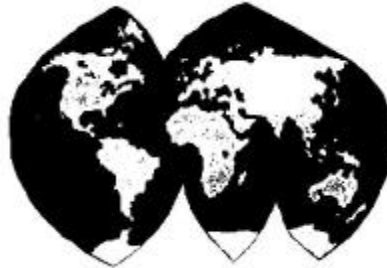


Enforcement And Compliance Assurance (2222A)

International Trade In Hazardous Waste: An Overview



Introduction

United States (U.S.) Entities export a small percentage of their hazardous wastes to other countries for treatment, disposal, and recycling. Similarly, U.S. entities also import wastes from other countries. The vast majority of this hazardous waste trade occurs with Canada, but the U.S. engages in hazardous waste trade with other countries as well.

This guide describes in general terms the international and domestic requirements applicable to U.S. hazardous waste exports and imports. It also describes the role which the United States Environmental Protection Agency (EPA) and the United States Customs Service play in this process. It is designed to provide the general public with a basic understanding of the operation and control of this commerce.

What Is Hazardous Waste?

Hazardous waste is any of a number of solids, liquids, or contained gases generated by many modern industrial processes. Some examples of common hazardous wastes include spent auto batteries, spent solvents, and sludges from industrial wastewater treatment units. The U.S. federal waste law, the Resource Conservation and Recovery Act (RCRA), defines hazardous waste according to a number of factors. In 1995, U.S. entities generated approximately 279 million tons of RCRA regulated hazardous waste, of which approximately 226,000 tons, or slightly less than 1%, were exported.

Why Do We Export Hazardous Waste?

There are a number of reasons why U.S. entities export hazardous waste. Often, the nearest waste management facility capable of handling a particular waste stream may be just over the international border from the point of generation. In other cases, there may be a facility in another country that specializes in treating, disposing of, or recycling a particular waste. Such a facility may be the only one of its kind in the world, or it may present more environmentally sound management solution for the waste. In some cases, hazardous wastes constitute “raw” material inputs into industrial and manufacturing processes. This is the case in many developing countries where natural resources are scarce or non-existent. In addition, the use of hazardous wastes is often preferable to natural resource extractions or hazardous waste disposal.

What International Requirements Apply To The United States For International Trade In Hazardous Wastes?

The U.S. government is currently a party to several international agreements concerning international trade in hazardous wastes. They are:

- an agreement among the 29 member countries of the Organization for Economic Cooperation and Development (OECD) governing trade in recyclable wastes
- U.S./Canada and U.S./Mexico bilateral agreements
- U.S. Malaysia and U.S./Costa Rica import bilateral agreements

These agreements are legally binding on the governments that are party to them, but not on the regulated community. Rather, the regulated community is subject to the federal regulations that implement these agreements. Although not identical, these agreements share the basic principles of notification to the government of the exporting country, government-to-government notification to the importing government, and the consent of the importing government for exports and imports of hazardous wastes.

Under this approach, the exporting country provides notice to the importing, and in some cases the transit country(s) about a proposed export of hazardous waste. The importing country (and transit country) then has the opportunity to consent or object to the proposed shipment. The exporting country may not allow the export to proceed until the importing country consents to it. Exporters of routine shipments to the same foreign destination may provide one notification covering as long as twelve months. In such cases, the importing country (and transit country) usually provides consent covering the same period of time.

What Do the RCRA Regulations Require U.S. Exporters To Do?

U.S. exporters of hazardous wastes must comply with all applicable domestic laws and regulations (federal and/or state), which include regulations under RCRA, contained in the Code of Federal Regulations (CFR)), at 40 CFR Part 262, Subparts E and H. In general terms, a U.S. exporter must prepare and submit certain important documents during the three phases of an export:

- 1. Before a shipment proceeds.** An exporter must submit to EPA headquarters in Washington, D.C., a notification of intent to export. This notification describes the type and amount of waste, its itinerary, the number of shipments expected, and the period during which shipments will occur. EPA forwards this notification to the government(s) of all concerned countries. The government of the importing country must consent to the shipment before it may proceed. The U.S. exporter may not allow a shipment to proceed unless EPA has notified it of the consent of the importing country, as well as that of the transit country, if required.
- 2. While a shipment is in transit.** An exporter must attach the uniform hazardous waste manifest to the shipment (while the waste is traveling within the U.S.), the acknowledgment of consent from the importing and transit countries, and certain additional information (in OECD situations).
- 3. Annual reporting.** An exporter must file an annual report with EPA headquarters in Washington, D.C., on March 1 of each year. This report summarizes the exporter's shipments for the previous calendar year.

What Do The RCRA Regulations Require U.S. Importers To Do?

Once the hazardous waste arrives in the U.S., importers must comply with all applicable domestic laws and regulations (federal and/or state). These include regulations under RCRA, contained in 40CFR Part 262, and Subparts F and H. For example, a U.S. importer must prepare a manifest reflecting the foreign generator and the U.S. importer. In OECD situations, there may be other requirements, such as some additional tracking information which accompanies the shipment until it arrives at the intended U.S. receiving facility.

In addition, at least four weeks before receipt of the waste in the U.S., the receiving facility must notify the appropriate EPA Regional Administrator in the Region where the facility is located.

What Role Does EPA Play In International Trade In Hazardous Waste?

Under the international agreements to which the U.S. is party, each country designates an agency to control its international trade in hazardous waste. For the U.S., it is EPA.

EPA examines export notifications and forwards them to the importing and transit countries. For exports to Mexico, the Department of State serves as the official diplomatic channel between the two countries.

EPA provides U.S. consent or objection to proposed hazardous waste imports. In performing this duty, EPA relies on the recommendations of its regional offices on whether to consent or object, because these offices have access to permit and inspection information about the receiving facilities which allows them to better evaluate a facility's ability to properly handle a specific hazardous waste shipment.

How Do EPA And The U.S. Customs Service Ensure That U.S. Importers And Exporters Comply With The RCRA Regulations?

EPA reviews notifications, manifests, and annual reports to ensure they are timely and accurate, and tracks them in a data base. In addition, EPA's regional offices, and the states which EPA has authorized to operate the RCRA program, monitor treatment storage and disposal facilities (TSDF) which receive imported hazardous waste. This is to ensure they have properly submitted any relevant notifications and are properly handling hazardous waste. Similarly, EPA inspects facilities that export RCRA hazardous wastes.

The U.S. Customs Service operates border crossing and port locations. At these locations, Customs agents and inspectors review EPA and commercial shipping documents and halt improper or undocumented shipments. They also collect manifests and forward them to EPA for data entry and analysis.

EPA takes enforcement measures when necessary. These measures can range from issuing orders to importers and exporters to correct violations, to imposing civil and criminal penalties.

What Role Can You Play In Assuring The Safe Handling Of Imported And Exported Hazardous Waste?

If you have any information about suspicious import and export activities, or you believe that imported or exported hazardous wastes are being handled improperly, you can report that information to the appropriate EPA regional office (RCRA Enforcement Division), or directly to the EPA Regional Administrator. You can also report suspicious activity to our state environmental agency.

Whom Can I Contact For Further Information About EPA's Import-Export Program?

You can reach EPA's Import-Export Program at (202) 564-2290, or by FAX at (202) 564-0025. The mailing address is:

Import-Export Program
Office of Compliance/EPTDD (Mail Code 2222A)
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
401 M Street, SW
Washington, D.C. 20460

The e-mail address is:

Heiss.Robert@epamail.epa.gov

Note: This document is not intended to be a substitute for a comprehensive knowledge of the requirements of applicable U.S. laws and regulations. You should consult these requirements directly.

U.S. Environmental Protection Agency
Washington, D.C. 20460

If you have questions about this document or its content, or if you have questions about the import or export of hazardous wastes, please contact the Import-Export Program directly.

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