EPA established post-receipt manifest data correction requirements in the January 2018 User Fee Final Rule.¹⁵ The post-receipt data correction procedures for generators, transporters, and permitted and interim treatment, storage, and disposal facilities are found in §§ 262.24(h), 263.20(a)(9), 264.71(l), and 265.71(l), respectively. Based on certain revisions made under this final action, these regulations state that, after facilities have certified that the manifest is complete, by signing it at the time of submission to the e-Manifest system, any post-receipt corrections may be submitted at any time by any interested handler (e.g., waste handler) shown on the manifest. These regulations also require that post-receipt corrections be submitted electronically via e-Manifest.

Although EPA established a post-receipt manifest data corrections process, these regulations do not actually require that waste handlers make corrections when errors are identified (i.e., the regulations state corrections "may be" submitted). Consequently, waste handlers have often refused requests from EPA or States to correct errors. As a result, the quality of manifest data captured in the system has been adversely impacted to some extent.

EPA believes that several of these types of data errors pre-date the e-Manifest system and that use of e-Manifest has simply shone a light on errors that have been associated with paper manifests all along. However, ensuring high data quality is important to EPA and State regulators who rely on e-Manifest for compliance monitoring of waste shipments. EPA continues to believe that widespread adoption of

electronic manifests would be the surest way to improve data quality; however, in the meantime, EPA is focused on addressing errors associated with paper manifests.

2. What EPA Proposed on This Issue: Manifest Data Corrections

EPA requested comment on several issues regarding improvement of the quality of data collected in the e-Manifest system and establishment of mandatory data correction procedures to ensure such improvement. Specifically, the EPA requested comment on whether the post-receipt data corrections procedures should be mandatory. In addition, EPA requested comment on: (1) What types of errors should be required for correction; (2) Should the manifest discrepancies regulated under §§ 264.71, 265.71, 264.72, and 265.72 be subject to mandatory data correction procedures; and (3) Should other types of errors be brought under mandatory correction procedures, such as missing or invalid EPA ID numbers, and, if not, how can EPA more effectively encourage facilities to correct these errors.

EPA also proposed post-receipt manifest data procedures for export manifests and PCB manifests under §§ 262.83(c)(8) and 761.207(g)(2)(v), respectively. These proposed procedures are equivalent to the manifest data corrections procedures for generators, transporters, and receiving facilities established in the 2018 User Fee Final Rule, described above.¹⁶ In addition, EPA proposed and requested comments in the February 2019 **Federal Register** notice and information to improve the precision of waste quantities and units of measure reported in Items 11 and 12 of the hazardous waste manifests (both paper and electronic), respectively.¹⁷ EPA sought additional input and requested comment in the NPRM on these proposals and/or suggestions and also requested comment on whether additional clarification should be added to the manifest's instructions that generators and/or designated facilities must report all waste quantities in Item 11 of the manifest by net weight when they complete the manifest form.¹⁸

3. Description of Public Comments: Manifest Data Corrections

A few State agencies and one State association raised concerns about data quality in the e-Manifest system stating that inaccurately entered data is

pervasive in e-Manifest and inconsistencies between scanned paper manifests and uploaded/entered manifest data are common. These State commenters further asserted that they support the e-Manifest program but have found that its implementation is much more burdensome than initially anticipated. In addition, these commenters stated that State programs have had to invest considerable staff resources in areas including account administration, end user training, quality assurance/quality control (QA/QC) and corrections of the e-Manifest data, work which is not covered by any former task or funding source. They also point out that many State RCRA programs have experienced significant cuts in Federal funding in recent years and have fewer staff resources than ever to conduct the activities that are needed to support an effective hazardous waste management program. According to these commenters, the added work on e-Manifest has stretched limited program resources and may not be sustainable without revisiting funding levels. These commenters stated that EPA should continue to work on fixing the known data quality issues with the current e-Manifest system, reporting and participation issues at some receiving facilities, and other complex cross-state/Region enforcement issues before implementing many of the changes outlined in EPA's proposal (e.g., electronic reporting functions, notifications, BR integration). One industry commenter, however, stated that all data quality concerns would go away if the e-Manifest database is used to produce the BR. This commenter, however, did not elaborate on this viewpoint.

Several State commenters and State associations strongly supported EPA mandating that waste handlers use the post-receipt data corrections process to correct manifest errors. However, one trade association affiliated with the waste management industry opposed making post-receipt data corrections mandatory asserting mandatory post-receipt data corrections should not be required because quality data should be submitted the first time and should not have to be reviewed line-by-line. This commenter further stated that, if there were questions about the manifest, then the EPA PPC should contact the facility.

A few State commenters generally supported making post-receipt corrections mandatory for all errors and inconsistencies between scanned paper manifests and uploaded/entered manifest data, particularly generator and waste information (essentially, everything on a manifest other than

¹⁶ Ibid.

¹⁷ 84 FR 2854; February 8, 2019. See page 2855.

¹⁸ 87 FR 19290; April 1, 2022. See page 19314.

¹⁵ 83 FR 420; January 3, 2018. See page 434.

transporter information). Some State commenters recommended using manifest data corrections procedures for discrepancies in quantities and units of measure, to the extent possible. A few State commenters supported mandatory data corrections procedures for generator EPA ID numbers by the receiving facility to the extent possible. A subset of these commenters suggested an on-screen warning when there is not a valid EPA ID number entered in the generator EPA ID field of a manifest. One State commenter expressed support for mandating corrections process procedures and suggested EPA conduct outreach to the data entry staff of receiving facilities to improve e-Manifest data quality (e.g., training data entry staff to look in Items 1, 14 and 18 on the paper manifest for manifest correction information).

State commenters and State associations overwhelmingly supported making the post-receipt data corrections process mandatory for discrepancy requirements specified under §§ 264.71 and 265.71 (e.g., significant differences in waste quantities or waste types). One State commenter recommended that EPA promulgate data quality requirements for receiving facilities that include making updates and corrections. One trade association representing industry that did not support mandatory use of the post-receipt data corrections process conceded that this manifest discrepancy process should be used for manifest discrepancies of weight or waste type as specified in the regulations.

Commenters were divided on EPA's proposed or alternative changes to the manifest form related to improving precision of waste quantities reported on the manifest. For example, regarding reporting waste quantities using decimals (e.g., allowing use of tenths and hundredths), one State and State association supported the addition of decimals or fractions. These commenters stated use of decimals or fractions would significantly improve the accuracy of data reported, particularly for acute hazardous wastes. These commenters further stated that this improved data quality would save time and reduce workload for both regulators and the regulated community related to manifest corrections, generator category disputes, and the administration of State fee programs. Two commenters (one State and one industry commenter), however, did not support reporting waste quantities using decimals. The industry commenter stated use of decimals or fractions would lead to more data errors, mistaken interpretations of waste

quantities, conflicts with biennial report protocols, and additional programming and quality control costs to States, generators, and receiving facilities. The State commenter stated mandating decimal or fractional reporting, or even allowing it on the manifest, would not bring any further relevant accuracy to the data. Instead, the commenter expressed support for EPA's alternative option to amend the units of measure currently required for the Biennial Report so that they match those for manifests.

Regarding using smaller units of measure, a few industry and State commenters support using smaller units of measure on manifests. These commenters also support amending the units of measure currently required for BR so that the e-Manifest can be used to populate the corresponding fields of the WR Form as part of the Biennial Report.

State and industry commenters support use of net weights on manifest forms. However, a State and State association each noted that they support the use of net weights without the weight of the container in box Item 11 if it is supported by the U.S. Department of Transportation requirements. Another supporting State commenter stated that use of net weight should be mandatory if EPA integrates manifest data into BR reporting. However, this commenter acknowledged that use of net weight should not be required for generators because they typically do not have the capability to measure waste quantities accurately at their sites. One industry commenter recommended that receiving facilities be given the option of reporting the net weight for the final manifest information in the e-Manifest system. This commenter noted that, for bulk shipments, receiving facilities weigh bulk transfer containers upon receipt and subtract the container weight to determine net weight of the hazardous waste. The commenter stated that adding a clarification that when units of weight are used on the manifest for bulk shipments, that the quantity must be net weight is consistent with current practice. However, this commenter noted that, for drum shipments, it is not feasible to weigh each drum and then subtract the weight of the drum which can be metal, fiber, composite, etc. Therefore, for drum shipments it is not possible to report net weight. Finally, one commenter representing the retail industry did not support use of net weight for generators. This commenter noted switching from gross weight to net weight could present challenges for retailers. The commenter further stated that the weight of lab pack drums used to store and transport waste

will vary. Therefore, it would be difficult to determine net weight in many instances. This commenter also recommended that EPA consult with the waste hauling industry for a better understanding of the implications of reporting net or gross weight amounts.

4. Discussion of Final Rule: Manifest Data Corrections

EPA appreciates States' concerns regarding the quality of data currently in the e-Manifest system and agrees that inaccuracy of manifest data reduces overall system effectiveness and prevents proper identification of mismanaged waste. Accurate e-Manifest data allows handlers to easily store and retrieve records, receive automatically updated manifest information, and reduces the time spent producing reports. In addition, accurate data assists EPA and States to make important resource decisions about hazardous waste management. Unfortunately, the effect of tracking Federal and State hazardous wastes using paper manifests will invariably have data quality problems due to varying QA/QC practices of the regulated community. Therefore, EPA strongly encourages handlers to transition from paper manifests to electronic manifests, which are faster, easier, space-saving, and more convenient than paper submissions. Unlike paper manifests, electronic manifests already exist in digital format with built-in data quality checks. Users of the e-Manifest system have immediate access to up-to-date information that can be used when completing electronic manifests.

EPA, however, acknowledges that scant use of electronic manifests causes EPA to require generators, transporters, and receiving facilities using paper manifests to correct data errors/ omissions via the post-receipt data corrections process to satisfy manifest completion requirements under §§ 262.20(a), 263.20(a), 264.71(a), and 265.71(a) for generators, transporters, permitted and interim status facilities, respectively, as well as the manifest instructions corresponding to their copy of the manifest form and, if necessary, the manifest continuation sheet. Therefore, EPA accepts State commenters' recommendations to establish requirements that handlers must correct manifest errors when requested by State regulatory agencies, EPA and/or the EPA PPC.

EPA is not finalizing its proposal or alternative options to improve the precision of waste quantities listed in Items 11 (Total Quantity) and 12 (Units

of Measure) of the manifest form¹⁹ to allow the reporting of decimals or fractions in Item 11 or using smaller units of measure in Item 12 for both paper and electronic manifests.

EPA, however, is not persuaded by some State commenters' recommendations to require receiving facilities to make all corrections to errors/omissions recorded on manifests, including in the generator portion of the manifest form. Generators, transporters, and receiving facilities are all responsible for completing certain portions of the manifest. In fact, the manifest requirements under §§ 264.71(a) and 265.71(a) and/or the instructions for receiving facilities require receiving facilities to complete Items 18–20 of the manifests form and, if necessary, the corresponding data fields of the manifest continuation sheet. The manifest instructions for generators and transporters require them to complete Items 1–15 and Item 17, respectively, of the manifest and if necessary, the corresponding fields of the manifest continuation sheet. For these reasons, this final rule requires receiving facilities to correct errors specified under the manifest discrepancy regulations and manifest instructions. For manifest errors specified by the manifest discrepancy regulations, such errors are found in Items 10–13 of the manifest and per the manifest instructions for receiving facilities are noted under Item 18a and if necessary, under Item 14 (Special Handling Instructions and Additional Information Block) of the manifest. Other errors are found in Item 19 of the manifest. Receiving facilities must also make corrections to errors in this field.

This final rule generally maintains the current post-receipt manifest data corrections process. In fact, after facilities have certified that the manifest is complete, by signing it at the time of submission to the e-Manifest system, any interested persons (e.g., waste handler) named on the manifest may continue to submit voluntarily any post-receipt data corrections at any time, except as described below in this preamble section. Further, there is no limit to the number of corrections that may be entered, and the last submitted correction is presumed valid and accurate unless corrected by a subsequent data correction. The correction submission may relate to an individual record or to an identified batch of records and must be accompanied by a CROMERR-compliant certification that to the person's knowledge and belief, the data as

corrected will cause the affected data records to be true, accurate, and complete. Further, the correction submissions must indicate the record being corrected by its Manifest Tracking Number, the Item Number of the manifest data fields affected by the correction, and for each data field corrected, must show the previously entered data and the data as corrected.

The final rule, however, revises the post-receipt data manifest corrections requirements by adding new provisions under the existing requirements under §§ 262.20(a), 263.20(a)(9), 264.71(l), and 265.71(l) and making conforming changes to the proposed manifest corrections requirements for PCB manifested shipments. (Post-receipt manifest data corrections for PCB manifests under § 761.207(g)(2)(v) are discussed in the next section.) These new provisions require generators, transporters, and receiving facilities to make data correction submissions within 30 days from receipt of a corrections request from EPA or a State. These data correction submissions must be made electronically in the system via the post-receipt data corrections process by following the corrections process described in § 264.71(l). This requirement applies to corrections made to either paper or electronic manifest records. This final rule also revises §§ 262.20(h), 263.20(a)(9), 264.71(l), 265.71(l), and 761.207(g)(2)(v) to clarify that receiving facilities must make mandatory/voluntary post-receipt manifest corrections via the e-Manifest system after they sign the manifest, and any manifest continuation sheet, for purposes of submitting the final manifest to the EPA e-Manifest system. The previous language of the existing requirements incorrectly stated that facilities could make post-receipt manifest corrections after the facility signed Item 20 of the manifest. The signature in Item 20 of a manifest (whether paper or electronic manifests are used) applies to signatures for initial receipt of shipments by receiving facilities and occurs prior to manifest submission to the system. Manifest correction submissions must be transacted using a CROMERR-compliant certification that to the person's knowledge and belief, the data as corrected will cause the affected data records to be true, accurate, and complete.

This final rule also makes conforming changes to the proposed manifest data corrections requirement for exporters under § 262.83(c)(8). Like the manifest data corrections process for domestic and import manifests, post-receipt data corrections for export manifests may be

submitted at any time by any interested person (e.g., domestic waste handler) shown on the manifest. The distinction between export and domestic and imports shipments is the voluntary corrections for export shipments must be made after foreign facilities have certified to the receipt of hazardous wastes by sending a copy of the movement document to the exporter per paragraph (d)(2)(xvii) unless corrections are requested by the EPA or a State for export manifests. EPA notes that for hazardous waste export shipments, data correction submissions must be made electronically in the e-Manifest system via the post-receipt data corrections process by following the corrections process described in § 265.71(l).

For generators, the EPA is revising the post-receipt manifest data corrections requirements by moving previous § 262.24(h) into § 262.20, specifically replacing § 262.20(a)(2). (Section 262.20(a)(2) previously referred to a compliance deadline that has long passed relating to the March 2005 uniform hazardous waste manifest forms rule. Thus, this previous language is no longer needed); also, since the EPA is moving § 262.24(h) into § 262.20, this final rule removes § 262.24(h). The EPA is also revising the previous language by removing the reference to the 40 CFR 264.71(l) citation and adding, in its place, the more appropriate citation of 40 CFR 265.71(l). The EPA is also revising § 262.20(a)(2) to reflect revisions to the post-receipt manifest corrections requirements under § 264.71(l); please see changes to paragraph (l) below for further discussion.

First, the final rule in paragraph (a)(2) indicates that after facilities have certified that the manifest is complete, by signing it at the time of submission to the e-Manifest system, any post-receipt data corrections may be submitted at any time by LQGs and SQGs. In addition, the final rule requires LQGs and SQGs to address data correction requests by the EPA or States within 30 days of the date of the request. Further, paragraph (a)(2) states that data correction submissions must be made electronically in the post-receipt data corrections process by following the process described in § 264.71(l) of this chapter, which applies to corrections made to either paper or electronic manifest records.

As explained previously, VSQGs subject to the manifest requirements are not required under today's action to register in the e-Manifest system. (However, if a State requires VSQGs to manifest and requires them to register in the e-Manifest system, those VSQGs

¹⁹ 84 FR 2854; February 8, 2019. See page 2855.

must do so. Those VSQGs must also correct errors if requested by States.) Therefore, VSQGs who do not choose to register for e-Manifest should arrange with other waste handlers named on the manifest to make corrections to manifest data on their behalf. LQGs and SQGs, on the other hand, are required to register under today's action and must make and submit data corrections electronically in the e-Manifest system for generator information recorded in Items 1–15, except as noted below, and if necessary, the corresponding items of a continuation sheet, of their manifest records.

Finally, any waste handler named on a manifest must submit corrections to Item 14 of the manifest. Although this field is contained in the generator information block of the manifest, typically all waste handlers involved with a waste shipment and named on the manifest record information in it. EPA points out that LQGs and SQGs may continue to make and submit corrections to manifest data electronically without prior notification from the EPA or States as an interested party of the manifest data.

The EPA is aware that it is a common practice for an entity or individual other than the generator to perform the steps necessary to prepare a waste shipment for transportation, including the steps associated with preparing the manifest paperwork. Often, the transporter or the facility designated on the manifest by the generator to manage their waste shipment prepares the manifest paperwork as a part of the service it provides to its generator customers. In these situations, the EPA and the States will still require LQGs and SQGs to correct errors/omissions to the portions of the manifest requiring their completion. Therefore, if there is transporter or designated facility that prepared the manifest for the LQGs and SQGs, or prepared and signed the generator's certification on behalf of the LQG or SQG, the EPA strongly recommends that LQGs and SQGs arrange through contracts or other legal arrangements to have the transporter or designated facility make and submit post-receipt manifest data correction submissions to the EPA or a State on their behalf. The EPA is aware that e-Manifest brokers also prepare paper manifests or electronic manifests in the e-Manifest system for its generator clients. However, brokers cannot submit data corrections to the EPA on behalf of their generator clients, unless the broker is operating at the generator site and can sign the manifest as an offeror of the waste shipment.

For transporters, the EPA is revising the existing post-receipt manifest data correction requirements in § 263.20(a)(9) to reflect the conforming changes to §§ 264.71(l) and 265.71(l); please refer to the preamble discussion below regarding post-receipt data correction requirements for receiving facilities. Like generators, transporters must follow the data corrections process described in § 264.71(l). Thus, after receiving facilities have certified that the manifest is complete, by signing it at the time of submission to the e-Manifest system, any post-receipt data corrections may be submitted at any time by the transporter. If the EPA or a State request a data correction to manifests, then the transporter must make and electronically submit manifest data corrections to transporter information recorded in Items 14 and 17 of manifest records and corresponding data of manifest continuation sheets via the post-receipt manifest data correction process within 30 days from the date of the corrections request. Further, transporters who changed the routing of the shipment per § 263.21(b)(2) and (3), must submit manifest data corrections to Items 6 and 7, and if necessary, the corresponding items of the manifest continuation sheet, if requested by the EPA or a State. Transporters, of course, may continue to make and submit corrections to manifest data electronically without prior notification from the EPA or States as an interested party of the manifest data. Such transporters must also follow the data corrections process described in § 264.71(l).

The EPA explained previously that the current e-signature methods are designed to be used in the United States. The headquarters of foreign transporters of hazardous waste import shipments are located outside the U.S. These transporters generally have EPA ID numbers, and therefore, can register as users in the e-Manifest system, allowing them to prepare, view, and store import manifests (whether paper or electronic) in their registered accounts. However, these foreign transporters cannot electronically sign manifests in the system nor electronically submit the corrections to the system. Therefore, a registered user named on the import manifest other than the foreign transporter must submit manifest data corrections to the system. Similarly, foreign transporters exporting hazardous waste shipments out of the country will not be able to submit manifest data corrections for export manifests to the system. Manifest data

corrections for export manifests are discussed below.

For receiving facilities, the EPA is making conforming changes to the existing manifest data corrections requirements under §§ 264.72(l) and 265.72(l) for receiving facilities. Like generators and transporters, receiving facilities may continue to voluntarily submit post-manifest data corrections electronically via the e-Manifest system at any time as described in revised §§ 264.71(l) and 265.71(l) for permitted and interim status treatment, storage, and disposal facilities, respectively. This final rule makes regulatory amendments to §§ 264.71(l) and 265.71(l) by adding a new provision under paragraph (l) which requires receiving facilities to submit manifest data corrections electronically to the system within 30 days from receipt of the corrections request by the EPA or a State. Receiving facilities must electronically submit manifest data corrections to manifest data recorded in Items 14 (as previously discussed) and 18–20 of the manifest records as well as to the corresponding manifest continuation sheet and data file, if applicable.

Regarding Item 18 of the manifest, the existing manifest requirements at §§ 264.71(a)(2)(ii) and 265.71(a)(2)(ii) and manifest instructions require receiving facilities to note manifest discrepancies (as defined in §§ 264.72(a) and 265.72(a)) on the manifest (Item 18a of the manifest). The EPA notes that neither the existing Federal regulations under these sections nor Item 18 of the current manifest form instructions require receiving facilities to make corresponding changes to Items 10–13 of the manifest when facilities note discrepancies in Item 18a. However, unlike the Federal manifest program, authorized States may require generators or receiving facilities to correct Items 10 and 13 of manifests as part of a manifest discrepancy resolution. Therefore, under this final rule receiving facilities must also submit corrections electronically to the e-Manifest system for Items 10–13 of the manifest if an authorized State requests such corrections to address the discrepancy information recorded in Item 18a.

For exporters, the EPA is finalizing the proposed post-receipt manifest data correction requirements for exporters under § 262.83(c)(8) with slight modification. The revisions to the proposed changes align with the existing post-receipt data correction requirements for generators, transporters, receiving facilities, and PCB commercial storage and disposal

facilities. Like other waste handlers, exporters may voluntarily make manifest data corrections at any time using the post-receipt corrections process. Further, exporters also must make manifest data corrections within 30 days from receipt of a correction request notification from the EPA or a State. An exporter must make corrections to any manifest data recorded on the export manifest so that the data matches manifest information recorded on the completed movement document submitted to the WIETS module in RCRAInfo by the foreign facility. This final rule modifies the proposed post-receipt manifest data corrections requirements to reflect these changes.

The EPA believes it is appropriate to require that the exporter correct all manifest data of an export manifest for several reasons. First, exporters are required to be domiciled in the U.S. Therefore, the EPA has jurisdiction to require exporters make corrections to export manifest data and submit the corrections electronically to e-Manifest system. Second, exporters are responsible for ensuring that the export shipments are accompanied by the movement document and the RCRA manifest unless the exported waste is exempted from RCRA manifest requirements (e.g., universal waste). Third, exporters are additionally required to have a contract with the foreign facility that requires it to send to the exporter either: (1) A copy of the signed movement document to confirm the foreign facility's acceptance of the export shipment per § 262.83(f)(4), or (2) documentation from the foreign facility informing the exporter of the foreign facility's rejection of the waste in the export shipment and the need to arrange alternate management or the return of the waste in the export shipment per § 262.83(f)(3)(i). In cases where the foreign facility rejects waste from an export shipment or if the shipment status cannot be confirmed within certain timeframes, the exporter is required to submit an export Exception Report per § 262.83(h).

Lastly, by March 1st of every year, the exporter is required to submit an export annual report detailing the actual amounts of hazardous waste exported the previous calendar year per § 262.83(g). Based on the documentation that the foreign facility is required to send back to the exporter, the exporter is in the best position to make any necessary corrections to the RCRA manifest data in the e-Manifest system. If the foreign facility notes significant differences in the movement document or other documentation concerning the

waste they received or rejected with respect to data elements required in both the movement document and the RCRA manifest, then the exporter will be required to make those corrections. Examples of such corrections include but are not limited to changes to waste quantity, applicable RCRA hazardous waste code(s), applicable DOT/UN identification number, waste stream consent number, or exporter's EPA identification number.

The EPA appreciates comments and recommendations on its proposals and suggestions regarding improving the accuracy and precision of waste quantities and units of measure recorded in Items 11 and 12, respectively, on manifests. Based on comments, the EPA has decided at this time to not finalize these proposals or suggestions in this final rule. The EPA agrees with commenters that matching the units of measure in the BR with the manifest and requiring use of net weight for bulk shipments would make for a more streamlined process and would make it easier to transfer information from the manifest to the BR. However, revisions to the units of measure currently required for the BR are beyond the scope of this final rule and require a separate Agency action. The EPA also accepts one commenter's concern about the possible causal effects to States, generators, and receiving facilities if the EPA mandates use of decimals or fractions for reporting of waste quantities on manifests. The EPA also accepts the comment from the trade association, representing the retail, industry, suggesting that the EPA should consult with the waste hauling industry prior to making a final determination about reporting net or gross weight amounts on manifests. As mentioned previously, the EPA believes that comments addressing BR raised significant substantive issues that merit further analysis and outreach prior to adopting a final approach. The EPA also believes comments to the Agency's proposals considering data accuracy and precision improvements of waste quantities merit further analysis. For these reasons, the EPA is not finalizing the proposals and/or requested comment on alternative suggestions in this final rule.

I. PCB Manifests

1. Background and What the EPA Proposed on This Issue: PCB Manifests

Toxic Substances Control Act (TSCA)-regulated Polychlorinated Biphenyls (PCBs) waste is subject to the disposal requirements under part 761, subpart D and must be manifested unless it is

specifically exempted from the requirements in part 761, subpart K. Therefore, like RCRA and State-only hazardous wastes, TSCA-regulated PCB waste subject to manifesting requirements must be tracked from the point the PCB waste leaves the facility where it is generated until it reaches the facility where it is stored or disposed. The PCB manifest regulations also require manifest-related reporting akin to the RCRA manifest regulations, *i.e.*, exception, discrepancy, and unmanifested waste reporting. However, the PCB manifest regulations in part 761 have not been updated since the launch of the e-Manifest system and thus make no reference to the use of electronic manifests and still require "handwritten" signatures.

The EPA proposed several conforming changes to the TSCA PCB regulations at part 761 to clarify the ability to use electronic manifests and the e-Manifest system to fulfill PCB waste tracking and recordkeeping requirements.²⁰ The EPA also proposed conforming changes to the exception, discrepancy, and unmanifested waste reporting requirements for PCB waste. Additionally, EPA proposed the addition of manifest data correction procedures under § 761.207(g)(2)(v) for PCB generators, PCB transporters, and PCB commercial storage and disposal facilities. The proposed procedures are equivalent to the existing post-receipt manifest data correction procedures in §§ 262.24(h), 263.20(a)(9), 264.71(l), and 265.71(l) for RCRA hazardous wastes. EPA also proposed changes to other TSCA PCB requirements to allow for the future use of an approved electronic system, such as the RCRAInfo industry application, for the submission of Forms 7710-53 and 6200-025, Certificates of Disposal, and One-Year Exception Reports.²¹

2. Public Comments and Discussion of Final Rule: PCB Manifests

Except as described in sections II.D.3, II.E.3, and II.F.3 with respect to discrepancy, exception, and unmanifested waste reporting requirements, the EPA did not receive adverse public comment on the proposed changes related to the PCB regulations; therefore, the EPA is finalizing these changes largely as proposed. The EPA is revising certain aspects of the discrepancy, exception, and unmanifested waste reporting requirements for the PCB regulations. This rule also finalizes changes related to post-receipt manifest data correction

²⁰ 87 FR 19290; April 1, 2022. See page 19307.

²¹ 87 FR 19290; April 1, 2022. See page 19308.

procedures and makes additional conforming changes related to electronic manifesting that were inadvertently omitted from the April 2022 NPRM.

The EPA is finalizing several conforming changes to the TSCA PCB manifest regulations at part 761, subpart K to better align these requirements with the RCRA manifest regulations and the e-Manifest program. First, the EPA is finalizing the proposal to add the Hazardous Waste Electronic Manifest Establishment Act to the Authority section for part 761. As explained in the NPRM, the e-Manifest Act and current manifest regulations have always applied to all hazardous waste manifests as well as manifests for PCB waste, but the PCB regulations had not been updated to reflect this. The EPA is finalizing the proposed, conforming change in the regulation as a clarification that the e-Manifest Act applies to manifests for PCB waste. Second, the EPA is finalizing the definition for “electronic manifest” in § 761.3. However, the EPA is modifying the proposed definition to clarify that electronic manifests must be obtained from the EPA’s national e-Manifest system and transmitted electronically through the EPA’s national e-Manifest system. Third, the EPA is finalizing its proposals to strike several instances of the words “written,” “handwritten,” and “by hand” from the PCB regulations at §§ 761.210(a)(1) and (2), 761.211(d)(1), (e)(3), (f)(3)(i), (f)(4)(i), 761.213(a)(2)(i), and 761.217(a)(1) that could be interpreted to require the use of paper manifests. Fourth, the EPA is finalizing the proposal to add proposed paragraph (g) to § 761.207. New § 761.207(g) consists of two paragraphs. The first paragraph [§ 761.207(g)(1)] is adapted from § 262.20(a)(3) and clarifies that any person required to prepare a manifest may use an electronic manifest as long as the electronic manifest complies with specific EPA requirements. The second paragraph [§ 761.207(g)(2)] is adapted from § 262.24(a) and establishes the legal equivalence of electronic manifests to paper manifests. The proposed approach is in line with the other text of subpart K. Fifth, the EPA is finalizing the proposed changes in § 761.209 to clarify how the requirement to provide copies of the manifest to each of the regulated parties is fulfilled by the EPA’s e-Manifest system. Sixth, the EPA is finalizing the proposed changes in § 761.213 to add two new paragraphs to this section. The first paragraph, (d), is adapted from § 265.71(h) and clarifies that a commercial storage or disposal facility must follow certain manifest

tracking procedures using paper manifests as replacements for the electronic manifest, if the electronic manifest becomes unavailable and cannot be completed. From the point at which the electronic manifest is no longer available for tracking the PCB shipment, the paper replacement manifest must be completed and managed just as it would be completed and managed with the standard paper manifest form. The second paragraph, (e), states that a commercial storage or disposal facility who is a user of the electronic manifest system shall be assessed a user fee by the EPA for the submission and processing of each electronic and paper manifest. Seventh, the EPA is finalizing the proposals to add new paragraphs to §§ 761.211 for transporters and 761.213 for commercial storage or disposal facilities to clarify that they must follow special manifest tracking procedures for manifests that are initiated electronically, but, for whatever reason, cannot be completed electronically.

The EPA is also finalizing conforming changes to the TSCA PCB regulations for Discrepancy Reports under § 761.215, Unmanifested Waste Reports under § 761.216, and Exception Reports under § 761.217. This final rule modifies the proposed changes to these requirements so that they align with the requirements finalized for the RCRA manifest-related reports, as described in sections II.D.4, II.E.4, and II.F.4 above. However, the EPA is not finalizing the proposed change to § 761.215(f)(6). This change would have required a commercial storage or disposal facility to mail or submit initial copies of manifests to the e-Manifest system, for rejected shipments returned to the generator. This proposed change is not needed because initial manifests are not final signed manifests. The EPA e-Manifest system only stores final signed manifests for waste that must be manifested under Federal or State law; thus, facilities must submit final copies of signed and dated manifests to the EPA e-Manifest system and pay any applicable fees associated with those manifests. Manifests are not complete and thus final until the transportation phase of the manifested shipment ends. For rejected shipments returned to the generator, a rejecting facility initiates the transportation phase of the returned shipment using the initial manifest. Transportation of the rejected shipment ends when the shipment arrives back at the original generator site and the

generator closes out the manifest by signing Item 20 of the manifest.²²

The EPA, however, is making conforming changes to the existing manifest discrepancy requirements under § 761.215(g). If a commercial storage or disposal facility rejects a waste after it has signed, dated, and returned a copy of the manifest to the generator or delivering transporter, § 761.215(g) requires the facility to amend its copy of the manifest to indicate that a waste was rejected and mail the amended manifest to the generator and delivering transporter. The EPA did not propose changes to § 761.215(g) in the NPRM. However, as explained below, this final rule revises § 761.213(a)(2)(iv) to clarify that receiving facilities are only required to mail signed manifests to a generator if the generator is not registered in the EPA’s e-Manifest system. Those generators who are registered would be able to obtain signed and dated copies of completed manifests from the EPA e-Manifest system rather than mailed from the commercial storage or disposal facility. Therefore, this final rule makes conforming changes to the manifest discrepancy requirements under § 761.215(g) so that they are consistent with the revisions to § 761.213(a)(2)(iv) regarding the conditions under which the transmittal requirement for the final manifest is satisfied if the recipient of the manifest is registered and can obtain the signed and dated manifest from the EPA e-Manifest system.

Regarding the Exception Report requirements for manifested PCB wastes, this final rule finalizes revisions for PCB wastes under existing § 761.217(a)(1) to align the shipment verification timeframe for PCB generators with the new 45-day timeframe for RCRA LQGs (previously 35 days of the date the waste was accepted by the initial transporter). This final rule makes conforming changes to § 761.217(a)(2) to require Exception Reports be submitted for PCB manifest shipments no later than 60 days of the date the waste was accepted by the initial transporter, which is the same timeframe for RCRA LQGs. The EPA is also making conforming changes to § 761.217(b)(2) to reflect the 45- and 60-

²² For return shipments to generators, the rejecting facility (e.g., the commercial storage or disposal facility) is typically listed as the generator on the return manifest, while the original generator of the waste receiving its waste as a return is shown as the designated or receiving facility. Therefore, the original generator (now listed as receiver) must send the completed signed copy of the return manifest to the rejecting facility (now listed as generator). Upon receipt of the return manifest, the rejecting facility must submit the return manifest to the EPA e-Manifest system.

day timeframes. This final rule also finalizes the proposed requirements at § 761.217(c) for electronic exception reporting as proposed. New paragraph (c) prescribes the conditions under which electronic Exception Reports are the full legal equivalent of written, paper Exception Reports for all TSCA purposes.

The EPA reiterates that, unlike RCRA hazardous waste LQGs and SQGs, PCB generators are not required to register with e-Manifest. Thus, this final rule does not affect a PCB generator's ability to submit Exception Reports for paper-based manifests to the EPA via postal mail. However, PCB generators with RCRA-issued EPA ID numbers may register with e-Manifest so that they can prepare and submit Exception Reports in the system. PCB generators with RCRA-issued EPA ID numbers may also opt into electronic manifesting which would enable them to track their waste shipment electronically in the system. Otherwise, PCB generators may continue to submit the manifest-related report to the EPA via postal mail. For further information regarding leveraging the e-Manifest system to satisfy the exception reporting requirements, refer to preamble section II.D.4.

Regarding Discrepancy Reports, this final rule finalizes changes to § 761.215 to allow PCB commercial storage and disposal facilities to use the e-Manifest system to satisfy discrepancy reporting requirements. However, this final rule modifies existing paragraph (c) of the discrepancy reporting requirements by restricting submission of these Discrepancy Reports to the e-Manifest system. Thus, PCB commercial storage and disposal facilities will no longer have the option to submit Discrepancy Reports to the EPA via postal mail. (For additional discussion regarding the final decisions for electronic discrepancy reporting and the date on which these new requirements become effective, refer to preamble section II.E.4.) Since submission of Discrepancy Reports is restricted to electronic formats (regardless of whether paper or electronic manifests are used), the EPA is removing the requirement that commercial storage and disposal facilities provide a separate cover letter describing the discrepancy and attempts to reconcile the discrepancy. Instead, facilities will be required to provide this description in the EPA's e-Manifest system as part of the electronic Discrepancy Report.

In addition, the EPA is not finalizing proposed paragraphs (c)(1) through (4), which would have addressed the legal equivalency of the electronic reports to the written, paper reports, and allow for

electronic discrepancy reporting for wastes shipped on electronic or hybrid manifests.

Regarding Unmanifested Waste Reports, the EPA is finalizing its proposals with slight modification. This final rule makes conforming changes to the unmanifested waste reporting requirements based on public comments, as discussed in preamble section II.F. This final rule also establishes a delayed compliance date that begins on December 1, 2025, on which regulated entities must comply with the electronic unmanifested reporting requirements for PCB manifested shipments. The delayed compliance date is discussed in preamble section II.F.4. Today's rule finalizes the proposals under § 761.216 that require PCB commercial storage or disposal facilities to submit Unmanifested Waste Reports electronically in the e-Manifest system. Thus, this final rule removes the option allowing PCB commercial storage and disposal facilities to submit Unmanifested Waste Reports via postal mail. Based on the final rule decisions described in the preamble section II.F.4, this rule does not finalize the proposed unmanifested waste requirement under paragraph (c) where the EPA would assess a user fee, equivalent to the user fees for electronic manifests, on commercial storage and disposal facilities for each submission of an electronic Unmanifested Waste Report.

The EPA is finalizing the manifest data correction procedures proposed under § 761.207(g)(2)(v), with modifications to conform with final revisions to the existing post-receipt manifest data correction requirements in §§ 262.24(h), 263.20(a)(9), 264.71(l)(1) and 265.71(l)(1), as described in section II.H.4 of this preamble. Data correction submissions must be made electronically in the system via the post-receipt data corrections process by following the process described in § 264.71(l), which applies to corrections made to either paper or electronic manifest records. However, as explained previously in preamble section II.C.4, PCB generators are not required to register in the e-Manifest system. Therefore, this final rule further revises the proposed requirement of § 761.207(g)(2)(v) to clarify that PCB generators are required to electronically submit manifest data corrections via the e-Manifest system within 30 days from receipt of a notification request from EPA or States and that PCB generators who are not registered with the EPA e-Manifest system must arrange with other waste handlers named on the manifest (e.g., through contracts or other

legal arrangements) to electronically submit corrections on their behalf. Transporters and commercial storage and disposal facilities are expected to make and submit data corrections electronically for transporter information recorded in Item 17 and Items 18–20 of manifests, respectively, and any corresponding corrections to manifest continuation sheets, if applicable. Additionally, commercial storage and disposal facilities must submit corrections to Items 10–13 of the manifest so that the corrections address manifest data discrepancies reported in Item 18a of the manifest. (See preamble section III.G.4 for further explanation). The EPA points out that PCB waste handlers may continue submitting corrections to manifest data electronically without prior notification from the EPA or States as an interested party of the manifest data. Such generators must also follow the data corrections process described in § 264.71(l).

The EPA is also finalizing the proposed changes to the PCB regulations at §§ 761.205, 761.218, and 761.219, respectively. EPA is finalizing these changes to allow the submission of these documents in the future through an EPA-approved electronic system, such as the RCRAInfo Industry Application.

The EPA is not finalizing the proposed changes to § 761.180(b)(3). This is because EPA has already finalized revisions to this requirement in the August 2023 PCB Final Rule.²³ Therefore the proposed changes discussed in the NPRM are no longer needed.

As mentioned previously, the EPA proposed many conforming changes to the TSCA PCB regulations at part 761 clarifying the ability to use electronic manifests and the e-Manifest system to fulfill waste tracking and recordkeeping requirements. This final rule makes additional conforming changes to existing TSCA PCB manifest regulations that were inadvertently omitted from the proposed rule. First, this final rule makes conforming changes to § 761.213(a)(2)(iv) and (v) to codify that receiving facilities send a signed and dated copy of Page (1) of the manifest to the EPA e-Manifest system. This final rule also modifies these paragraphs in a couple of ways. The final rule revises § 761.213(a)(2)(iv) to clarify that generators who are registered with the EPA's e-Manifest system may obtain their signed and dated copies of completed manifests from the EPA e-Manifest system. The final rule makes

²³ 88 FR 59662; August 29, 2023. See page 59677.

conforming changes to paragraph (a)(2)(v) so that it is consistent with the revisions to the manifest paper submission requirements revisions for RCRA hazardous waste (see preamble discussion in section III.2 regarding conforming changes to §§ 264.71(a)(2)(v)(B) and 265.71(a)(2)(v)(B)).

Second, this final rule makes conforming changes to § 761.215(c) to reflect the new 20-day submission timeframe for manifest discrepancy reporting. The EPA revised the manifest discrepancy reporting timeframe under §§ 264.72(c) and 265.72(c) to allow receiving facilities up to 20 days to reconcile a shipment with the generator and/or transporter for manifest discrepancies. The EPA inadvertently omitted revising the equivalent TSCA PCB discrepancy reporting requirements under § 761.215(c). Therefore, this final rule modifies paragraph (c) to reflect that commercial storage and disposal facilities also have up to 20 days to reconcile a shipment with the generator and/or transporter for manifest discrepancies.

J. Technical Corrections

The EPA proposed a few technical corrections to various RCRA and TSCA regulations. The EPA did not receive adverse comment to the proposed technical corrections; therefore, this final rule is finalizing the changes as proposed. The following is a list of the final changes:

- Revise §§ 264.71(a) and 265.71(a) by removing the obsolete requirement under paragraph (a)(2)(v)(A) and reserving it for future use. This requirement is obsolete since as of June 30, 2021, the EPA no longer accepts paper manifest submissions—and any paper manifest continuation sheets—to the e-Manifest system for purposes of data entry and processing via postal mail. Currently, receiving facilities must submit paper manifests to the e-Manifest system in accordance with §§ 264.71(a)(2)(v)(B) and 265.71(a)(2)(v)(B).

- Revise paragraphs (a) and (b) of §§ 264.1311 and 265.1311 to remove the mention of “by mail/in lieu of submitting mailed paper forms” from the requirements. As mentioned above the EPA no longer accepts paper manifest submissions—and any paper manifest continuation sheets—to the e-Manifest system for purposes of data entry and processing via postal mail.

- Revise minor typographical misspelling errors to change “eManifest” to “e-Manifest” in the Operations and Maintenance (O&M) Cost portion of the user fee formulas in

paragraphs (a) and (b) of §§ 264.1312 and 265.1312.

- Revise a typographical error found in paragraph (e) of § 761.60. Paragraph (e) accurately refers to “an incinerator approved under § 761.70 or a high-efficiency boiler operating in compliance with § 761.71” twice in the first sentence. However, the fifth sentence uses incorrect citations in a similar reference to “a § 761.60 incinerator or a § 761.61 high-efficiency boiler.” The EPA is correcting the regulatory citations in the fifth sentence to read “a § 761.70 incinerator or a § 761.71 high efficiency boiler.”

In addition to the final changes listed above, the EPA is making conforming changes to §§ 264.71(a) and 265.71(a) by revising the language in paragraph (a)(2)(v)(B) to further clarify that receiving facilities can only submit scanned images upload or data plus image uploads of the top copy (Page 1) of the manifest and any continuation sheet to the EPA’s e-Manifest system. Further, the EPA is revising paragraph (a)(2)(v)(B) by removing the obsolete regulatory language in paragraph (a)(2)(v)(B) which reads, “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.” As explained above, the EPA proposed deletion of paragraph (a)(2)(v)(A) but overlooked including these conforming changes to paragraph (a)(2)(v)(B) in the NPRM.

III. State Implementation

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, the EPA may authorize a State hazardous waste program to operate in lieu of the Federal program within the State. Following authorization, the EPA maintains its enforcement authorities, although authorized States have primary enforcement responsibility for their authorized programs. The standards and requirements for State authorization are found in part 271.

Prior to the enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), an authorized State hazardous waste program operated entirely in lieu of the Federal program in that State. The Federal requirements no longer applied in the authorized State, and the EPA could not issue permits for any facilities in that State. When new, more stringent or broader Federal requirements were promulgated, the State was obligated to adopt equivalent authorities under State law within specified time frames.

However, new requirements did not take effect in an authorized State until the State adopted such equivalent authorities, and these requirements did not become part of the authorized program enforceable by the EPA until the EPA authorized them.

In contrast, with the enactment of RCRA section 3006(g), which was added by HSWA, new Federal requirements and prohibitions imposed pursuant to HSWA authority take effect in authorized States at the same time that they take effect in unauthorized States. The EPA is directed by section 3006(g) to implement HSWA-based requirements and prohibitions in authorized States until the EPA authorizes equivalent State authorities. While States must still adopt State-law equivalents to HSWA-based requirements and prohibitions to retain final authorization, until the States do so, and the EPA authorizes the State-law equivalents, the EPA implements and enforces these provisions in authorized States.

Authorized States are required to modify their programs when the EPA promulgates Federal requirements that are more stringent or broader in scope than existing Federal requirements. RCRA section 3009 allows the States to impose standards more stringent than those in the Federal program (see also § 271.1). If the EPA promulgates a Federal requirement that is less stringent or narrower in scope than an existing requirement or of equivalent stringency, authorized States may, but are not required to, adopt a new equivalent requirement regardless of whether or not it is promulgated under HSWA authority.

The e-Manifest Act contains similar authority to HSWA with respect to Federal and State implementation responsibilities in RCRA authorized States. Section 2(g)(3) of the e-Manifest Act, entitled Administration, provides that the EPA shall carry out regulations promulgated under the Act in each State unless the State program is fully authorized to carry out such regulations in lieu of the EPA. Also, section 2(g)(2) of the Act provides that any regulation promulgated by the EPA under the e-Manifest Act shall take effect in each State (under Federal authority) on the same effective date that the EPA specifies in its promulgating regulation. Thus, the result is that regulations promulgated by the EPA under the e-Manifest Act, like HSWA-based regulations, are implemented and enforced by the EPA until the States are authorized to carry them out.

Because the RCRA manifest requires strict consistency in its implementation,

the EPA changes to Federal manifest form requirements must be implemented consistently in the States and on the same effective date. See 70 FR 10776 at 10810 (March 4, 2005). This is true whether the manifest form change is based on RCRA or on e-Manifest Act authority and whether the changes are more or less stringent than the existing Federal program.

TSCA does not grant the EPA authority to authorize States to administer the PCB program. The EPA directly implements the Federal PCB regulations in all States and territories. Because TSCA is not administered by State programs, all changes to 40 CFR part 761 become effective in all States and territories on the effective date of the rule.

While the revised manifest requirements for collection of export manifests and Exception, Discrepancy, and Unmanifested Waste Reports in the e-Manifest system will be implemented on a delayed compliance date, RCRA and TSCA entities in all States must comply with these requirements on and after the compliance date of December 1, 2025.

The remainder of this section discusses the State authorization implications for today's revised manifest requirements.

B. Effect on State Authorization

There are various authorities on which the provisions of this final rule are based; these authorities affect State implementation of these provisions. First, some of the provisions in this final

rule are based on the authority of the e-Manifest Act and are listed in the table below. The EPA will implement, and regulated entities must comply with, these provisions in all States consistently either on the effective date of the rule or on the delayed compliance date, December 1, 2025, for certain provisions. States must adopt the authorizable e-Manifest Act-based provisions of this final rule in order to enforce them under State law, and to maintain manifest program consistency. However, the EPA will continue to implement and enforce these provisions until such time as the State modifies its authorized program to adopt these provisions and receives authorization from the EPA for the program modification.

| Regulation | Subject |
|---|---|
| § 262.42(a)(1) through (4), (b), (c)(2) | Submission of Electronic Exception Reports to the e-Manifest system. |
| § 262.83(4) | Exporters' submission of required electronic or paper manifest to the system. |
| § 262.83(c)(4)(i) | Imposition of fees on exporters for their manifest submission. |
| § 262.83(c)(4)(iv) | Exporters' replacement manifests. |
| § 262.83(c)(4)(v) | Exporters' post receipt data corrections. |
| § 264.72(c), § 265.72(c) | Submission of Electronic Discrepancy Reports to the e-Manifest System. |
| § 264.76(b), § 265.76(b) | Submission of Electronic Unmanifested Waste Reports to the e-Manifest system. |

In the EPA's proposed rule, we had originally described certain manifest-related report provisions as based on RCRA (non-HSWA) authority (*i.e.*, 40 CFR 262.42(a)(1) and (2), 262.42(b), 262.42(c)(2), 264.72(c), and 265.72(c)). We have since re-evaluated this description and have concluded in this final rule that these amendments are being promulgated under the e-Manifest Act. That is, even if certain manifest-related report provisions at §§ 262.42(a)(1) and (2), 262.42(b), 262.42(c)(2), 264.72(c), and 265.72(c) were originally promulgated under the RCRA base statutory authority, given the specific amendments in today's rule, these amendments are in fact being promulgated under the e-Manifest Act authority and therefore will be effective, implemented and enforced as described above. Section 2(g)(1) of the e-Manifest Act, RCRA section 3024(g)(1), 42 U.S.C. 6939g(g)(1), authorizes the EPA to promulgate regulations "to be necessary to facilitate the transition from the use of paper manifests to the use of electronic manifests, or to accommodate the processing of data from paper manifests in the electronic manifest system, including a requirement that users of paper manifests submit to the system." The EPA interprets this authority to extend also to the promulgation of regulations for manifest-related report submissions to

the e-Manifest system because such reports are directly tied into manifests. Specifically, these manifest-related reports would not exist if not for manifests in the first place, and therefore would similarly be part of the transition to use of the e-Manifest system. As a result, these particular provisions appear in the above table.

Second, some of the provisions in this final rule are promulgated under HSWA authority. These HSWA provisions are the import/export provisions discussed in section II.B.1 and II.B.3, as well as §§ 262.83(c)(3), 264.71(a)(3), 265.71(a)(3), and 267.71(a)(6). They are also the import/export provisions discussed in section II.G as proposed amendments to movement document regulations and certain technical corrections and conforming amendments to import and export requirements. As the EPA discussed in section II.G.3, the EPA will finalize all these provisions as proposed. Because these provisions are promulgated under HSWA authority, these provisions will be implemented and enforced by the EPA in all States consistently on the effective date of the final rule. Although States do not receive authorization to administer the Federal Government's import/export functions in part 262, subpart H, or the import/export related functions in certain other RCRA hazardous waste regulations, State

programs are still required to adopt the provisions in this rule to maintain their equivalency with the Federal program (see 40 CFR 271.10(a) and (d)).

Finally, as discussed above, the Federal provisions promulgated under the e-Manifest Act must be adopted by States with strict consistency. Likewise, the import/export provisions promulgated under HSWA must also be adopted by States without modification. Thus, these Federal provisions will apply in all States on the effective date, and States will still need to adopt these provisions under State law. Because the TSCA PCB program is administered by the EPA and not States, all regulatory changes to part 761 become effective in all States and territories on the effective date of the rule.

C. Conforming Changes to 40 CFR 271.10 and 271.12

This final rule also includes conforming changes to §§ 271.10 and 271.12, addressing the requirements for hazardous waste generators and exporters, and receiving facilities, respectively, that must be included in authorized State programs to maintain consistency with the Federal program. The conforming changes to § 271.10 regarding regulatory amendments to the hazardous waste export and import regulations are discussed in preamble section II.B. The first change, at

§ 271.10(f)(4), clarifies that authorized State programs must include requirements for electronic Exception Reports submitted to the EPA's e-Manifest system, in lieu of sending signed copies to the EPA Regional Administrator or the States.

The second change, at § 271.10(h)(2), clarifies that a State may only collect a generator's initial copy of a manifest when a paper manifest is used (*i.e.*, manifests that do not originate in the e-Manifest system). This is because the EPA system collects only the receiving facilities' paper copies, and not the initial paper manifest copy from generators, thus the generator's initial paper copy will not be available to States from the e-Manifest system. The EPA established requirements in the 2014 One Year Final Rule for designated facilities to submit copies of paper manifests to the e-Manifest system in lieu of supplying them directly to States at §§ 264.71(a)(2)(v) and 265.71(a)(2)(v). However, the EPA noted in the 2014 final rule that designated facilities must continue to supply paper copies of manifests to States until the Agency determines when the e-Manifest system becomes operational. At that time, the EPA explained that the requirement for designated facilities to supply paper manifest copies directly to States was intended to be replaced eventually with a requirement for designated facilities to submit their paper manifest copies to the EPA e-Manifest System for data processing once that the system was operational. Thus, the EPA stated in the One Year Rule that the current provisions of paragraph (h)(2) would remain unchanged and effective until the EPA announced the schedule for the receipt of facility copies and then amended these provisions accordingly.²⁴ The EPA also noted at that time that States could still require the collection of generator copies as a component of State programs under State law. The EPA announced the launch of the e-Manifest system and the schedule under which designated facilities would be required to submit paper manifest copies to the e-Manifest system in the 2018 User Fee Final Rule. However, the EPA neglected revisions to paragraph (h)(2). This final rule modifies § 271.10(h)(2) accordingly as originally intended.

The third change, at § 271.10(j), clarifies that authorized State programs must include a requirement that hazardous waste exporters submit a signed copy of each paper manifest and continuation sheet (or the data from paper manifests) to the EPA's e-Manifest

system, in lieu of providing additional copies of the manifest to the hazardous waste transporters. Revisions to § 271.10(j) also clarify that authorized State programs must include requirements for hazardous waste exporters to pay user fees to the EPA to recover all costs related to the operation of an electronic hazardous waste manifest system (e-Manifest system). These modifications are necessary to effectuate the intent of Congress that under the e-Manifest Act, the e-Manifest system will operate as a national, one-stop reporting hub for manifests and data, and manifest-related reports such as Exception Reports, Discrepancy Reports and Unmanifested Waste reports.

The EPA is not finalizing the proposed conforming change to § 271.12(k) that would have clarified that authorized State programs must include requirements for hazardous waste management facilities and facilities submitting electronic Unmanifested Waste Reports in the e-Manifest system to pay user fees to the EPA. Since the EPA is not finalizing a user fee requirement for the submission of Unmanifested Waste Reports to the e-Manifest system (see section II.F.4), this provision is no longer necessary.

Finally, the e-Manifest-related amendments at § 271.12(l) and (m) must be included in authorized State programs for electronic Discrepancy Reports and Unmanifested Waste Reports to maintain consistency with the Federal program. The amendments to § 271.12(l) and (m) clarify that authorized programs must include requirements that designated or receiving facilities submit electronic Discrepancy Reports and Unmanifested Waste Reports in the EPA's e-Manifest system, in lieu of sending signed copies to the States.

The EPA notes that the Agency the revised manifest provisions for collection of export manifests (§ 271.10(j)), Exception Reports (§ 271.10(f)(4)), Discrepancy Reports (§ 271.12(l)) and Unmanifested Waste Reports (§ 271.12(m)) in the e-Manifest system will be implemented in all States on the delayed compliance date beginning on December 1, 2025.

D. Provisions of the Proposed Rule That Are Not Authorizable

There are some provisions in this final rule that are "not authorizable." By this term, the EPA means those provisions in this final rule that can be administered only by the EPA, and not by authorized States. The first group of non-authorizable requirements included in this final rule are § 262.21(f)(5)

through (7). These provisions together announce the revised printing specification for the final four-copy paper manifest and continuation sheet paper forms, the revised copy distribution requirements to be printed on each copy of the form, and the revised specification for printing the appropriate manifest instructions on the back of the form copies. State programs are not required to take any action respecting these regulatory changes to the printing specifications, and they will take effect in all States on the effective date of this rule. See generally 83 FR 420 at 448 (January 3, 2018). As discussed in section IV.A. above, the RCRA manifest requires strict consistency in its implementation, so that an EPA change to Federal manifest form requirements must be implemented consistently in the States. See generally 70 FR 10776 at 10810 (March 4, 2005). States are not authorized to administer or enforce these RCRA manifest form provisions.

The second group of non-authorizable requirements in this final rule are regulatory amendments to certain fee methodology and related fee implementation provisions set forth in subpart FF of parts 264 and 265. These requirements include definitions relevant to the program's fee calculations (§§ 264.1311, 265.1311), and the user fee calculation methodology (§§ 264.1312, 265.1312). These user fee provisions in subpart FF are based on the authority of the e-Manifest Act and will be implemented and enforced by the EPA on the effective date of the final rule and perpetually thereafter. The user fee provisions of subpart FF describe the methods and processes that the EPA alone will use in setting fees to recover its program costs, and in administering and enforcing the user fee requirements. Therefore, States cannot be authorized to implement or enforce any of the subpart FF provisions.

Although States cannot receive authorization to administer or enforce the Federal government's e-Manifest program user fees, authorized State programs must still include the content of or references to the subpart FF requirements. This is necessary to ensure that members of their regulated communities will be on notice of their responsibilities to pay user fees to the EPA e-Manifest system when they utilize the system. Authorized State programs must either adopt or reference appropriately the user fee requirements of this final rule. However, when a State adopts the user fee provisions of this rule, the State must not replace Federal or EPA references with State references

²⁴ 79 FR 7518; February 7, 2014. See page 7555.

or terms that would suggest the collection or implementation of these user fees by the State.

The last group of non-authorizable provisions in this final rule are regulatory amendments to certain export and import regulations detailed in preamble sections II.B.1 and II.G.3. Because of the Federal Government's special role in matters of foreign policy, the EPA does not authorize States to administer Federal import/export functions in the regulations discussed in those preamble sections. This approach of having Federal, rather than State, administration of the import/export functions promotes national coordination, uniformity, and the expeditious transmission of information between the United States and foreign countries.

Although States do not receive authorization to administer the Federal government's import/export functions in part 262, subpart H, or the import/export related functions in certain other RCRA hazardous waste regulations, State programs are still required to adopt the provisions in this rule to maintain their equivalency with the Federal program (see 40 CFR 271.10(a) and (d)).

This rule contains many amendments to the export and import shipment movement document-related requirements under 262, subpart H to more closely link the manifest data with the movement document data. The rule also contains conforming import and export-related amendments to parts 260, 261, 262, 263, 264, 265, 267, and 271, all of which are more stringent.

The States that have already adopted parts 262, subpart H, 263, 264, part 265, and any other import/export related regulations discussed in this final rule must adopt the revisions to those provisions in this final rule. When a State adopts the import/export provisions in this rule, they must not replace Federal or international references or terms with State references or terms.

IV. Statutory and Executive Orders Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/lawsregulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by

Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review. The EPA prepared an economic analysis of the potential costs and benefits associated with this action. This analysis (titled "The Regulatory Impact Analysis for the EPA's Final Rule Integrating e-Manifest with Hazardous Waste Exports and Other Manifest-related Reports, PCB Manifest Amendments and Technical Corrections") is available in the docket.

B. Paperwork Reduction Act (PRA)

The information collection activities in this final rule will be submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2712.02. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

Implementation of this e-Manifest rule will impose new information collection requirements on the regulated community who must use the manifest for tracking hazardous waste export shipments, and who must prepare manifest-related reports such as exception, discrepancy, and Unmanifested Waste Reports to address specific problems that arise in the use of the manifest. The rule also consists of a series of clarifications to the manifest regulations under RCRA and TSCA that are not expected to result in behavior changes by the regulated community, and therefore do not have associated costs.

Generally, the generators, transporters, designated facilities, and emergency response teams (in the case of accidents) are the primary users of manifests. However, the EPA may review these documents during a facility inspection to make sure proper records are being kept and regulations are complied with. The EPA also reviews and responds to Exception Reports, Discrepancy Reports, and Unmanifested Waste Reports. The public will also have access to data in the e-Manifest system.

Although the primary effect of this final rule is to replace current paper-based information requirements with electronic-based requirements to submit or retain the same shipment information, there could be minor additions or changes to the information collection requirements, such as information that may be provided to establish user accounts and fee payment accounts, information submitted for

identity management, as well as waste profile or other information that may be useful for the creation and submission of electronic manifests, manifest-related reports, or manifest corrections.

Respondents/affected entities: Business or other for-profit.

Respondent's obligation to respond: The recordkeeping and notification requirements are required for parties performing relevant manifest activities (e.g., submitting export manifests, generators registering for e-Manifest). These requirements are described in detail in the ICR Supporting Statement.

Estimated number of respondents: 199,796.

Frequency of response: Per Shipment.
Total estimated burden: 2,585,955 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$135,404,144 (per year), includes \$23,173,452 annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are hazardous waste exporters. The Agency has determined that, at the upper bounds of two "worst-case" scenarios, 174 exporters may experience an impact that will not exceed one percent to three percent of annual revenues. Details of this analysis are presented in the section 4.2 Regulatory Flexibility of the Regulatory Impact Analysis of the EPA's Final Rule Integrating e-Manifest with Hazardous Waste Exports and Other Manifest-related Reports, PCB Manifest Amendments and Technical Corrections.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million (adjusted annually for inflation) or more (in 1995 dollars) as described in UMRA, 2 U.S.C. 1531–1538, and does not

significantly or uniquely affect small governments. The costs involved in this action are estimated not to exceed \$183 million in 2023\$ (\$100 million in 1995\$ adjusted for inflation using the GDP implicit price deflator) or more in any one year.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. It will not impose any new requirements on Tribal officials, nor will it impose substantial direct compliance costs on them. This action will not create a mandate for Tribal governments, *i.e.*, there are no authorized Tribal programs that will require revision and reauthorization on account of the e-Manifest system and regulatory program requirements. Nor do we believe that the e-Manifest system will impose any enforceable duties on these entities. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

This action is not an economically significant regulatory action as defined by Executive Order 12866. In addition, because the rule will not increase risk related to exposure to hazardous materials, the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

The EPA believes that the human health and environmental conditions that exist prior to this action do not result in disproportionate and adverse effects on communities with EJ concerns. The e-Manifest system, and its data, is publicly available and results in greater transparency of hazardous waste activity in communities.

The EPA believes that this action is not likely to result in new disproportionate and adverse effects on communities with environmental justice concerns. This action provides greater access to information regarding hazardous waste shipments exported out of the U.S. and information regarding irregularities in the manifest process, *e.g.*, manifest exception, discrepancy, and unmanifested waste reporting. The information supporting this Executive order review is contained in the Regulatory Impact Analysis for the EPA's Final Rule Integrating e-Manifest with Hazardous Waste Exports and Other Manifest-related Reports, PCB Manifest Amendments and Technical Corrections found in the docket.

K. Congressional Review Act

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Parts 260, 261, 262, 263, 264, 265, 267, 270, 271, and 761

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Electronic reporting requirements, Exports, Hazardous materials transportation, Hazardous substances, Hazardous

waste, Imports, Indians-lands, Insurance, Intergovernmental relations, Labeling, Licensing and registration, Packaging and containers, Penalties, Polychlorinated biphenyls (PCBs), Recycling, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

Michael S. Regan, *Administrator.*

For the reasons set forth in the preamble, the EPA is amending 40 CFR parts 260, 261, 262, 263, 264, 265, 267, 271, and 761 as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

■ 1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, 6939g and 6974.

■ 2. Amend § 260.2, in paragraphs (d)(1) and (2), by adding a sentence at the end of each paragraph to read as follows:

§ 260.2 Availability of information; confidentiality of information.

* * * * *

(d)(1) * * * After January 22, 2025, no claim of business confidentiality may be asserted by any person with respect to information contained in hazardous secondary material export documents prepared, used and submitted under § 261.4(a)(25) of this chapter, whether submitted electronically into the EPA's Waste Import Export Tracking System or in paper format.

(2) * * * After January 22, 2025, the EPA will make available to the public under this section any hazardous secondary material export documents prepared, used and submitted under § 261.4(a)(25) of this chapter on March 1 of the calendar year after the related hazardous secondary material exports occur, when these documents are considered by the EPA to be final documents.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 3. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

■ 4. Amend § 261.4 by revising paragraphs (a)(25)(i)(A) and (H) and (a)(25)(v) to read as follows:

§ 261.4 Exclusions.

(a) * * *
(25) * * *
(i) * * *

(A) Name, site address, telephone number and EPA ID number (if

applicable) of the hazardous secondary material generator;

* * * * *

(H) The name and site address of the reclaimer, any intermediate facility and any alternate reclaimer and intermediate facilities; and

* * * * *

(v) The EPA will provide a complete notification 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 paragraph (a)(25)(i) of this section.

* * * * *

■ 5. Amend § 261.6 by revising paragraphs (a)(3)(i)(A) and (B) to read as follows:

§ 261.6 Requirements for recyclable materials.

(a) * * *

(3) * * *

(i) * * *

(A) The person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, must comply with the requirements applicable to an exporter in § 262.83 of this chapter with the exception of § 262.83(c);

(B) Transporters transporting a shipment for export or import must comply with the movement document requirements listed in § 263.20(a)(2) and (c) of this chapter.

* * * * *

■ 6. Amend § 261.39 by revising paragraphs (a)(5)(i)(A) and (F), (a)(5)(v)(B) introductory text, and (a)(5)(xi) to read as follows:

§ 261.39 Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.

* * * * *

(a) * * *

(5) * * *

(i) * * *

(A) Name, site address, telephone number and EPA ID number (if applicable) of the exporter of the CRTs.

* * * * *

(F) The name and site address of the recycler or recyclers and the estimated quantity of used CRTs to be sent to each facility, as well as the names of any alternate recyclers.

* * * * *

(v) * * *

(B) The exporter or a U.S. authorized agent must:

* * * * *

(xi) Annual reports must be submitted to the EPA using the allowable methods specified in paragraph (a)(5)(ii) of this

section. 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 the 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 the EPA or authorized State inspector. No CRT exporter may be held liable for the inability to produce an annual report for inspection under this section if the CRT exporter can demonstrate that the inability to produce the annual report is due exclusively to technical difficulty with the EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the CRT exporter bears no responsibility.

* * * * *

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

■ 7. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, 6938 and 6939g.

■ 8. Amend § 262.20 by revising paragraphs (a)(1) and (2) to read as follows:

§ 262.20 General requirements.

(a)(1) *Paper manifest.* A generator that transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, or 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. Large and small quantity generators must register with the EPA's e-Manifest system to obtain signed and dated copies of completed manifests from the EPA e-Manifest system and comply with paragraph (a)(2) of this section.

(2) *Post-receipt manifest data corrections.* After facilities have certified that the manifest is complete, by signing it at the time of submission to the EPA e-Manifest system, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. If corrections are requested by the Director for portions of the manifest that a generator is required to complete, the generator must address the data correction within 30 days from the date of the request. Data correction

submissions must be made electronically via the post-receipt data corrections process as described in § 265.71(l) of this chapter, which applies to corrections made to either paper or electronic manifests.

* * * * *

■ 9. Amend § 262.21 by revising paragraphs (f)(5) through (7) to read as follows:

§ 262.21 Manifest tracking numbers, manifest printing, and obtaining manifests.

* * * * *

(f) * * *

(5) The manifest and continuation sheet must be printed as four-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 four 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 or exporter to the EPA's e-Manifest system”;

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

(iii) Page 3: “Transporter copy”; and

(iv) Page 4 (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. 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 4;

(B) The “Instructions for Transporters” on Copy 3; and

(C) The “Instructions for Treatment, Storage, and Disposal Facilities” on Copy 2.

(ii) Manifest Form 8700–22A.

(A) The “Instructions for Generators” on Copy 4;

(B) The “Instructions for International Shipment Block” and “Instructions for Transporters” on Copy 3; and

(C) The “Instructions for Treatment, Storage, and Disposal Facilities” on Copy 2.

* * * * *

§ 262.24 [Amended]

- 10. Amend § 262.24 by removing paragraphs (g) and (h).
- 11. Amend § 262.42 by:
 - a. Revising paragraphs (a)(1) and (a)(2) introductory text;
 - b. Adding paragraph (a)(3);
 - c. Revising paragraph (b); and
 - d. Adding paragraphs (c)(2) and (d).

The revisions and additions read as follows:

§ 262.42 Exception reporting.

(a)(1) A large quantity generator who does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 45 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.

(2) A large quantity generator must submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if he has not received 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. The Exception Report must include:

* * * * *

(3) Beginning on December 1, 2025, the EPA will no longer accept mailed paper Exception Reports from large quantity generators. Beginning on December 1, 2025, a large quantity generator must submit an Exception Report to the EPA e-Manifest system if the generator has not received a copy of the manifest with the signature of the owner or operator of the designated facility within 60 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) An explanation of the efforts taken to locate the hazardous waste and the results of those efforts.

(b) 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:

(1) Submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the EPA Regional Administrator for the Region in which the generator is located.

Note 1 to paragraph (b)(1): The submission to the EPA need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.

(2) Beginning on December 1, 2025, the EPA will no longer accept mailed paper Exception Reports from small quantity generators. Beginning on December 1, 2025, a small quantity generator must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the EPA e-Manifest system. Generators that are normally VSQs but are subject to the SQG provisions of this paragraph (b) because of an episodic generation event pursuant to § 262.232(a)(5), must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the EPA Regional Administrator for the Region in which the generator is located.

(c) * * *

(2) The 45/60-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

(d)(1) Beginning on December 1, 2025, any requirement in § 262.40 for a generator to keep or retain a copy of an Exception Report is satisfied by retention of a signed electronic Exception Report in the generator's account on the EPA e-Manifest system, provided that the Exception Report is readily available if requested by the EPA.

(2) Beginning on December 1, 2025, no generator may be held liable for the inability to produce an electronic Exception Report for inspection under this section if the generator can demonstrate that the inability to produce the electronic Exception Report is due exclusively to a technical difficulty with the e-Manifest system for which the generator bears no responsibility.

- 12. Amend § 262.83 by:
 - a. Revising paragraphs (a)(6), (b)(1)(i) through (iv), and (b)(3);
 - b. Revising paragraphs (c) introductory text and (c)(2) through (4);
 - c. Revising paragraphs (d)(2)(i) through (v), (viii), (ix), and (xv) ;
 - d. Adding paragraphs (d)(2)(xvi) and (xvii);
 - e. In paragraph (f)(3)(i), removing the word "and" at the end of the paragraph;
 - f. In paragraph (f)(3)(ii), removing the period at the end of the paragraph and adding in its place the text "; and";
 - g. Adding paragraph (f)(3)(iii).

- h. Revising paragraphs (f)(4) and (5), (f)(6)(ii), (g) introductory text, (i)(1) introductory text, and (i)(1)(v); and
- i. Adding paragraph (i)(1)(vi).

The revisions and additions read as follows:

§ 262.83 Exports of hazardous waste.

(a) * * *

(6) The exporter or a U.S. authorized agent 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:

* * * * *

(b) * * *

(1) * * *

(i) Exporter name and EPA identification number, site address, telephone, fax numbers, and email address;

(ii) Foreign receiving facility name, site address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in § 262.81;

(iii) Foreign importer name (if not the owner or operator of the foreign receiving facility), site address, telephone, fax numbers, and email address;

(iv) Intended transporter(s) and/or their agent(s); site address, telephone, fax numbers, and email address;

* * * * *

(3) Notifications listing interim recycling operations or interim disposal operations. If the foreign receiving facility listed in paragraph (b)(1)(ii) of this section 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 RC3, or interim disposal operations D13 to D14, or D15, the notification submitted according to paragraph (b)(1) of this section must also include the final foreign recovery or disposal facility name, site 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, RC1 to RC2, D1 through D12, and DC1 to DC2 will be employed at the final foreign recovery or disposal facility. The

recovery and disposal operations in this paragraph (b)(3) are defined in § 262.81.

* * * * *

(c) *RCRA manifest instructions for export shipments.* The exporter must comply with the manifest requirements of §§ 262.20 through 262.25 except that:

* * * * *

(2) In the International Shipments block on the continuation sheet (EPA Form 8700–22A), the exporter must:

(i) Check the export box and enter the U.S. port of exit (city and State) from the United States;

(ii) Enter the exporter's EPA ID number, if the exporter is not identified in Item 5 of the manifest (EPA Form 8700–22) for the export shipment; and

(iii) List the waste stream 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 an additional Continuation Sheet(s) (EPA Form 8700–22A).

(3) The exporter may obtain the manifest from any source so long as the source of the printed form has received approval from the EPA to print the manifest in accordance with § 262.21(g)(1).

(4) Beginning on December 1, 2025, within 30 days of receiving an export manifest from the final domestic transporter to carry the export shipment to or across the U.S. port of exit, the exporter must submit the top copy (Page 1) of the signed and dated manifest (whether electronic or paper) and all continuation sheets (whether electronic or paper) to the EPA e-Manifest system. The exporter must submit the paper manifest and all paper continuation sheets to the EPA e-Manifest system for purposes of data entry and processing by transmitting to the EPA e-Manifest system an image file of Page 1 of the manifest and all continuation sheets, or by transmitting to the EPA e-Manifest system both a data file and the image file corresponding to Page 1 of the manifest and all continuation sheets.

(i) As prescribed in § 265.1311 of this chapter, and determined in § 265.1312 of this chapter, an exporter who is a user of the electronic manifest system shall be assessed a user fee by the EPA for the submission and processing of each electronic and paper manifest. The EPA shall update the schedule of user fees and publish them to the user community, as provided in § 265.1313 of this chapter.

(ii) An exporter subject to user fees under this section shall make user fee payments in accordance with the requirements of § 265.1314 of this

chapter, subject to the informal fee dispute resolution process of § 265.1316 of this chapter, and subject to the sanctions for delinquent payments under § 265.1315 of this chapter.

(iii) Electronic manifest signatures shall meet the criteria described in § 262.25.

(iv) Within 30 days of receiving a paper replacement manifest from the last transporter carrying the shipment to or across the U.S. border for a manifest that was originated electronically, the exporter must send a signed and dated copy of the paper replacement manifest to the EPA e-Manifest system.

(v) After foreign facilities have certified to the receipt of hazardous wastes by sending a copy of the movement document to the exporter per paragraph (d)(2)(xvii) of this section, any post-receipt data corrections may be submitted at any time by any interested person (e.g., domestic waste handler) shown on the manifest. If requested by the Director, an exporter must address manifest data corrections within 30 days from the date of the request. Data correction submissions must be made electronically via the post-receipt data corrections process as described in § 265.71(l) of this chapter, which applies to corrections made to either paper or electronic manifests.

(d) * * *

(2) * * *

(i) The corresponding consent number(s) and hazardous waste number(s) for the listed hazardous waste from the relevant EPA AOC(s) and if required to be accompanied by a RCRA Uniform Hazardous Waste Manifest within the United States, the manifest tracking number from block 4;

(ii) The shipment number and the total number of shipments from the EPA AOC or the movement tracking number;

(iii) Exporter name and EPA identification number, site address, telephone, fax numbers, and email address;

(iv) Foreign receiving facility name, site address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in § 262.81;

(v) Foreign importer name (if not the owner or operator of the foreign receiving facility), site address, telephone, fax numbers, and email address;

* * * * *

(viii) Name (if not exporter), site address, telephone, fax numbers, and email of company originating the shipment;

(ix) Company name, EPA ID number, site address, telephone, fax numbers, and email address of all transporters;

* * * * *

(xv) As part of the contract requirements per paragraph (f) of this section, 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, and to the competent authorities of the countries of import and transit that control the shipment as an import and transit of hazardous waste respectively. For shipments occurring on or after the electronic import-export reporting compliance date, the exporter must:

(A) Initiate the movement document using the allowable methods listed in paragraph (b)(1) of this section; and

(B) Close out the movement document within three working days of receiving a copy of the signed movement document sent from the foreign receiving facility to confirm receipt using the allowable methods listed in paragraph (b)(1) of this section;

(xvi) As part of the contract requirements per paragraph (f) of this section, the exporter must require that the foreign receiving facility send a copy of the confirmation of recovery or disposal, as soon as possible, but no later than thirty 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. If the movement includes shipment to a foreign interim receiving facility, the exporter must additionally require that the interim receiving facility 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 RC1, or one of disposal operations D1 through D12, DC1 or DC2 as defined in § 262.81 to the competent authority of the country of import and to the exporter. For shipments occurring on or after the electronic import-export reporting compliance date, the exporter must submit each confirmation of recovery or disposal to the EPA within three working days of receiving the confirmation of recovery or disposal from the foreign receiving facility using the allowable methods listed in paragraph (b)(1) of this section; and

(xvii) For shipments sent to a country with which the EPA has established an

electronic exchange of movement document tracking data, foreign receiving facility transmittal to the exporter of the confirmation of receipt and the confirmation of recovery or disposal may be sent via the electronic exchange.

* * * * *

- (f) * * *
(3) * * *

(iii) Transmittals made by the transporter or foreign receiving facility under paragraph (i) of this section being sent to the exporter or the EPA from a country with which the EPA has established an electronic exchange of movement document tracking data may be sent via the electronic exchange.

* * * * *

(4) 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 that control the shipment as an import and transit of hazardous waste respectively. For shipments sent to a country with which the EPA has established an electronic exchange of movement document tracking data, foreign receiving facility transmittal to the exporter of the confirmation of receipt may be sent via the electronic exchange.

(5) 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 thirty 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 that controls the shipment as an import of hazardous waste. For shipments sent to a country with which the EPA has established an electronic exchange of movement document tracking data, foreign receiving facility transmittal to the exporter of the confirmation of recovery or disposal may be sent via the electronic exchange.

(6) * * *

(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 RC1, or one of disposal operations D1 through D12, DC1 or DC2 to the competent authority of the country of import that controls

the shipment as an import of hazardous waste and to the exporter. For shipments sent to a country with which the EPA has established an electronic exchange of movement document tracking data, foreign receiving facility transmittal to the exporter of the confirmation of recovery or disposal may be sent via the electronic exchange.

* * * * *

(g) Annual reports. The exporter shall file an annual report with the 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. The exporter must submit annual reports to the EPA using the allowable methods specified in paragraph (b)(1) of this section. The annual report must include all of the following paragraphs (g)(1) through (6) of this section specified as follows:

* * * * *

- (i) * * *

(1) The exporter shall keep the following records in paragraphs (i)(1)(i) through (vi) of this section and provide them to the EPA or authorized State personnel upon request:

* * * * *

(v) A copy of each contract or equivalent arrangement established per paragraph (f) of this section for at least three (3) years from the expiration date of the contract or equivalent arrangement.

(vi) A copy of each manifest sent by the last transporter in the United States per § 263.20(g) of this chapter.

* * * * *

- 13. Amend § 262.84 by:
■ a. Revising paragraphs (b)(1)(i) through (iv), (b)(2), (c)(1)(i), and (c)(3);
■ b. Removing paragraph (c)(4);
■ c. Redesignating paragraph (c)(5) as new paragraph (c)(4);
■ d. Revising paragraphs (d)(2)(i) through (v), (viii), (ix), and (xv);
■ e. Adding paragraph (f)(4)(iii); and
■ f. Revising paragraphs (g)(1) and (2).

The revisions and additions read as follows:

§ 262.84 Imports of hazardous waste.

* * * * *

- (b) * * *
(1) * * *

(i) Foreign exporter name, site address, telephone, fax numbers, and email address;

(ii) Receiving facility name, EPA ID number, site address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in § 262.81;

(iii) Importer name (if not the owner or operator of the receiving facility), EPA ID number, site address, telephone, fax numbers, and email address;

(iv) Intended transporter(s) and/or their agent(s); site address, telephone, fax numbers, and email address;

* * * * *

(2) Notifications listing interim recycling operations or interim disposal operations. If the receiving facility listed in paragraph (b)(1)(ii) of this section will engage in any of the interim recovery operations R12, R13 or RC3 or interim disposal operations D13 through D15, the notification submitted according to paragraph (b)(1) of this section must also include the final recovery or disposal facility name, site address, telephone, fax numbers, email address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11, RC1, and D1 through D12, will be employed at the final recovery or disposal facility. The recovery and disposal operations in this paragraph are defined in § 262.81.

* * * * *

- (c) * * *
(1) * * *

(i) In place of the generator's name, mailing and site addresses and EPA identification number, the name and site address of the foreign generator and the importer's name, mailing address and EPA identification number must be used.

* * * * *

(3) In the International Shipments block on the Continuation Sheet (EPA Form 8700-22A), the importer must check the import box and enter the port of entry (city and State) into the United States.

* * * * *

- (d) * * *
(2) * * *

(i) The corresponding AOC number(s) and waste number(s) for the listed waste and if required to be accompanied by a RCRA uniform hazardous waste manifest within the United States, the manifest tracking number from block 4;

(ii) The shipment number and the total number of shipments under the AOC number or the movement tracking number;

(iii) Foreign exporter name, site address, telephone, fax numbers, and email address;

(iv) Receiving facility name, EPA ID number, site address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in § 262.81;

(v) Importer name (if not the owner or operator of the receiving facility), EPA

ID number, site address, telephone, fax numbers, and email address;

* * * * *

(viii) Name (if not the foreign exporter), site address, telephone, fax numbers, and email of the foreign company originating the shipment;

(ix) Company name, EPA ID number (for transporters carrying RCRA manifested hazardous waste within the U.S. only), address, telephone, fax numbers, and email address of all transporters;

* * * * *

(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 and to the competent authorities of the countries of export and transit that control the shipment as an export and transit of hazardous waste respectively. For shipments received on or after the electronic import-export reporting compliance date, the receiving facility must close out the movement document to confirm receipt within three working days of shipment delivery using the EPA's Waste Import Export Tracking System (WIETS), or its successor system. For shipments sent from a country with which the EPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send movement document confirmation data back through the electronic exchange to the foreign exporter and the country of export.

(f) * * *

(4) * * *

(iii) Transmittals made by the transporter or receiving facility under paragraph (i) of this section being sent to a competent authority or foreign exporter in a country with which the EPA has established an electronic exchange of movement document tracking data may be sent via the electronic exchange.

* * * * *

(g) * * *

(1) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty 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 the EPA

electronically using the EPA's WIETS, or its successor system. For shipments sent from a country with which the EPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send confirmation of recovery or disposal data back through the electronic exchange to the foreign exporter and the country of export.

(2) If the receiving facility performed any of recovery operations R12, R13, or RC3, or disposal operations D13 through D15, 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 RC1 to RC2, or one of disposal operations D1 through D12, or DC1 to DC2, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and for confirmations received on or after the electronic import-export reporting compliance date, to the EPA electronically using the EPA's WIETS, or its successor system. The recovery and disposal operations in this paragraph (g)(2) are defined in § 262.81. For shipments sent from a country with which the EPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send confirmation of recovery or disposal data back through the electronic exchange to the country of export.

* * * * *

PART 263—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

■ 14. The authority citation for part 263 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, 6938, and 6939g.

■ 15. Amend § 263.20 by revising paragraphs (a)(2) and (9), (c), and (g)(1), (3), and (4) to read as follows:

§ 263.20 The manifest system.

(a) * * *

(2) *Exports.* For exports of hazardous waste subject to the requirements of 40 CFR part 262, subpart H a transporter may not accept hazardous waste without a manifest signed by the generator in accordance with this section, as appropriate, and a movement

document that includes all information required by § 262.83 of this chapter.

* * * * *

(9) *Post-receipt manifest data corrections.* After facilities have certified that the manifest is complete, by signing it at the time of submission to the EPA e-Manifest system, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. If corrections are requested by the Director for portions of the manifest that a transporter is required to complete, the transporter must address the data correction within 30 days from the date of the request. Data correction submissions must be made electronically via the post-receipt data corrections process as in described in § 265.71(l) of this chapter, which applies to corrections made to either paper or electronic manifests.

* * * * *

(c) The transporter must ensure that the manifest accompanies the hazardous waste. For exports, the transporter must ensure that a movement document that includes all information required by § 262.83(d) of this chapter also accompanies the hazardous waste. For imports, the transporter must ensure that a movement document that includes all information required by § 262.84(d) of this chapter also accompanies the hazardous waste.

* * * * *

(g) * * *

(1) Sign and date the manifest in the International Shipments block on the Continuation Sheet (EPA Form 8700–22A) to indicate the date that the shipment left the United States or has been delivered to a seaport of exit for loading onto an international carrier;

* * * * *

(3) Compliance date for manifest returns on January 22, 2025. Beginning on January 22, 2025, return signed, top copies of the manifest and continuation sheet to the generator. On December 1, 2025, this paragraph (g)(3) no longer applies, and paragraph (g)(4) of this section applies instead.

(4) Compliance date for manifest returns on December 1, 2025. Beginning on December 1, 2025, return signed, top copies of the manifest and continuation sheet to the exporter.

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

■ 16. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6939g.

■ 17. Amend § 264.12 by revising paragraphs (a)(2) and (a)(4)(i) and (ii) to read as follows:

§ 264.12 Required notices.

(a) * * *
(2) As per 40 CFR 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter and 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. For shipments received on or after the electronic import-export reporting compliance date, the receiving facility must close out the movement document to confirm receipt within three working days of shipment delivery using the EPA’s Waste Import Export Tracking System (WIETS), or its successor system. For shipments sent from a country with which the EPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send movement document confirmation data back through the electronic exchange to the foreign exporter and the country of export. The original of the signed movement document must be maintained at the facility for at least three (3) years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility’s account on WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any the 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 section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system for which the owner or operator of a facility bears no responsibility.

* * * * *

(4) * * *

(i) Send copies of the signed and dated confirmation of recovery or

disposal, as soon as possible, but no later than thirty 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 the EPA electronically using WIETS, or its successor system. For shipments sent from a country with which the EPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send confirmation of recovery or disposal data back through the electronic exchange to the foreign exporter and the country of export.

(ii) If the facility performed any of recovery operations R12, R13, or RC3, or disposal operations D13 through D15, 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 RC1, or one of disposal operations D1 through D12, or DC1 to DC2, 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 the EPA electronically using WIETS, or its successor system. The recovery and disposal operations in this paragraph (a)(4)(ii) are defined in § 262.81 of this chapter. For shipments sent from a country with which the EPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send confirmation of recovery or disposal data back through the electronic exchange to the country of export.

* * * * *

■ 18. Amend § 264.71 by:

- a. Revising paragraph (a)(2)(i);
- b. Removing and reserving paragraphs (a)(2)(iv) and (a)(2)(v)(A); and
- c. Revising paragraphs (a)(2)(v)(B), (a)(3)(i) and (ii), (b)(4), (d), and (l) introductory text.

The revisions read as follows:

§ 264.71 Use of manifest system.

(a) * * *

(2) * * *

(i) Sign and date, by hand, each copy of the manifest;

* * * * *

(v) * * *

(B) *Options for compliance on June 30, 2021.* Send to the EPA e-Manifest system an image file of the top copy (Page 1) of the manifest and any continuation sheet, or send to the EPA e-Manifest 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; and

* * * * *

(3) * * *

(i) Additionally, list the relevant waste stream consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest in the International Shipments block on the Continuation Sheet (EPA Form 8700–22A), matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use an additional Continuation Sheet(s) (EPA Form 8700–22A); and

(ii) Send a copy of the manifest within thirty (30) days of delivery to the EPA e-Manifest system per paragraph (a)(2)(v) of this section.

(b) * * *

(4) Within 30 days of delivery, send a copy (Page 1) of the signed and dated manifest to the EPA e-Manifest system; and

* * * * *

(d) *International movement documents.* As per 40 CFR 262.84(d)(2)(xv), within three (3) working days of the receipt of a shipment subject to 40 CFR part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter and to the competent authorities of the countries of export and transit that control the shipment as an export and transit of hazardous waste respectively. For shipments received on or after the electronic import-export reporting compliance date, the receiving facility must close out the movement document to confirm receipt within three working days of shipment delivery using EPA’s Waste Import Export Tracking System (WIETS), or its successor system. For shipments sent from a country with which EPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send movement document confirmation data back through the electronic exchange to the foreign exporter and the country of export. 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 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 section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system, for which the owner or operator of a facility bears no responsibility.

* * * * *

(l) *Post-receipt manifest data corrections.* After facilities have certified that the manifest is complete, by signing it at the time of submission to the EPA e-Manifest system, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. If corrections are requested by the Director for portions of the manifest that a designated facility is required to complete, the facility must make the data correction within 30 days from the date of the request.

* * * * *

■ 19. Amend § 264.72 by revising paragraphs (c) and (g) to read as follows:

§ 264.72 Manifest discrepancies.

* * * * *

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 20 days after receiving the waste, the owner or operator must:

- (1) Immediately submit to the Regional Administrator a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.
- (2) Beginning on December 1, 2025, immediately submit a Discrepancy Report to the EPA e-Manifest system describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue. Beginning on December 1, 2025, the EPA will no longer accept mailed paper Discrepancy Reports from facilities.

* * * * *

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty"

containers set forth in § 261.7(b) of this chapter after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within 30 days, send a copy of the amended manifest to the transporter that received copies prior to their being amended. Facilities are not required to send the amended manifest to any transporter who is registered in the EPA's e-Manifest system. Registered transporters may obtain the signed and dated copy of a completed manifest from the EPA e-Manifest system in lieu of receiving the manifest through U.S. postal mail.

■ 20. Amend § 264.76 by adding paragraph (b) to read as follows:

§ 264.76 Unmanifested waste report.

* * * * *

(b) Beginning on December 1, 2025, if a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described by § 263.20(e) of this chapter, and if the waste is not excluded from the manifest requirement by this chapter, then the owner or operator must prepare an electronic Unmanifested Waste Report in the EPA e-Manifest system for submission to the EPA within 15 days after receiving the waste. The Unmanifested Waste Report must contain the following information:

- (1) The EPA identification number, name and address of the facility;
- (2) The date the facility received the waste;
- (3) The EPA identification number, name and address of the generator and the transporter, if available;
- (4) A description and the quantity of each unmanifested hazardous waste the facility received;
- (5) The method of treatment, storage, or disposal for each hazardous waste;
- (6) The certification signed by the owner or operator of the facility or his authorized representative; and
- (7) A brief explanation of why the waste was unmanifested, if known.

■ 21. Amend § 264.1310 by revising the definition of "Paper manifest submissions" to read as follows:

§ 264.1310 Definitions applicable to this subpart.

* * * * *

Paper manifest submissions mean submissions to the paper processing center of the EPA e-Manifest system by facility owners or operators, of the data from the designated facility copy of a paper manifest, EPA Form 8700–22, or a paper Continuation Sheet, EPA Form 8700–22A. Such submissions may be made by submitting image files from paper manifests or continuation sheets in accordance with § 264.1311(b), or by submitting both an image file and data file in accordance with the procedures of § 264.1311(c).

* * * * *

■ 22. Amend § 264.1311 by revising paragraphs (a)(2), (b) introductory text, and (c) introductory text to read as follows:

§ 264.1311 Manifest transactions subject to fees.

(a) * * *

(2) The submission of each paper manifest submission to the paper processing center signed by owners or operators of receiving facilities, with the fee assessed according to whether the manifest is submitted to the system by the upload of an image file or by the upload of a data file representation of the paper manifest; and

* * * * *

(b) *Image file uploads from paper manifests.* Receiving facilities may submit image file uploads of completed, ink-signed manifests to the EPA e-Manifest system. Such image file upload submissions may be made for individual manifests received by a facility or as a batch upload of image files from multiple paper manifests received at the facility:

* * * * *

(c) *Data file uploads from paper manifests.* Receiving facilities may submit data file representations of completed, ink-signed manifests in lieu of submitting image files to the EPA e-Manifest system. Such data file submissions from paper manifests may be made for individual manifests received by a facility or as a batch upload of data files from multiple paper manifests received at the facility.

* * * * *

■ 23. Amend § 264.1312, in paragraphs (a) and (b)(1), by revising the formulas to read as follows:

§ 264.1312 User fee calculation methodology.

(a) * * *

$$Fee_i = \left(Marginal\ Cost_i + \frac{System\ Setup\ Cost}{Years \times N_t} + \frac{O\&M\ Cost}{N_t} \right) \times (1 + Indirect\ Cost\ Factor)$$

System Setup Cost = Procurement Cost + EPA Program Cost

O&M Cost = Electronic System O&M Cost + Paper Center O&M Cost + Help Desk Cost + EPA Program Cost + CROMERR Cost + LifeCycle Cost to Modify or Upgrade e – Manifest System Related Services

* * * * * (b)(1) * * *

$$Fee_i = \left(Marginal\ Cost_i + \frac{System\ Setup\ Cost}{Years \times N_t} + \frac{O\&M_i\ Cost}{N_i} \right) \times (1 + Indirect\ Cost\ Factor)$$

System Setup Cost = Procurement Cost + EPA Program Cost

O&M_{fully electronic} Cost = Electronic System O&M Cost + Help Desk Cost + EPA Program Cost + CROMERR Cost + LifeCycle Cost to Modify or Upgrade e – Manifest System Related Services

O&M_{all other} Cost = Electronic System O&M Cost + Paper Center O&M Cost + Help Desk Cost + EPA Program Cost + CROMERR Cost + LifeCycle Cost to Modify or Upgrade e – Manifest System Related Services

* * * * *

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

■ 24. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, 6937, and 6939g.

■ 25. Amend § 265.12 by revising paragraphs (a)(2) and (a)(4)(i) and (ii) to read as follows:

§ 265.12 Required notices.

(a) * * *

(2) As per 40 CFR 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter and 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. For shipments received on or after the electronic import-export reporting compliance date, the receiving facility must close out the movement document to confirm receipt within

three working days of shipment delivery using the EPA's Waste Import Export Tracking System (WIETS), or its successor system. For shipments sent from a country with which the EPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send movement document confirmation data back through the electronic exchange to the foreign exporter and the country of export. The original of the signed movement document must be maintained at the facility for at least three (3) years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on 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 section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system, for

which the owner or operator of a facility bears no responsibility.

* * * * *

(4) * * *

(i) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty 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 the EPA electronically using WIETS, or its successor system. For shipments sent from a country with which the EPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send confirmation of recovery or disposal data back through the electronic exchange to the foreign exporter and the country of export.

(ii) If the facility performed any of recovery operations R12, R13, or RC3, or disposal operations D13 through D15, 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 RC1, or one of disposal operations D1 through D12, or DC1 to DC2, 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 the EPA electronically using WIETS, or its successor system. The recovery and disposal operations in this paragraph are defined in § 262.81 of this chapter. For shipments sent from a country with which the EPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send confirmation of recovery or disposal data back through the electronic exchange to the country of export.

* * * * *

- 26. Amend § 265.71 by:
 - a. Revising paragraph (a)(2)(i);
 - b. Removing and reserving paragraphs (a)(2)(iv) and (a)(2)(v)(A);
 - c. Revising paragraph (a)(2)(v)(B);
 - d. Adding paragraph (a)(2)(vi); and
 - e. Revising paragraphs (a)(3)(i) and (ii), (b)(4), (d), and (l) introductory text.
 The revisions and additions read as follows:

§ 265.71 Use of manifest system.

- (a) * * *
- (2) * * *
- (i) Sign and date, by hand, each copy of the manifest;
- * * * * *
- (v) * * *
- (B) *Options for compliance on June 30, 2021.* Send to the EPA e-Manifest system an image file of the top copy (Page 1) of the manifest and any continuation sheet, or send to the EPA e-Manifest 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; and
- (vi) Retain at the facility a copy of each manifest for at least three years from the date of delivery.
- (3) * * *
- (i) Additionally, list the relevant waste stream consent number from consent documentation supplied by the EPA to the facility for each waste listed on the manifest in the International Shipments block on the Continuation Sheet (EPA Form 8700–22A), matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should

use an additional Continuation Sheet(s) (EPA Form 8700–22A); and

- (ii) Send a copy of the manifest to the EPA e-Manifest system per paragraph (a)(2)(v) of this section.

(b) * * *

(4) Within 30 days of delivery, send a copy (Page 1) of the signed and dated manifest to the EPA e-Manifest system.

* * * * *

(d) International movement documents. As per 40 CFR 262.84(d)(2)(xv), within three (3) working days of the receipt of a shipment subject to 40 CFR part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter and 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. For shipments received on or after the electronic import-export reporting compliance date, the receiving facility must close out the movement document to confirm receipt within three working days of shipment delivery using WIETS, or its successor system. For shipments sent from a country with which the EPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send movement document confirmation data back through the electronic exchange to the foreign exporter and the country of export. 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 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 section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with the EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

* * * * *

(l) *Post-receipt manifest data corrections.* After facilities have certified that the manifest is complete, by signing it at the time of submission

to the EPA e-Manifest system, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. If corrections are requested by the Director for portions of the manifest that a designated facility is required to complete, the facility must address the data correction within 30 days from the date of the request.

* * * * *

- 27. Amend § 265.72 by revising paragraphs (c) and (g) to read as follows:

§ 265.72 Manifest discrepancies.

* * * * *

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 20 days after receiving the waste, the owner or operator must:

- (1) Immediately submit to the Regional Administrator a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.
 - (2) Beginning on December 1, 2025, immediately submit a Discrepancy Report to the EPA e-Manifest system describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue. Beginning on December 1, 2025, the EPA will no longer accept mailed paper Discrepancy Reports from facilities.
- * * * * *

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for “empty” containers set forth in § 261.7(b) of this chapter after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within 30 days, send a copy of the amended manifest to the transporter that received copies prior to their being amended. Facilities are not required to send the amended manifest to any transporter who is registered in the EPA's e-Manifest system. Registered transporters may obtain the signed and dated copy

of a completed manifest from the EPA e-Manifest system in lieu of receiving the manifest through U.S. postal mail.

■ 28. Amend § 265.76 by adding paragraph (b) to read as follows:

§ 265.76 Unmanifested waste report.

* * * * *

(b) Beginning on December 1, 2025, if a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described by § 263.20(e) of this chapter, and if the waste is not excluded from the manifest requirement by this chapter, then the owner or operator must prepare an electronic Unmanifested Waste Report in the EPA e-Manifest system for submission to the EPA within 15 days after receiving the waste. The Unmanifested Waste Report must contain the following information:

- (1) The EPA identification number, name and address of the facility;
- (2) The date the facility received the waste;
- (3) The EPA identification number, name and address of the generator and the transporter, if available;
- (4) A description and the quantity of each unmanifested hazardous waste the facility received;
- (5) The method of treatment, storage, or disposal for each hazardous waste;
- (6) The certification signed by the owner or operator of the facility or his authorized representative; and

(7) A brief explanation of why the waste was unmanifested, if known.

■ 29. Amend § 265.1310 by revising the definition of “Paper manifest submissions” to read as follows:

§ 265.1310 Definitions applicable to this subpart.

* * * * *

Paper manifest submissions mean submissions to the paper processing center of the EPA e-Manifest system by facility owners or operators, of the data from the designated facility copy of a paper manifest, EPA Form 8700–22, or a paper Continuation Sheet, EPA Form 8700–22A. Such submissions may be made by submitting image files from paper manifests or continuation sheets in accordance with § 264.1311(b) of this chapter, or by submitting both an image file and data file in accordance with the procedures of § 264.1311(c) of this chapter.

* * * * *

■ 30. Amend § 265.1311 by revising paragraphs (a)(2), (b) introductory text, and (c) introductory text to read as follows:

§ 265.1311 Manifest transactions subject to fees.

- (a) * * *
- (2) The submission of each paper manifest submission to the paper processing center signed by owners or operators of receiving facilities, with the fee assessed according to whether the

manifest is submitted to the system by the upload of an image file or by the upload of a data file representation of the paper manifest; and

* * * * *

(b) *Image file uploads from paper manifests.* Receiving facilities may submit image file uploads of completed, ink-signed manifests to the EPA e-Manifest system. Such image file upload submissions may be made for individual manifests received by a facility or as a batch upload of image files from multiple paper manifests received at the facility:

* * * * *

(c) *Data file uploads from paper manifests.* Receiving facilities may submit data file representations of completed, ink-signed manifests in lieu of submitting image files to the EPA e-Manifest system. Such data file submissions from paper manifests may be made for individual manifests received by a facility or as a batch upload of data files from multiple paper manifests received at the facility.

* * * * *

■ 31. Amend § 265.1312, in paragraphs (a) and (b)(1), by revising the formulas to read as follows:

§ 265.1312 User fee calculation methodology.

(a) * * *

$$Fee_i = \left(Marginal Cost_i + \frac{System\ Setup\ Cost}{Years \times N_t} + \frac{O\&M\ Cost}{N_t} \right) \times (1 + Indirect\ Cost\ Factor)$$

$$System\ Setup\ Cost = Procurement\ Cost + EPA\ Program\ Cost$$

$$O\&M\ Cost = Electronic\ System\ O\&M\ Cost + Paper\ Center\ O\&M\ Cost + Help\ Desk\ Cost + EPA\ Program\ Cost + CROMERR\ Cost + LifeCycle\ Cost\ to\ Modify\ or\ Upgrade\ e - Manifest\ System\ Related\ Services$$

* * * * *

(b)(1) * * *

$$Fee_i = \left(Marginal\ Cost_i + \frac{System\ Setup\ Cost}{Years \times N_t} + \frac{O\&M_i\ Cost}{N_i} \right) \times (1 + Indirect\ Cost\ Factor)$$

System Setup Cost = Procurement Cost + EPA Program Cost

O&M_{fully electronic} Cost = Electronic System O&M Cost + Help Desk Cost + EPA Program Cost + CROMERR Cost + LifeCycle Cost to Modify or Upgrade e – Manifest System Related Services

O&M_{all other} Cost = Electronic System O&M Cost + Paper Center O&M Cost + Help Desk Cost + EPA Program Cost + CROMERR Cost + LifeCycle Cost to Modify or Upgrade e – Manifest System Related Services

* * * * *

PART 267—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT

■ 32. The authority citation for part 267 continues to read as follows:

Authority: 42 U.S.C. 6902, 6912(a), 6924–6926, and 6930.

■ 33. Amend § 267.71 by revising paragraphs (a)(6)(i) and (ii) and (d) to read as follows:

§ 267.71 Use of the manifest system.

(a) * * *
(6) * * *

(i) Additionally, list the relevant waste stream consent number from consent documentation supplied by the EPA to the facility for each waste listed on the manifest in the International Shipments block on the Continuation Sheet (EPA Form 8700–22A), matched to the relevant list number for the waste from block 9b. If additional space is needed, the receiving facility should use an additional Continuation Sheet(s) (EPA Form 8700–22A); and

(ii) Submit a copy of the manifest to the e-Manifest system per 40 CFR 264.71(a)(2)(v) or 265.71(a)(2)(v).

* * * * *

(d) As per 40 CFR 262.84(d)(2)(xv), within three (3) working days of the receipt of a shipment subject to 40 CFR part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter and 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. For shipments received on or after the electronic import-export reporting compliance date, the receiving facility

must close out the movement document to confirm receipt within three working days of shipment delivery using the EPA’s Waste Import Export Tracking System (WIETS), or its successor system. For shipments sent from a country with which the EPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS, or its successor system, to send movement document confirmation data back through the electronic exchange to the foreign exporter and the country of export. 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 the 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 the 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 section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with the EPA’s Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

■ 34. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

■ 35. Amend § 270.30 by revising paragraphs (l)(7) and (8) to read as follows:

§ 270.30 Conditions applicable to all permits.

* * * * *

(l) * * *

(7) *Manifest discrepancy report.* If a significant discrepancy in a manifest is discovered, the permittee must:

(i) Attempt to reconcile the discrepancy. If not resolved within 20 days, the permittee must submit a letter report, including a copy of the manifest, to the Director. (See 40 CFR 264.72.)

(ii) Beginning on December 1, 2025, attempt to reconcile the discrepancy. If not resolved within 20 days, the permittee must immediately submit a Discrepancy Report to the EPA e-Manifest System describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue. (See 40 CFR 264.72.)

(8) *Unmanifested waste report.* A permittee must:

(i) Submit the Unmanifested Waste Report to the Director within 15 days of receipt of unmanifested waste. (See 40 CFR 264.76.)

(ii) Beginning on December 1, 2025, submit an electronic Unmanifested Waste Report in the EPA e-Manifest system for submission to the EPA within 15 days of receipt of unmanifested waste. (See 40 CFR 264.76.)

* * * * *

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

■ 36. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6926, and 6939g.

■ 37. Amend § 271.1, in paragraph (j)(2), by:

■ a. In table 1, adding an entry in chronological order by “Promulgation date”; and

■ b. In table 2, adding an entry in chronological order by “Effective date”.
The additions read as follows:

§ 271.1 Purpose and scope.
* * * * *
(j) * * *
(2) * * *

TABLE 1—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Table with 4 columns: Promulgation date, Title of regulation, Federal Register reference, Effective date. Row 1: July 26, 2024, Integrating e-Manifest with Hazardous Waste Exports and Other Manifest-Related Reports, PCB Manifest Amendments, and Technical Corrections, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION], January 22, 2025.

* * * * *

TABLE 2—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Table with 4 columns: Effective date, Self-implementing provision, RCRA citation, Federal Register reference. Row 1: January 22, 2025, e-Manifest user fees for hazardous waste exporters, related export/import revisions, manifest-related reporting, manifest requirements, 3017, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].

* * * * *

■ 38. Amend § 271.10 by:
■ a. Adding paragraph (f)(4)(i);
■ b. Adding and reserving paragraph (f)(4)(ii);
■ c. Revising paragraph (h)(2); and
■ d. Adding paragraph (j).
The additions and revisions read as follows:

§ 271.10 Requirements for generators of hazardous wastes.

* * * * *
(f) * * *
(4) * * *

(i) Beginning on December 1, 2025, investigate instances where manifests have not been returned by the owner or operator of the designated facility and report such instances by electronic submission in the EPA’s e-Manifest system to the State in which the shipment originated.

* * * * *
(h) * * *

(2) The State in which the generator is located (generator State) may require that the initial generator copy of the paper manifest form be submitted to the State.

* * * * *

(j) The State shall have standards for hazardous waste exporters which are equivalent to 40 CFR part 262. These standards shall include:

(1) Compliance with the manifest system including the requirements that:

(i) Beginning on December 1, 2025, the exporter submits a signed copy of the manifest and continuation sheet to the EPA e-Manifest system.

(ii) The exporter lists the relevant consent number from consent documentation supplied by the EPA facility for each waste listed on the manifest in the International Shipments block on the Continuation Sheet (EPA Form 8700–22A), matched to the relevant list number for the waste from block 9b; and

(2) Beginning on December 1, 2025, the exporter pays user fees to the EPA to recover the EPA’s costs related to the development and operation of an electronic hazardous waste manifest system, in the amounts specified by the user fee methodology included in 40 CFR part 265, subpart FF for all paper and electronic manifests submitted to the EPA e-Manifest system.

■ 39. Amend § 271.12 by adding paragraphs (l) and (m) to read as follows:

§ 271.12 Requirements for hazardous waste management facilities.

* * * * *

(l) Beginning on December 1, 2025, requirements for owners and operators of facilities to submit electronic Discrepancy Reports to the EPA e-Manifest system; and

(m) Beginning on December 1, 2025, requirements for owners and operators to submit electronic Unmanifested

Waste Reports to the EPA e-Manifest system.

PART 761—POLYCHLORINATED BIPHENYLS (PCBs) MANUFACTURING, PROCESSING, DISTRIBUTION IN COMMERCE, AND USE PROHIBITIONS

■ 40. The authority citation for part 761 is revised to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614, and 2616 and 42 U.S.C. 6939g.

■ 41. Amend § 761.3 by adding in alphabetical order the definition for “Electronic manifest” to read as follows:

§ 761.3 Definitions.

* * * * *

Electronic manifest means the electronic equivalent of the manifest (which is defined in this section as the shipping document EPA form 8700–22 and any continuation sheet attached to EPA form 8700–22) that is obtained from the EPA’s national e-Manifest system and transmitted electronically to the system in accordance with the instructions included with the form, and subpart K of this part, and also in accordance with §§ 262.20, 262.24, and 262.25 of this chapter.

* * * * *

Subpart D—Storage and Disposal

■ 42. Amend § 761.60 by revising paragraph (e) to read as follows:

§ 761.60 Disposal requirements.

* * * * *

(e) Any person who is required to incinerate any PCBs and PCB items under this subpart and who can demonstrate that an alternative method of destroying PCBs and PCB items exists and that this alternative method can achieve a level of performance equivalent to an incinerator approved under § 761.70 or a high efficiency boiler operating in compliance with § 761.71, must submit a written request to the EPA Regional Administrator or the Director, Office of Resource Conservation and Recovery, for a waiver from the incineration requirements of § 761.70 or § 761.71. Requests for approval of alternate methods that will be operated in more than one Region must be submitted to the Director, Office of Resource Conservation and Recovery, except for research and development activities involving less than 500 pounds of PCB material (see paragraph (i)(2) of this section). Requests for approval of alternate methods that will be operated in only one Region must be submitted to the appropriate the EPA Regional Administrator. The applicant must show that their method of destroying PCBs will not present an unreasonable risk of injury to health or the environment. On the basis of such information and any available information, the EPA may, in its discretion, approve the use of the alternate method if it finds that the alternate disposal method provides PCB destruction equivalent to disposal in a § 761.70 incinerator or a § 761.71 high efficiency boiler and will not present an unreasonable risk of injury to health or the environment. Any approval must be stated in writing and may include such conditions and provisions as the EPA deems appropriate. The person to whom such waiver is issued must comply with all limitations contained in such determination. No person may use the alternate method of destroying PCBs or PCB items prior to obtaining permission from the appropriate the EPA official.

* * * * *

■ 43. Amend § 761.205 by revising paragraph (d) to read as follows:

§ 761.205 Notification of PCB waste activity (EPA Form 7710–53).

* * * * *

(d) Persons required to notify under this section shall file EPA Form 7710–53 with the EPA in accordance with the instructions on the form.

* * * * *

■ 44. Amend § 761.207 by adding paragraph (g) to read as follows:

§ 761.207 The manifest—general requirements.

* * * * *

(g)(1) *Electronic manifest.* A person required to prepare a manifest under this section may prepare and use an electronic manifest, provided that the person:

(i) Complies with the requirements in § 262.24 of this chapter for use of electronic manifests; and

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

(2) *Legal equivalence to paper manifests.* Electronic manifests that are obtained, completed, and transmitted in accordance with § 262.20(a)(3) of this chapter, and used in accordance with §§ 262.20, 262.24, and 262.25 of this chapter 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 subpart K of this part to obtain, complete, sign, provide, use, or retain a manifest.

(i) Any requirement in subpart K of this part 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 § 262.25 of this chapter.

(ii) Any requirement in subpart K of this part 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 EPA e-Manifest system.

(iii) Any requirement in subpart K of this part 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 EPA e-Manifest system, provided that such copies are readily available for viewing and production if requested by any the EPA or authorized State inspector.

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

(v) After facilities have certified that the manifest is complete, by signing it at the time of submission to the EPA e-Manifest system, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. If corrections are requested by the Director for portions of the manifest that a generator, transporter, or a commercial

storage or disposal facility is required to complete, those PCB waste handlers must address the data correction within 30 days from the date of the request. Data corrections must be made electronically via the post-receipt data corrections process described in § 265.71(l) of this chapter, which applies to corrections made to either paper or electronic manifests. Generators who are not registered with the EPA e-Manifest system must arrange with interested persons shown on the manifest to electronically submit manifest data corrections on their behalf within 30 days of the date of the correction request.

■ 45. Revise § 761.209 to read as follows:

§ 761.209 Number of copies of a manifest.

The manifest consists of at least the number of copies which will provide the generator, the transporter, and the owner or operator of the designated facility with one copy each for their records and a copy to be submitted to the EPA e-Manifest system as indicated in the instructions included with EPA form 8700–22. Any requirement in subpart K of this part 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 EPA e-Manifest system. All parties using electronic manifests must do so in accordance with §§ 262.20, 262.24, and 262.25 of this chapter.

■ 46. Amend § 761.210 by revising paragraphs (a)(1) and (2) to read as follows:

§ 761.210 Use of the manifest—Generator requirements.

(a) * * *

(1) Sign the manifest certification; and

(2) Obtain the signature of the initial transporter and date of acceptance on the manifest; and

* * * * *

■ 47. Amend § 761.211 by revising paragraphs (d)(1), (e)(3), (f)(3)(i) and (f)(4)(i), and adding paragraph (g) to read as follows:

§ 761.211 Manifest system—Transporter requirements.

* * * * *

(d) * * *

(1) Obtain the date of delivery and the signature of that transporter or of the owner or operator of the designated facility on the manifest; and

* * * * *

(e) * * *

(3) The delivering transporter obtains the date of delivery and signature of the

owner or operator of the designated facility on either the manifest or the shipping paper; and

- (f) * * *
- (3) * * *

(i) Obtain the date of delivery and signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

- * * * * *
- (4) * * *

(i) Obtain the date of delivery and the signature of the next non-rail transporter on the manifest; and

- * * * * *

(g) If after a manifest has been originated electronically and signed electronically by the initial transporter, and the electronic manifest system should become unavailable for any reason, then the transporter must follow the replacement manifest procedures in accordance with § 263.20(a)(6) of this chapter.

■ 48. Amend § 761.213 by revising paragraphs (a)(2)(i), (iv), and (v), and adding paragraphs (d) and (e) to read as follows:

§ 761.213 Use of manifest—Commercial storage and disposal facility requirements.

- (a) * * *
- (2) * * *

(i) Sign and date each copy of the manifest;

- * * * * *

(iv) Within 30 days of delivery, send a copy (Page 2) of the manifest to the generator, if the generator is not registered in the EPA's e-Manifest system. Any generator who is registered with the EPA's e-Manifest system may obtain their signed and dated copies of completed manifests from the EPA e-Manifest system; and

(v) Send to the EPA e-Manifest system an image file of the top copy (Page 1) of the manifest and any continuation sheet or send to the EPA e-Manifest 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.

- * * * * *

(d) If a commercial storage or disposal facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the facility must follow the replacement manifest procedures in accordance with § 265.71(h) of this chapter.

(e)(1) As prescribed in § 265.1311 of this chapter, and determined in § 265.1312 of this chapter, a commercial storage or disposal facility who is a user of the electronic manifest system shall

be assessed a user fee by the EPA for the submission and processing of each electronic and paper manifest. The EPA shall update the schedule of user fees and publish them to the user community, as provided in § 265.1313 of this chapter.

(2) A commercial storage or disposal facility subject to user fees under this section shall make user fee payments in accordance with the requirements of § 264.1314 of this chapter, subject to the informal fee dispute resolution process of § 264.1316 of this chapter, and subject to the sanctions for delinquent payments under § 264.1315 of this chapter.

■ 49. Amend § 761.215 by revising paragraphs (c) and (g) to read as follows:

§ 761.215 Manifest discrepancies.

- * * * * *

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 20 days after receiving the waste, the owner or operator must:

(1) Immediately submit to the Regional Administrator a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(2) Beginning on December 1, 2025, immediately submit to the EPA e-Manifest system a Discrepancy Report describing the discrepancy and attempts to reconcile it using forms and procedures defined by the EPA, and a copy of the manifest or shipping paper at issue. Beginning December 1, 2025, the EPA will no longer accept mailed paper Discrepancy Reports from facilities.

- * * * * *

(g) If a facility rejects a waste after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility must amend its copy of the manifest to indicate the rejected wastes in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended. Facilities are not

required to send the amended manifest to any generator or transporter who is registered in the EPA's e-Manifest system. Registered generators or transporters may obtain the signed and dated copy of a completed manifest from the EPA e-Manifest system in lieu of receiving the manifest through U.S. postal mail.

■ 50. Amend § 761.216 by adding paragraph (b) to read as follows:

§ 761.216 Unmanifested waste report.

- * * * * *

(b) Beginning on December 1, 2025, if a facility accepts for storage or disposal any PCB waste from an offsite source without an accompanying manifest, or without an accompanying shipping paper as described by § 761.211(e), and the owner or operator of the commercial storage or disposal facility cannot contact the generator of the PCB waste, then they shall notify the Regional Administrator of the EPA region in which their facility is located of the unmanifested PCB waste so that the EPA Regional Administrator can determine whether further actions are required before the owner or operator may store or dispose of the unmanifested PCB waste, and additionally the owner or operator must prepare and submit an electronic Unmanifested Waste Report in the EPA e-Manifest system to the EPA Regional Administrator within 15 days after receiving the waste. The Unmanifested Waste Report must contain the following information:

(1) The EPA identification number, name and address of the facility;

(2) The date the facility received the waste;

(3) The EPA identification number, name and address of the generator and the transporter, if available;

(4) A description and the quantity of each unmanifested hazardous waste the facility received;

(5) The method of treatment, storage, or disposal for each hazardous waste;

(6) The certification signed by the owner or operator of the facility or their authorized representative;

(7) A brief explanation of why the waste was unmanifested, if known; and

(8) The disposition made of the unmanifested waste by the commercial storage or disposal facility, including:

(i) If the waste was stored or disposed by that facility, was the generator identified and was a manifest subsequently supplied.

(ii) If the waste was sent back to the generator, why and when.

■ 51. Amend § 761.217 by revising paragraphs (a)(1), (a)(2) introductory

text, and (b)(2), and adding paragraph (c) to read as follows:

§ 761.217 Exception reporting.

* * * * *

(a) * * *

(1) A generator of PCB waste, who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter, shall immediately contact the transporter and/or the owner or operator of the designated facility to determine the status of the PCB waste.

(2) A generator of PCB waste subject to the manifesting requirements shall submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if the generator has not received a copy of the manifest with the signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter. The Exception Report shall be submitted to the EPA no later than 60 days from the date on which the generator should have received the manifest. The Exception Report shall include the following:

* * * * *

(b) * * *

(2) The 45- and 60-day timeframes begin the date the waste was accepted by the initial transporter forwarding the PCB waste shipment from the designated facility to the alternate facility.

(c) Electronic Exception Reports that are originated in the EPA e-Manifest system in accordance with paragraph (a) of this section and used in accordance with this section in lieu of paper Exception Reports are the legal equivalent of paper Exception Reports bearing handwritten signatures and satisfy for all purposes any requirement in this section to complete, sign, provide, and retain an Exception Report.

(1) Any requirement in this section to sign an Exception Report certification by hand is satisfied by signing with a valid and enforceable electronic signature within the meaning of § 262.25 of this chapter.

(2) Any requirement in this section to give, provide or send an Exception Report to the EPA Regional Administrator is satisfied when an electronic Exception Report is transmitted to the EPA Regional Administrator by submission to the e-Manifest system.

(3) Any requirement in § 761.214 for a generator to keep or retain a copy of an Exception Report is satisfied by retention of a signed electronic

Exception Report in the generator's account on the national e-Manifest system, provided that the Exception Report is readily available for viewing and production if requested by any EPA or authorized State inspector.

(4) No generator may be held liable for the inability to produce an electronic Exception Report for inspection under this section if the generator can demonstrate that the inability to produce the electronic Exception Report is due exclusively to a technical difficulty with the e-Manifest system for which the generator bears no responsibility.

■ 52. Amend § 761.218 by adding paragraphs (e) and (f) to read as follows:

§ 761.218 Certificate of disposal.

* * * * *

(e) Electronic certificates of disposal that are originated in an EPA-approved electronic system in accordance with this section and used in accordance with this section in lieu of paper certificates of disposal are the legal equivalent of paper certificates of disposal bearing handwritten signatures and satisfy for all purposes any requirement in this section to complete, sign, provide, and retain a certificate of disposal.

(1) Any requirement in this section to sign a certificate of disposal by hand is satisfied by signing with a valid and enforceable electronic signature within the meaning of § 262.25 of this chapter.

(2) Any requirement in this section to give, provide or send a certificate of disposal to the EPA Regional Administrator is satisfied when an electronic certificate of disposal is transmitted to the EPA Regional Administrator by submission to an EPA-approved electronic system.

(3) Any requirement in this section for a generator or disposer to keep or retain a copy of a certificate of disposal is satisfied by retention of a signed electronic certificate of disposal in the generator's or disposer's account, respectively, on an EPA-approved electronic system, provided that the certificate of disposal is readily available for viewing and production if requested by any EPA or authorized State inspector.

(4) No generator or disposer may be held liable for the inability to produce an electronic certificate of disposal for inspection under this section if the generator or disposer can demonstrate that the inability to produce the electronic certificate of disposal is due exclusively to a technical difficulty with the EPA-approved electronic system for which the generator or disposer bears no responsibility.

(f) *Restriction on use of electronic certificates of disposal.* The owner or operator of a disposal facility may participate in electronic certificates of disposal if it is known at the time the certificate of disposal is originated that:

(1) The manifest at issue originated in the EPA e-Manifest system in accordance with §§ 262.24(c) and 262.25 of this chapter; and

(2) For mixed paper and electronic manifests (*i.e.*, hybrid manifests), the generator has registered in the EPA e-Manifest system and has access to the electronic manifests for the site.

■ 53. Amend § 761.219 by adding paragraphs (e) and (f) to read as follows:

§ 761.219 One-year exception reporting.

* * * * *

(e) Electronic One-year Exception Reports that are originated in an EPA-approved electronic system in accordance with paragraph (a) of this section and used in accordance with this section in lieu of paper One-year Exception Reports are the legal equivalent of paper One-year Exception Reports bearing handwritten signatures and satisfy for all purposes any requirement in this section to complete, sign, provide, and retain a One-year Exception Report.

(1) Any requirement in this section to sign a One-year Exception Report certification by hand is satisfied by signing with a valid and enforceable electronic signature within the meaning of § 262.25 of this chapter.

(2) Any requirement in this section to give, provide or send a One-year Exception Report to the EPA Regional Administrator is satisfied when a One-year electronic Exception Report is transmitted to the EPA Regional Administrator by submission to an EPA-approved electronic system.

(3) Any requirement in this section for a generator or disposer to keep or retain a copy of a One-year Exception Report is satisfied by retention of a signed electronic One-year Exception Report in the generators or disposer's respective account on an EPA-approved electronic system, provided that the One-year Exception Report is readily available for viewing and production if requested by any EPA or authorized State inspector.

(4) No generator or disposer may be held liable for the inability to produce an electronic One-year Exception Report for inspection under this section if the generator or disposer can demonstrate that the inability to produce the electronic One-year Exception Report is due exclusively to a technical difficulty with the EPA-approved electronic system for which the generator or disposer bears no responsibility.

(f) *Restriction on use of electronic One-year Exception Reporting.* A generator or disposer may participate in electronic One-year Exception Reporting if it is known at the time the One-year Exception Report is originated that:

(1) The manifest at issue originated in the EPA e-Manifest system in accordance with §§ 262.24(c) and 262.25 of this chapter; and

(2) For mixed paper and electronic manifests (*i.e.*, hybrid manifests), the

generator has registered in the EPA e-Manifest system and has access to the electronic manifests for the site.

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