

strength in the treatment of sexual dysfunction. This generic type of device does not include devices used to treat urinary incontinence.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 80-5813 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1176]

Obstetrical and Gynecological Devices; Classification of Genital Vibrators for Therapeutic Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying genital vibrators for therapeutic use into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910. 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological device Classification Panel. FDA also published in the issue of the Federal Register (44 FR 19970) a proposed regulation to classify genital vibrators for therapeutic use into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

1. One comment suggested that vibrators are used to cure chronic leg muscle cramps.

The genital vibrators subject to this regulation do not include devices used to treat chronic leg muscle cramps. Devices used to treat leg muscle cramps are subject to proposed regulations on physical therapy muscle relaxers (Docket No. 78N-1252, 44 FR 50524), or physical therapy pulsators (Docket No. 78N-1266, 44 FR 50536). These proposed regulations were published in the Federal Register of August 28, 1979.

2. Two comments suggested suggested that FDA should not waste Federal tax money to regulate genital vibrators. One of these comments also suggested that there is not sufficient information with which to write a standard that addresses the effectiveness of genital vibrators to increase muscle tone.

FDA is required by law to regulate all medical devices. The agency believes that only those genital vibrators for which therapeutic claims are made are subject to the definition of "devices" in the Federal Food, Drug, and Cosmetic Act. However, no manufacturer has yet registered with the agency to market genital vibrators for therapeutic use. The agency believes sufficient information exists to develop performance standards on electrical safety and biocompatibility.

FDA has changed the name and identification of the device to clarify that the regulation applies only to genital vibrators intended and labeled for therapeutic use as specified in the regulation. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5960, to read as follows:

§ 884.5960 Genital vibrator for therapeutic use.

(a) *Identification.* A genital vibrator for therapeutic use is an electrically operated device intended and labeled for therapeutic use in the treatment of sexual dysfunction or as an adjunct to Kegel's exercise (tightening of the muscles of the pelvic floor to increase muscle tone).

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 80-5814 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

Test Report Federal

Tuesday
February 26, 1980

Part III

Environmental Protection Agency

Hazardous Waste Management: Overview
and Definitions; Generator Regulations;
Transporter Regulations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 260

[FRL 1395-7]

Hazardous Waste Management; Overview and Definitions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Resource Conservation and Recovery Act, as amended, provides for the development and implementation of a comprehensive program to protect human health and the environment from the improper management of hazardous waste. A fundamental premise of the statute is that human health and the environment will best be protected by careful management of the transportation, treatment, storage, and disposal of hazardous waste, in accordance with standards developed under the Act. In today's *Federal Register*, the Environmental Protection Agency is publishing several documents setting in motion a series of events which will culminate in full implementation of the hazardous waste control program. This document sets forth definitions of words and phrases which appear in the subsequent Parts as well as general guidance for the use of these regulations and provisions which are generally applicable to all Parts.

DATES: Effective date: August 26, 1980. Compliance date: Six months after the promulgation of 40 CFR Part 261.

ADDRESSES: The official docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C., and is available for viewing from 9:00 am to 4:00 pm Monday through Friday, excluding holidays.

For information on the implementation of these regulations, contact your EPA Regional Office.

FOR FURTHER INFORMATION CONTACT: Harry W. Trask, Office of Solid Waste, (WH-563), U.S. Environmental Protection Agency, Washington D.C. 20460. (202) 755-9150.

SUPPLEMENTARY INFORMATION:

I. Authority

This regulation is issued under the authority of sections 2002(a) and 3001 through 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 ("RCRA")

or the "the Act"), 42 U.S.C. § 6912(a) and 6921 through 6925.

II. Background

Subtitle C of the Act establishes a federal program to provide comprehensive regulation of hazardous waste. When fully implemented, this program will provide "cradle-to-grave" regulation of hazardous wastes. The Act directs EPA, after developing appropriate criteria, to identify the characteristics of hazardous waste and to list particular wastes as hazardous. (Section 3001.) To regulate the transportation and handling of the wastes so identified or listed, EPA is directed to establish standards for generators and transporters of hazardous waste which are to ensure, among other things, proper recordkeeping and reporting, the use of a manifest system to track shipments of hazardous waste, the use of proper labels and containers and the delivery of the waste to properly permitted treatment, storage, and disposal facilities. (Sections 3002, 3003.) In order to obtain a permit, these latter facilities—whether on the site of generation or off-site—must meet federal standards concerning, among other things, location, design, construction, operation, and closure. (Section 3004, 3005).

EPA is today promulgating in final form elsewhere in this issue of the *Federal Register* regulations which set forth standards applicable to generators and transporters of hazardous waste (Parts 262 and 263). These regulations were proposed as Part 250 at 43 FR 18506, April 28, 1978 and 43 FR 58946, December 18, 1978. As proposed, these regulations contained definitions pertinent to the specific standards set forth in each section.

A Public Notice establishing procedures for filing a notification of hazardous waste activity is also being published today. Other regulations, which are to be promulgated within the next several months, will identify and list hazardous wastes, and establish standards and permit requirements for hazardous waste management facilities. These regulations taken together, will form the nucleus of the federal program to regulate hazardous waste.

III. Organization of the Regulations

The overall organization of the regulations pertaining to the regulation of hazardous waste is straightforward. Part 260 will provide definitions of words and phrases which appear in the subsequent Parts. In addition, Part 260 will provide general guidance for the use of these regulations, and set forth

provisions which are generally applicable to all Parts. Part 261 will identify characteristics of hazardous waste and list particular wastes as hazardous. Parts 262 and 263 set forth standards applicable to generators and transporters of hazardous waste respectively; and Parts 264 and 265 will establish standards (interim and final) for facilities that treat, store, or dispose of hazardous waste. Parts 122, 123, and 124 will set forth procedures for obtaining a permit. Part 123 will establish standards for determining equivalence of State hazardous management programs.

IV. Definitions

The Act defines a number of terms, many of which apply to the management of hazardous waste. These definitions, which appear at section 1004 of the Act and which have not been modified for purposes of these regulations, are not repeated in this regulation. The definitions being published today pertain to the regulations establishing standards applicable to generators and transporters of hazardous waste. When other Subtitle C regulations are promulgated, this Part will be amended to include additional definitions.

Two terms, which are important to the regulations in Parts 262 and 263, are not included in the definitions published today. The definition of "hazardous waste" and "hazardous waste generator" are being necessarily deferred until the promulgation of Part 261. This regulation will provide the testing methods which may be used for determining whether a particular waste is hazardous and it will also list specific wastes as hazardous. Furthermore, Part 261, in determining which wastes are hazardous will also determine which persons are subject to regulation as generators of hazardous waste. Part 261, for example, will determine whether a person's generation of a small quantity of hazardous waste will subject that person to the requirements of Part 262.

Most of the terms defined herein are not controversial. These definitions include the terms: authorized representative, EPA identification number, international shipment, person, transporter, transportation, and water (bulk shipment). The definitions are included to provide guidance to persons using these regulations.

Several of these terms are briefly explained here:

"Authorized representative" has been defined in the same manner as that phrase appears in EPA's permit regulations [40 CFR 122.5(b)(1) as revised at 44 FR 32854, 32903 (June 7, 1979)]. This representative, who is the

person responsible for the overall operation of the installation, is the person who must, among other things, sign the Annual and Exception Reports of the generator.

"Manifest" as defined in Section 1004(12) of the Act stated that the manifest was a "form". EPA has decided, for reasons discussed in the background documents supporting Section 262, that a more flexible shipping document was desirable. Accordingly, EPA has defined manifest as the "shipping document" which is originated and signed by the generator and which contains information required by Part 262.

"Person", for the purposes of these regulations, has been defined to include the phrase "Federal Agency" as that phrase is defined in the Act. With the addition of the phrase "federal agency," the definition of "person" in this regulation is broader than the definition of "person" in the Act. Section 6001 of the Act requires all federal entities to be subject and comply with all federal, state, local and interstate requirements, both substantive and procedural. Therefore, the definition of person in this regulation allows EPA to refer to "any person" rather than the cumbersome term "any person or Federal Agency" when stating a requirement applicable to everyone.

"Water (bulk shipment)" is defined to distinguish bulk shipments from other water shipments. The definition is adopted from the Secretary of Transportation's delegation to the Commandant of the Coast Guard of regulatory authority over bulk transportation of hazardous materials. (49 CFR 1.47).

The proposed regulations defined "on-site" as "on the same or geographically contiguous property. Two or more pieces of property which are geographically contiguous and are divided by public or private right(s)-of-way are considered a single site." In the proposed regulations, if treatment, storage or disposal of hazardous waste occurred on the site of generation, the generator did not have to use a manifest for the transportation of that waste and he did not have to comply with the requirements respecting the use of labels, containers, marking and placarding. The manner in which on-site was defined, therefore, was of central importance in determining the responsibilities of generators.

Most commenters urged EPA to adopt an expansive definition of on-site which would relieve the generator of the transportation requirements of the Act. Several commenters stated that EPA should simply apply a radius to determine whether disposal occurred

on-site, they suggested distances up to 50 miles as appropriate. Other commenters argued that the requirement that the properties be contiguous was unduly restrictive and suggested alternatives. These included that the properties be in "close proximity," or that the properties be connected by private rights-of-way. Another commenter stated that, if the properties were divided by a natural barrier, they should be considered a single site in the same manner as properties divided by roads.

EPA's response to each of these comments stems from its position that if hazardous waste is transported upon public highways, the manifest and transportation requirements apply fully. These requirements are designed to safeguard human health and the environment in the transportation of hazardous waste, regardless of the distance that the waste is being transported. To reflect this position and in partial response to the comments, the final regulation has been revised to include as "on-site" non-contiguous property owned by the generator which is connected by a "right-of-way which he controls and to which the public does not have access." The definition, however, retains within the ambit of "on-site" two properties divided by private or public rights-of-way. Merely crossing the public right-of-way to gain access to property under the control of the generator does not create the same dangers to the public that transportation upon public highways entails.

In the proposed regulation, the word "spill" was defined to mean "any accidental discharge of a hazardous waste onto or into the land or water." Generators were required to provide information on the manifest on the manner in which spills of their hazardous waste were to be handled and transporters were to undertake certain actions in the event of a spill and to file reports on spills. Owners and operators of treatment, storage, and disposal facilities were to have contingency plans which detailed their preparedness and plans to handle spills of hazardous waste.

A variety of comments were received on the definition of spill. Many of these concerned the relationship between this RCRA definition and that contained in section 311 of the Clean Water Act concerning discharges of hazardous substances into the navigable waters. Commenters urged, among other things, that EPA define the word "discharge" for RCRA purposes, that EPA should extend the definition of "spill" to include intentional as well as accidental

spills, and, that specific exclusions should be incorporated in the definition of spill to provide for discharges or spills permitted by Federal environmental statutes.

In the definition and regulations, EPA has adopted the term "hazardous waste discharge", which is defined as "the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste onto or into the land or water or a material listed in 40 CFR 261.33 which because it is discharged becomes a hazardous waste." The word "spill" is not used in the Parts 262 or 263. The definition of hazardous waste discharge is consistent with the definition of "discharge" in section 311 of the Clean Water Act. Inclusion of intentional as well as accidental discharges is consistent with Section 311. The threat to human health and the environment posed by intentional discharges is the same as that posed by accidental ones. EPA has determined that both types of discharges require transporters to take immediate action to minimize the dangers associated with the waste, to clean up the waste, and to file reports. The definition of hazardous waste discharge now includes commercial chemical products or other materials listed in 40 CFR 261.33 which become hazardous waste materials when they are discharged. Inclusion of these materials in this definition makes applicable the transportation regulations on discharges.

Substantive issues concerning, for example, coordination of RCRA's discharge provisions and those of other environmental statutes, notably the Clean Water Act, are dealt with in regulations implementing particular sections of the Act and supporting documents thereto.

IV. Economic and Environmental Impacts

In accordance with Executive Orders 12044 and 11821 as amended by Executive Order 11949, OMB Circular A-107 and EPA policy as stipulated in 39 FR 37419 (October 21, 1974), draft analyses of economic and environmental impacts have been prepared for all of Subtitle C, Hazardous Waste Management. The final Environmental Impact Statement will be available following the promulgation of the regulation implementing Section 3001 of the Act.

Dated: February 19, 1980.
Douglas M. Costle,
Administrator.

Title 40 CFR is amended by adding a new Part 260 to read as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT: OVERVIEW AND DEFINITIONS

Subpart A—Definitions

Sec.

260.10 Definitions.

Subpart B—General

[Reserved]

Authority: Sections 2002(a), 3001 through 3010, Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 (42 U.S.C. §§ 6912(a), 6921 through 6930).

Subpart A—Definitions

§ 260.10 Definitions.

When used in the regulations set forth in Parts 261, 262, 263, 264, and 265 of this title, the following terms have the meanings given below:

(a) "Authorized Representative" means the person responsible for the overall operation of the installation, e.g., plant manager, superintendent or person of equivalent responsibility.

(b) "EPA identification number" means the unique number assigned by EPA to each generator, transporter, and treatment, storage, or disposal facility.

(c) "Hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste or a material listed in 40 CFR 261.33 which, because it is discharged, becomes a hazardous waste, onto or into the land or water.

(d) "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

(e) "Manifest" means the shipping document originated and signed by the generator which contains the information required by Subpart B of 40 CFR Part 262.

(f) "Manifest document number" means the serially increasing number assigned to the manifest by the generator for recording and reporting purposes.

(g) "On-site" means the same or geographically contiguous property which may be divided by public or private right(s)-of-way. Non-contiguous property owned by the generator but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

(h) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or Federal agency.

(i) "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

(j) "Transportation" means the movement of hazardous waste by air, rail, highway or water.

(k) "United States" means the 50 States, District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(l) "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

Subpart B—General [Reserved]

[FR Doc. 80-5953 Filed 2-25-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 262

[Docket No. 3002 (FRL 1395-8)]

Standards Applicable to Generators of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Resource Conservation and Recovery Act, as amended, seeks to promote the protection of human health and the environment and to conserve valuable material and energy resources. In order to accomplish this, the Act establishes a national program to improve solid waste management, including the control of hazardous waste, the promotion of resource conservation and recovery, and the establishment of environmentally sound solid waste disposal practices.

This document establishes standards for generators of hazardous waste. The regulation requires a generator of solid waste to determine if his waste is a hazardous waste. Generators must prepare manifests for all shipments of hazardous waste that are sent to off-site treatment, storage, or disposal facilities. For these shipments, generators must also package, label, mark, and placard the waste according to EPA/DOT regulations.

Additionally, generators are required to keep records, report those shipments which do not reach the facility designated on the manifest and submit an annual summary of their activities.

DATES: Effective date: August 26, 1980. Compliance date: Six months after the promulgation of 40 CFR Part 261.

ADDRESSES: The official docket for this regulation is located in Room 2711, U.S.

Environmental Protection Agency, 401 M Street S.W., Washington, D.C., and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

For information on implementation of these regulations, contact your EPA Regional Office.

FOR FURTHER INFORMATION CONTACT: Harry W. Trask, Office of Solid Waste, (WH-563), U.S. Environmental Protection Agency, Washington, D.C. 20460. (202) 755-9150.

SUPPLEMENTARY INFORMATION:

I. Authority

This regulation is issued under authority of sections 2002(a), 3001, 3002, 3003, 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 ("RCRA" or "the Act"), 42 U.S.C. 6912(a), 6921, 6922, 6923, 6924, 6925.

II. Background

This regulation was published in the Federal Register in proposed form for public review and comment on December 18, 1978 as 40 CFR Part 250, Subpart B (43 FR 58969 *et seq.*). The Agency held five public hearings and received a substantial number of written comments on the proposal. The public comment period closed on March 16, 1979. After consideration of the views of the public, the Agency promulgates this regulation in final form.

In this preamble, some of the more significant issues raised during the public comment period are discussed, along with revisions made on the basis of those comments. Background documents which address comments received by EPA have been prepared and are part of the official docket for this regulation.

The objectives of RCRA are to promote the protection of human health and the environment and to conserve valuable material and energy resources. In order to accomplish this, the Act establishes a national program to improve solid waste management, including the control of hazardous waste, the promotion of resource conservation and recovery, and the establishment of environmentally sound solid waste disposal practices. This program is to be carried out through a cooperative effort among Federal, State, and local governments and private enterprise.

Subtitle C of the Act fosters these objectives by providing for the identification of hazardous wastes, the establishment of a "cradle to grave"

hazardous waste tracking system, and the development of standards and permit requirements for the treatment, storage, and disposal of hazardous waste. In addition, Subtitle C provides for interim and final authorization of States to administer the hazardous waste program in lieu of EPA.

Section 3002 requires the Administrator to promulgate regulations establishing standards applicable to generators of hazardous waste, including requirements regarding:

1. A manifest system to assure that hazardous waste is designated for delivery at a permitted treatment, storage, or disposal facility;
2. Use of appropriate containers for hazardous waste and labeling of containers used for storage, transport, or disposal of hazardous waste;
3. Recordkeeping to identify the quantities, constituents, and disposition of hazardous waste generated, and submission of reports to the Administrator (or authorized State agency) setting out quantities and disposition of hazardous waste; and,
4. Furnishing information on general chemical composition to persons transporting, treating, storing, or disposing of hazardous waste.

III. Implementation

The following is a brief summary of how the hazardous waste control system will operate with respect to generators. Persons who generate solid waste must determine whether their wastes are hazardous. The first step is to determine if the waste is excluded from regulation by Part 261. The next step is to consult the lists of hazardous waste set forth in Part 261. If the waste is not listed, the person must make the determination for each of the characteristics in Part 261 by either testing the waste (using the procedures in Part 261) or by applying known information about the characteristics of the waste based on the process or materials used.

Generators must, prior to transporting, treating, storing or disposing of any hazardous waste, obtain an EPA identification number. This number will be assigned by the Agency upon receipt of the generator's hazardous waste notification under section 3010. Generators who did not notify under section 2010 within 90 days of promulgation of regulations implementing section 3001 (e.g., new generators) may obtain an EPA identification number by submitting EPA form 8700-12 to the Administrator.

Generators who treat, store, or dispose of hazardous waste on-site must comply with the requirement to

determine whether their wastes are hazardous and a few general requirements of these parts such as recordkeeping. In general, these generators do not have to comply with the other requirements of this Part, because their treatment, storage and disposal activities (including reporting) are regulated under sections 3004 and 3005 of the Act. Generators who ship hazardous waste off-site must prepare a manifest, comply with DOT pre-transportation regulations regarding packaging, keep records on each shipment, report missing shipments to the Agency, and file an Annual Report summarizing the previous calendar year's activities.

Before offering hazardous waste for off-site transportation, a generator is responsible for complying with appropriate DOT hazardous materials transportation regulations which EPA has adopted. These requirements include using DOT proper shipping description and appropriately packaging, labeling, marking, and placarding the waste. The generator must also prepare a manifest which includes his name, address and EPA identification number as well as that of the designated facility and the name and EPA identification number of each transporter. One treatment, storage or disposal facility permitted to handle the specific waste must be designated. The generator may also designate an alternate facility to be used in the event an emergency precludes delivery to the primary facility. The manifest also must include the DOT proper shipping description, the volume of waste shipped and the type and number of containers used.

The manifest consists of at least the number of copies which will provide one copy for the generator, each transporter, the designated facility and another copy which the designated facility will return to the generator. Before releasing the waste to the initial transporter, the generator must sign the manifest, certifying that all the requirements for transportation have been met. He must also obtain the transporter's signature and date of signature indicating that he has accepted the load described on the manifest on that particular day. The generator retains a copy of the manifest and gives the initial transporter the remaining copies.

The transporter carries the manifest with the waste to the designated facility. If delivery to the designated facility is impossible and no alternate facility was designated, or if it is impossible to deliver the waste to either the primary or the alternate facility, the transporter

must contact the generator for further instructions. The generator may either designate another permitted facility or instruct the transporter to return the waste to the generator.

Upon delivery of the hazardous waste to the designated facility, the owner or operator will sign and date the manifest to indicate that the facility has accepted the waste, and will give one signed copy to the transporter and keep one copy. These copies must be kept by the transporter and the facility for three years from the date of acceptance of the waste by the initial transporter.

The owner or operator of the designated facility is required to return a signed copy of the manifest to the generator within 30 days of receipt of the waste. If the generator has not received the signed manifest from the designated facility within 35 days of acceptance by the initial transporter, the generator must contact the transporter and/or the designated facility to determine the status of the load and the manifest. If within 45 days of acceptance by the initial transporter the generator has not received the signed copy, he must file an Exception Report with the Regional Administrator. The Exception Report consists of a copy of the manifest and a cover letter which describes the generator's efforts to locate the load and the manifest. In the case where the generator is assured that the hazardous waste has been delivered but the manifest was lost, the generator is still required to submit the Exception Report, noting in the cover letter that the shipment arrived and the manifest was lost. If a facility other than the primary or alternate designated facility returns the manifest, an Exception Report must be filed.

The generator must keep a copy of the manifest and all Exception Reports for at least three years from the date of acceptance by the initial transporter.

Each generator who ships hazardous waste off-site must file an Annual Report covering the previous year's activities on EPA form 8700-13 no later than March 1. The Annual Report lists the transporters and facilities used by the generator for the treatment, storage or disposal of hazardous waste and the quantity of each waste that each facility received. The generator must include the DOT hazard class and EPA waste description for each waste.

This Part also establishes special requirements for international shipment of hazardous waste and provides for the temporary (90 day) accumulation of hazardous waste without a permit. Each of these provisions is discussed in detail below.

IV. Organization of the Regulation

After reviewing the comments regarding clarity and organization of the proposed regulation, EPA decided to change the format of the regulation. EPA believes that these changes clarify the duties and responsibilities of the generator, and therefore, will assist the generator in understanding the requirements of this regulation.

The first change in format involves restructuring the numbering system of the entire regulation. The proposed regulation was patterned on the outline of requirements identified by section 3002 of the Act, and was ordered accordingly. The final regulation has been reorganized to progress logically in the order in which the generator must act. EPA believes that the final regulation will be easier to understand and follow in its new format.

The final regulation has also been assigned a new Code of Federal Regulations Part number. All of the proposed Subtitle C regulations were assigned to 40 CFR Part 250. Standards for Generators was Subpart B of that Part. In the final version, each of the former Subparts has been assigned a Part number. Standards Applicable to Generators of Hazardous Waste is now 40 CFR Part 262. Similarly, Identification and Listing of Hazardous Waste (section 3001) will be published as 40 CFR Part 261, and Standards Applicable to Transporters of Hazardous Waste (section 3003) will be Part 263. Standards for Treatment, Storage, and Disposal Facilities (section 3004) will appear in Parts 264, 265, and 266.

Additional restructuring of the proposed Subpart involved moving provisions which are more properly addressed in other Parts of the final rule. For example, the small quantity generator and waste oil provisions have been moved to Part 261 because these standards are more closely associated with waste characterization than with the generator's duties and responsibilities. The proposed regulation allowed generators of waste oil to enter assumption of duties contracts with transporters. The assumption of duties provision was developed expressly for the purpose of reducing the administrative burden for the large number of generators of waste oil, many of whom generate small amounts. This provision has been deleted from the regulation because it does not address possible contractual arrangements by which parties may delegate to another person certain undertakings. Such delegation, however, does not relieve the principal party (here the generator)

from the responsibility of satisfying his statutory obligations.

Similarly, the manner in which retailers who generate hazardous waste will be subject to these regulations will be set forth in Part 261. In addition, the proposed generator regulations did not prescribe the specific steps a solid waste generator must take to determine whether his waste is hazardous. This determination was included in the proposed section 3001 regulations. Since this determination is one of the major responsibilities of the generator, the requirement for making this determination is now contained in this Part.

Because the Agency has not, at this time, determined what quantities of hazardous waste may be exempted from this regulation, the presumption of quantity generated for civil enforcement actions (§ 250.27(b) of the proposal) does not appear in this regulation.

The confidentiality provisions of each of the proposed rules have been consolidated in Part 260. These provisions will be promulgated at the same time as the sections 3001 and 3004 regulations.

The promulgation of regulations implementing sections 3001, 3004, and 3005 may affect the duties and responsibilities of generators. EPA will, if necessary, amend these regulations to reflect the provisions of those regulations at the time they are promulgated.

V. Definitions

As proposed, the definitions applicable to generator standards were included with the generator regulations in Subpart B, and definitions applicable to other Subparts were located in those Subparts. However, because many of the definitions apply to all the Subtitle C regulations, EPA decided to publish all of the definitions together in a separate Part, 40 CFR Part 260. Certain of these definitions which are necessary to understand this regulation are promulgated in today's *Federal Register*.

VI. Final Regulations

Part 262 is divided into five subparts: Subpart A, General; Subpart B, The Manifest; Subpart C, Pre-Transport Requirements; Subpart D, Recordkeeping and Reporting; and Subpart E, Special Conditions.

Subpart A includes general requirements applicable to every generator of hazardous waste. Subpart B sets forth the requirements of the manifest system, the central element of the hazardous waste tracking system. Subpart C includes requirements for pre-transport preparation of hazardous

waste and for short term on-site accumulation without a permit. Recordkeeping and reporting requirements, which constitute another essential element of the hazardous waste tracking system, are found in Subpart D. Finally, Subpart E covers international shipments of hazardous waste and farmers whose only hazardous waste is from pesticides.

A. General

1. Purpose, Scope and Applicability.—

This section of the proposed rule covered many diverse subjects. It included requirements for State authorization to operate the hazardous waste management program, exemptions from the regulations for farmers, retailers, and households, and identification of generator responsibilities in specific situations (e.g., on-site versus off-site disposal). Several commenters suggested that the broad scope of this section would lead to confusion. In order to clarify the section, the final regulation has been reorganized. As discussed earlier, some of the provisions of this section were moved to Part 261 while others can be found in other sections of this Part. The final regulation in this section requires a generator who ships wastes off-site to comply with all of the requirements of this Part. Generators who treat, store, or dispose of their wastes on-site are required to comply only with certain sections of this Part (e.g., primarily those dealing with the determination of whether or not a waste is a hazardous waste).

Generators who engage in on-site treatment, storage, or disposal will be required to comply with the treatment, storage, and disposal standards promulgated pursuant to section 3004 and to obtain a permit pursuant to section 3005. The section 3004 standards will establish recordkeeping and reporting requirements and ensure adequate protection for human health and the environment at the entire facility. Requiring these on-site treaters, storers, and disposers to comply with all of these Part 262 regulations for generators would be duplicative and provide no increased protection for human health and the environment.

2. Hazardous Waste Determination.—

This section establishes the procedure for determining whether a solid waste is a hazardous waste. A person who generates a solid waste must determine whether that waste is hazardous. The first step that the person should take is to determine if the waste is excluded from regulation under Part 261. The next step is to review the lists of hazardous waste set forth in Part 261. Even if his

waste is listed as hazardous waste, however, the person will have an opportunity to demonstrate pursuant to the procedures set forth in Part 261 that his waste is in fact not hazardous.

If the waste is not listed as hazardous, the person must then determine whether it is hazardous by either determining that it meets one or more of the characteristics of hazardous waste set forth in Part 261 or by applying his knowledge of the waste based on the processes or materials used. Part 261 will set forth test protocols and other methods for evaluating wastes for the specified characteristics of hazardous waste (e.g., corrosivity, ignitability) which will allow a person to determine conclusively whether his waste is hazardous. If on the basis of his review of the materials or processes used, the generator is certain about the nature of the waste, he may declare that it is either hazardous or nonhazardous.

The revised regulation is considerably simpler in its operation than the proposed rule. The proposed regulation had required those persons who knew or had reason to believe their waste was hazardous to determine whether the waste was hazardous by (a) examining the list of hazardous wastes; (b) testing the waste for EPA's characteristics in accordance with specified methods; or, (c) declaring that the waste was hazardous. The proposed regulations also required submission to EPA of data supporting that determination. In addition, generators were directed to retest nonhazardous waste annually and also whenever significant changes in process materials occurred. The principal changes in the final regulation are: (a) allowing declarations of nonhazardous waste; and (b) deleting entirely matters collateral to the determination, e.g., submission of data and requirements for retesting.

The deletion of the phrase persons who "know or have reason to believe" is not of great practical significance. The person who had no reason to believe his wastes were hazardous in the proposed regulation also has the basis to declare the waste nonhazardous. The revised final rule simply requires that this belief be based on an objective review of the materials and processes involved in the generation of the waste.

Several commenters stated that the Act imposes no obligation on generators to test their waste for characteristics of hazardous waste. In the view of the commenters, the only way that a waste can be considered hazardous for regulatory purposes is by EPA listing the particular waste as hazardous, pursuant to section 3001(b). Therefore, it was their position that the principal statutory

role that characteristics of hazardous wastes, identified pursuant to section 3001(b), were to play was to aid EPA in determining the wastes it should list. EPA disagrees that this interpretation of the Act. It is the position of the Agency that the inclusion of hazardous wastes in the regulatory system by reason of identified characteristics is appropriate. The role of characteristics in identifying hazardous wastes pursuant to section 3001(b) will be fully discussed in the material supporting the regulations implementing section 3001. In light of EPA's position on the role of hazardous waste characteristics, it is wholly appropriate for the Agency to require persons to evaluate their wastes in accordance with the characteristics. Generation of a hazardous waste and failure to comply with the regulations promulgated under Subtitle C of the Act may subject that person to the imposition of substantial civil and criminal penalties.

Several commenters felt that the cost of testing, coupled with potential penalties, would lead to declaring nonhazardous wastes as hazardous, thus overburdening the limited capacity of the system. A 'good faith' provision would, in their view, cut against this tendency by forgiving persons who decided not to test certain hazardous wastes.

The final rule responds to these comments in part by allowing increased flexibility to persons in determining whether their wastes are hazardous. A person may declare his waste hazardous or nonhazardous, but this must be based on his knowledge of the materials and processes involved. A person need not test to determine a waste nonhazardous, as required in the proposed rule, rather he may review the processes and materials used in the generation of that waste. If the review does not reveal evidence that the waste is hazardous, the person may declare the waste nonhazardous. This revision accommodates, in part, the concern of the commenters that the capacity of the system might be overburdened by the inclusion of nonhazardous wastes.

The Agency has, however, rejected the suggestion that a "good faith" mistake provision should be included in the regulation to excuse inadvertent mistakes in the determination of whether a waste is hazardous. The determination is the crucial, first step in the regulatory system, and the generator must undertake this responsibility seriously. The declaration provided for in the regulation must be based on factors which are subject to objective review. A deliberate or negligent

oversight, for example overlooking the presence of hazardous substances in the feedstock, would not support the declaration. A good faith mistake provision would, in certain circumstances, excuse a generator's failure to determine if a waste was hazardous if that error was caused by his negligence. EPA does not believe that inclusion of such a provision would be prudent. There is no requirement in the final regulations for periodic retesting or reevaluation; therefore, a negligent determination may have a long-term effect, allowing hazardous wastes to escape the stringent regulation that is necessary to protect human health and the environment. Second, inclusion of the provision would convert the determination into a subjective standard which would make enforcement of the provision difficult. EPA believes that retention of an objective standard better serves the Act's objectives. Prosecutorial discretion will suffice to protect persons who, despite all conscientious efforts, erred in the determination. It should also be noted that under section 3008 criminal sanctions pertain only to the knowing commission of certain acts. Persons may test their wastes pursuant to the test protocols and methods set forth in Part 261. This will allow the generator to determine conclusively whether his wastes have one or more of the characteristics of hazardous waste.

The deletion of the retesting requirements that were contained in the proposed regulations does not, of course, relieve a generator of solid waste from his continuing responsibility to know whether his wastes are hazardous. If there is a significant change in the materials, processes, or operation which indicate the waste has become hazardous, the generator must repeat the determination. EPA recognizes the potential burden that this places on certain manufacturers whose products, processes and wastes change frequently, for example chemical speciality producers or other batch-type producers. This burden is created, however, by the Act which demands special attention and care for the handling and management of hazardous wastes. Those persons whose wastes are sometimes hazardous and sometimes nonhazardous have the same obligation as any other generator to ensure that all their hazardous wastes are managed in accordance with the requirements of Subtitle C and regulations implementing those statutory provisions.

Several commenters stated that allowing declarations of the hazardous

nature of a waste was unwise because that would prevent the generator from providing proper information to subsequent handlers of the waste. This fear is, however, unfounded. The declaration which the regulation allows only pertains to determining whether the waste is subject to Subtitle C regulation. The manner of determining does not affect the operation of the other regulations. It does not relieve the generator of his responsibility to complete the manifest, use proper labels, containers and placards, or satisfy the reporting and recordkeeping requirements. All of these requirements call for the generator to have accurate knowledge of the waste. A declaration of the hazardous nature of the waste therefore demands that the generator have, or obtain prior to the effective date of the regulations, knowledge of the waste and its hazardous properties.

3. EPA Identification Numbers.—The final version of these regulations does not differ significantly from the proposal with respect to the requirements that every generator of hazardous waste obtain an EPA identification number before transporting, treating, storing, or disposing of hazardous waste.

This section also requires that generators offer their hazardous waste only to transporters, treaters, storers, or disposers who have received an EPA identification number, to assure that all hazardous waste is handled by such transporters and treatment, storage, and disposal facilities. This will assist EPA in identifying persons handling hazardous waste and will ensure that all transporters of hazardous waste are aware of relevant EPA and DOT regulations.

This section also provides the means by which generators who did not file a Notification of Hazardous Waste Activity under section 3010 of the Act during the initial 90 day notification period may obtain an EPA identification number. The same form is used for this and the section 3010 notification.

This section does not relieve a generator handling hazardous waste at the time of promulgation of 40 CFR Part 261 from the statutory obligation to file a Notification of Hazardous Waste Activity within 90 days of that promulgation. Timely submission of the notification is particularly important for those generators who engage in on-site treatment, storage, or disposal of hazardous wastes. Unless they notify EPA of their hazardous waste activity within the 90-day period these facilities will be ineligible for interim status pursuant to section 3005. Continued operation of a treatment, storage, or disposal facility without interim status

or a permit after the effective date of the section 3001 regulations is unlawful.

B. Manifest

Congress intended that the manifest play a central role in EPA's hazardous waste management system:

The manifest system is intended to serve as a check against such practices [roadside dumping]. Originating with the generator, moving through the transportation stage, registered at an approved disposal site for the treatment, storage or disposal of such hazardous waste and returned to the generator, the manifest will give to each party in the chain of handling a record. It will also provide the Administrator with a clear record of the movement and final disposition of waste originating at any specific site. Such records will greatly assist the Administrator, or state, where appropriate, in its enforcement of the hazardous waste regulations. H.R. Rep. No. 1491, 94th Cong., 2d Sess. 27 (Sept. 9, 1976) (herein "H.R. Rep.")

As developed by EPA, the manifest serves three principal objectives in ensuring the proper management of hazardous wastes that are transported off the site of generation. First, it serves as a tracking device which creates clear lines of accountability among the participants in the hazardous waste system. In doing so, it becomes one of the primary links between the various actors, serving as one avenue of communication. Second, it, together with the other EPA and DOT transportation requirements, serves to protect human health and the environment during the transportation of hazardous waste by providing information on the waste to persons handling the waste and to emergency response personnel. Third, the manifest provides the principal basis for EPA's recordkeeping and reporting requirements.

An important consideration in developing the manifest system was to promote consistency with the requirements of DOT which regulates the transportation of hazardous materials. Consistency will not only minimize the potential burden of compliance on the regulated community, but more importantly it will also enhance in-transit safety by avoiding duplicative or inconsistent regulations which might hinder the performance of emergency response personnel.

1. The manifest's role in EPA's hazardous waste tracking system.—As discussed above, the operation of the manifest creates accountability for handling of the waste from the site of its generation to the site of its ultimate disposition. Each person who accepts and transports the waste will be identified on the manifest and, with limited exceptions, the signature of each

person will also be on the manifest, signifying acceptance of the waste.

The final regulation adopts one change which is designed to increase the tightness of this control system. The proposed regulation would have allowed the generator to designate any number of facilities on the manifest, leaving the transporter free to select any one of them. In practice, allowing the generator to list numerous facilities would enable the transporter to select the disposal facility, and his choice could be made on the basis of cost or convenience. The Agency decided to restrict this flexibility in the final regulation. One problem addressed by RCRA was that generators frequently do not take responsibility for their wastes, but select waste haulers purely on the basis of price, without consideration of the ultimate disposal of the waste. The Agency believes that one way to address this problem is to limit the activities of the waste hauler to the transportation of wastes and to make the generator responsible for determining where the waste will be disposed of and ensuring that it gets there. Therefore, this section has been revised to require the generator to designate one facility on the manifest. Further, the generator must ascertain that the designated facility is permitted to accept his particular waste. The permit for the particular facility may allow a site to handle only certain types of wastes; for example, a facility may not be permitted to handle volatile wastes. Requiring the generator to determine that the facility is permitted to handle the waste being shipped increases the likelihood that the waste will receive proper disposal, storage, or treatment.

The final regulation allows the generator to list on the manifest an alternate facility. If the transporter is unable to deliver the waste to the designated facility because circumstances (e.g., labor strike, fire, or other emergency) prevent delivery, the transporter may deliver the waste to the alternate facility. This facility must, of course, be permitted to handle the waste.

If it is impossible to deliver the waste to either of the facilities designated on the manifest, the transporter must contact the generator who must either designate another facility or instruct the transporter to return the waste. The transporter must revise the manifest in accordance with the generator's instructions.

EPA believes that in practice most generators will have contracted with specific facilities to handle their waste and that there will be substantial

communication between these parties on the quantities and nature of the wastes being shipped to the facility. EPA has, at this time, chosen not to formalize the type of contact and communication required between the generator and the owner/operator of the facility. However, EPA is presently considering, and may soon propose, a regulation that will require prior notification to the owner/operator of the facility of shipments of hazardous waste in order to ensure delivery. Such a regulation would, EPA anticipates, simply be incorporating responsible business practices.

2. Flexibility of the Manifest Document.—In the proposed regulations, EPA did not set forth a required form for the manifest (a suggested format was included for illustrative purposes), but rather stated the required information must accompany the waste. This approach, in the Agency's view, would allow the regulated community to adapt its present practices, notably DOT's requirements for shipping papers, to accommodate the new EPA requirements. For the transportation of hazardous materials, DOT does not require a specific form, but rather requires each transport vehicle to carry required information.

A number of commenters, however, urged the creation of a uniform national manifest form. It was suggested that differing requirements among States might result in confusion and compliance difficulties for interstate transportation of hazardous waste. Commenters also stated that a national form would be simpler to use. Other commenters, however, felt that EPA should retain the flexibility of the proposed rule, particularly because of the interest of the States to adapt the manifest requirements to their own special needs and interests.

In the final regulations, EPA decided to retain the flexible approach of the proposed regulation. The information requirements of the manifest have been revised and the manifest will, in most situations, be able to serve as the shipping paper required by DOT's hazardous materials transportation regulations. Creation of a separate form in addition to DOT's shipping paper would have drastically increased the administrative burden imposed on the regulated community with no increase in the protection of human health and the environment in transportation of hazardous waste. Furthermore, creation of a single form, satisfying both EPA's and DOT's information requirements, was rejected as too rigid an approach to account satisfactorily for all

transportation practices. Nothing precludes industry from developing their own forms. Because the use of a single form would not increase the protection of human health and the environment, EPA chose to retain the flexibility of the manifest format.

The issue of State manifest requirements will be addressed by regulations implementing section 3006 of the Act, which will set forth the minimum requirements a State hazardous waste management program must meet to be equivalent or substantially equivalent to the EPA program. It is important to note in this respect that DOT has the authority to preempt shipping paper requirements which are inconsistent with its regulations, so the final decision on State manifest requirements may rest with DOT.

3. Information Required on the Manifest.—Section 262.21 lists the information that generators are required, at a minimum, to provide on the manifest. This information is less extensive than that contained in the proposed regulation. The information is essentially that which is necessary to identify accurately the persons handling the waste, and the type and quantity of the waste. This simplified manifest will greatly reduce the burden placed on the transportation industry and enhance the flexibility of the system. Most importantly, EPA has determined that this basic information, together with the other transportation requirements of DOT and EPA, are sufficient to safeguard human health and environment during transportation. The information needed for in-transit safety and for handling discharges will come not only from the manifest but also from the labeling, marking, and placarding requirements of DOT's and EPA's regulations.

The proposed regulation would have required the use of an EPA shipping description and hazard class if DOT had no specific proper shipping name or hazard class for the particular waste. In the final regulation, the manifest must only contain the DOT proper shipping description (which includes, among other things, the shipping name and hazard class). EPA determined that requiring the addition of EPA's nomenclature would not increase the protection of human health and the environment during the transportation of hazardous waste. The DOT nomenclature, with which emergency response personnel and the transportation industry are already familiar, provide adequate in-transit protection to human health and the

environment. The use of two systems of nomenclature on one document would not increase this protection, and might reduce it by creating confusion for emergency response personnel. Accordingly, that requirement has been deleted from the final regulation.

The proposed regulation required that the generator either describe on the manifest what immediate actions should be taken in the event of a discharge of hazardous waste or provide a 24-hour telephone number where additional information could be obtained. In addition, the proposal required that the telephone number of the National Response Center be listed. On this point, a variety of comments were received. Many of these stated that the proposed requirements were confusing and unclear, others said that the requirements were duplicative or inconsistent with other regulatory provisions under the Hazardous Materials Transportation Act and the Clean Water Act, and others argued that more information concerning spill response would provide greater protection for human health and the environment.

In response to these comments and in cooperation with DOT, EPA decided to delete any specific requirement for including discharge response information on the manifest. DOT requires transporters to be aware of and comply with DOT spill response procedures, and to know the toll-free telephone number of the U.S. Coast Guard's National Response Center. DOT has proposed regulations which would adopt a hazardous materials identification number which, when used with an accompanying manual, will key emergency personnel to the proper response to the discharge of hazardous material. Upon adoption, these regulations will be applicable to transporters of hazardous waste. (The hazardous materials identification number will appear on the manifest and on each container.) The manifest will include the generator's telephone number. This will enable the transporter and emergency personnel to obtain further information on the appropriate steps to take in the event of a spill. EPA has determined that adequate protection of human health and the environment will be provided by compliance with DOT regulations.

In the final regulations, two other changes in the information requirements for the manifest have been made from the proposed regulations. First, in the proposed regulation, only English units of measure were listed. A number of commenters suggested that metric units

should also be permitted. EPA agrees, and has not specified which units of measure are to be used on the manifest. Second, the number and type of containers were not requirements of the proposed regulation. This information will contribute significantly to the ability of transporters and the designated facility to track the waste, and to note readily any discrepancies between the quantities reported on the manifest and delivered to the designated facility, without placing a significant burden on the transporter.

The proposed regulation allowed a single manifest to be used for multiple shipments on the same day provided that the shipment was from the same generator, transported by the same transporter, and delivered to the same permitted facility. The waste shipped on this manifest would have had to have the same shipping description and hazard class. The comments received on this issue suggested expanding the time in which a single manifest may be used for multiple shipments, and relaxing the conditions for use of the single manifest. Among the recommendations were extending the time period beyond one day, allowing the transporter to pick up the waste of several generators, and allowing wastes of different hazard classes to be included on a single manifest. Other commenters felt that the proposed provision was administratively infeasible.

EPA has decided that because of other changes in the regulation, the provision allowing a single manifest for multiple shipments was unnecessary and, accordingly, the Agency has not included the provision in final regulation. Based on changes made in the content of the manifest and the fact that the original copy does not have to accompany the waste, EPA does not believe that there are any significant administrative benefits in using a single manifest for multiple shipments. The quantity of hazardous waste in each vehicle would have had to be individually entered on the single manifest under the proposed rule, and there is little if any additional burden in requiring the same individual entry on a separate manifest (the rest of which may be mechanically reproduced).

C. Pre-Transport Requirements

1. *Labeling, Marking, Placarding.*—The proposed regulations stated that generators who ship hazardous waste off-site must label and mark the packages and offer the appropriate placard to the transporter in accordance with DOT regulations. This provision has not been substantively changed in the final regulation. In addition, the

generator must mark each package with his name and address, the manifest document number, and the words "Hazardous Waste—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency." Generators may develop and use a single marking as long as it includes all the information required by DOT and EPA. Any container of 110 gallons or less capacity used in the transportation of hazardous waste off-site must be marked. DOT's regulations are being amended to remove the exemption for combustible liquids if they contain hazardous waste. DOT's marking requirements apply generally to containers of this size.

2. *Accumulation Time.*—The proposed rule required that hazardous waste awaiting shipment be placed in DOT containers or in permanent storage facilities complying with the Section 3004 technical requirements for storage. The rule also noted that storage for more than 90 days required a permit pursuant to the section 3005 regulations. The proposal reflected the Agency's effort to balance the Congressional desire not to interfere with the generator's production processes with the need to provide adequate protection to human health and the environment.

Commenters on the proposed rule stressed the opinion that a period of longer than 90 days should be allowed either on a case-by-case basis or generally—and that the container standards were too stringent. EPA rejected both of these comments and has retained the basic approach in the proposed requirements in the final regulation. In the course of developing these regulations, EPA learned that most wastes are removed from the site of generation within 90 days and that, for most industries, this time period will not be disruptive. Those persons who typically accumulated waste for longer periods are, in the Agency's view, storing wastes, and therefore, should have storage permits.

In the regulations promulgated today, EPA has not allowed for the accumulation of hazardous wastes in storage tanks meeting the technical standards of the Part 264 and 265 regulations. The regulations implementing section 3004 are presently being developed and will be forthcoming. EPA intends to amend the Part 262 regulations to allow the use of storage tanks for accumulation at the time Parts 264 and 265 are promulgated. In the proposed regulation, EPA solicited comments on whether

contingency plans should be required. EPA is also deferring action on this possible inclusion pending promulgation of Parts 264 and 265.

With respect to comments concerning the stringency of container standards, the Agency also disagrees. The rule applies only to hazardous wastes that are to be shipped off-site. At some point these wastes will require the use of DOT containers, and therefore, the use of such containers before shipment is not unreasonable.

There is a new requirement in the regulation: The generator must clearly mark on the container the date upon which accumulation began. Accumulation may last for not more than ninety days from the initiation of the period, unless the generator has a storage permit. If the accumulation is for on-site treatment, storage, or disposal, the generator will be required to comply with the standards established under 40 CFR Parts 264 and 265 and to obtain a permit in accordance with 40 CFR Part 122.

D. Subpart D: Recordkeeping and Reporting

1. *Recordkeeping.*—The proposed regulation required the generator who ships his waste off-site to keep a signed copy of each manifest for a period of three years from the date of acceptance of the waste by the initial transporter. Generators who treat, store, or dispose of their waste on-site would follow the applicable requirements for treatment, storage, or disposal facilities. The comments received on this requirement suggested various lengths of record retention, varying from a year to 25 years.

The Agency decided to adopt the proposed requirement. Generators are required to keep a copy of the manifest for a period of three years from the date of acceptance of the waste by the initial transporter. This time period, (which is the same as the ICC requirement for interstate shipment of commodities), provides a sufficient period for the Agency's enforcement and implementation purposes.

A provision which was originally part of the regulations proposed under section 3001, requiring generators to keep records of the determination that a waste is a hazardous waste made pursuant to § 262.11 has been made a part of this regulation. This is consistent with the decision to include all the major obligations of generators in this Part. These records must be retained for at least three years after the generator no longer handles the waste.

A final provision of the regulation extends the retention period for

recordkeeping during an enforcement action regarding the regulated activity. This provision, adopted from the proposed consolidated regulations, ensures that in such actions all records potentially relevant will be preserved (44 FR 34244, June 14, 1979).

2. Annual Reports.—The proposed regulation required generators to submit an Annual Report within thirty days of the end of the calendar year. The regulations set forth the information required in this report. The informational requirements have remained basically unchanged in the final regulation, but a new form has been developed. There has been, however, one change. In the Annual Report, generators must supply both the DOT hazard class and the EPA listed wastes or characteristics. EPA's implementation of its program is dependent upon accumulation of information on waste management practices according to the section 3001 waste definitions. Similarly, the DOT hazard class, which is readily available from the manifest, is needed to evaluate and monitor transportation practices. This change, however, means that the manifest cannot be used to prepare all of the information in the Annual Report. The due date of the report has been changed to March 1 to allow adequate time for the return of all manifests for waste shipped during the calendar year.

Many commenters objected to the certification statement contained in the proposed regulation, suggesting that the qualifying phrase "to the best of my knowledge" should be inserted. EPA has responded to the commenters' underlying concern that the generator's authorized representative would not, in many cases, have the requisite knowledge to certify the truth, accuracy, and completeness of the report. In the final regulations, Annual Reports must be certified by the generator or his authorized representative as true, accurate, and complete based on the signer's personal familiarity with information and upon his personal inquiry of those responsible for obtaining the information. This approach recognizes the limits of the signer's knowledge but also responds to the administrative need for accurate and complete data.

3. Exception Reporting.—In the proposed regulation, generators who shipped their waste off-site were required to submit a quarterly report of exceptions for all shipments of hazardous waste for which the original manifest had not been returned. The report would contain a description of the efforts the generator made to locate

the missing movement or manifest, as well as information on the quantity and type of waste by name and common code. In addition, in the proposed rule, EPA specifically requested comments on alternate approaches to the reporting requirement for unreturned manifests. The comments received on this issue were diverse, with persons suggesting reporting periods ranging from almost immediately to more than a year as the time period necessary to satisfy the Act's objectives.

In considering the comments, EPA decided that the statutory goal of protection of human health and the environment is better served by requiring an Exception Report, not for a fixed reporting period, but rather for each missing manifest. When a generator has not received a signed manifest from the designated facility within a reasonable time, there is cause for concern—the hazardous waste may have been lost, mismanaged or illegally dumped. If so, the Agency wants to be alerted to this possibility at the earliest possible time. Requiring a report each time a manifest has not been returned within 45 days from the date of acceptance by the initial transporter informs EPA at an early date of possible problems. A quarterly reporting system would, in some cases, double the length of time before EPA would be informed.

Several commenters argued that the proposed rule placed too much responsibility on the generator, requiring him to report possible violations of the Act, and to ensure the operation of the manifest system. However, the Act, to a large degree, relies upon the generator to ensure the operation of the system: he initiates the manifest, properly labels the waste, uses appropriate containers, and furnishes information to others handling the waste. If these responsibilities are not successfully fulfilled, the Act cannot be satisfactorily implemented. Reporting on unreturned manifests is an equally essential task, and one properly assigned to the generator, who is in the best position to monitor the tracking system. Congress clearly anticipated that such a system would be developed: "It is expected that there will be developed a process whereby those receiving hazardous wastes will notify the shipper of such wastes that such wastes have been received so that the system will be self-policing." H.R. Rep. at 28. The generator is the person who produced the waste, and, in many cases, profited from doing so, and he properly bears a prime responsibility for ensuring that it is adequately managed. The final rule has been clarified to set forth exactly what

the generator must do. After thirty-five days from the date of acceptance by the initial transporter, if the generator has not received the manifest from the permitted facility, he is to contact the transporter, and/or if necessary the permitted facility, to determine the status or location of the hazardous waste and the manifest. If he has not received the manifest within 45 days of shipment, he must submit an Exception Report. This report consists of a copy of the manifest for the movement in question and a cover letter which describes the efforts taken to locate the waste and manifest and the results of these efforts.

4. Additional Reporting.—A new reporting section states that the Administrator may, as he deems necessary, require generators to file additional reports on the quantities and disposition of the wastes identified or listed pursuant to section 3001. This recognizes that as the Subtitle C program evolves, EPA may develop needs for new information and may require new reports from generators. If necessary, additional reports will be subject to rulemaking procedures and review by the Office of Management and Budget pursuant to the Federal Reports Act.

E. Subpart E: Special Conditions

1. International Shipments.—A separate section in the final regulation has been provided for international shipments in order to clarify the requirements of the generator who ships his waste outside the United States. These requirements essentially parallel the requirements for domestic shipments. Generators who make international shipments are required to initiate the manifest, use proper labels and containers, offer placards, and comply with the recordkeeping and reporting requirements of the Act. Because EPA has no authority over foreign facilities, two adjustments have been made. First, a generator sending his waste to a foreign facility must alert the Administrator four weeks prior to the initial shipment to that facility in each reporting year. EPA will then take action necessary to notify the foreign government in accordance with international treaties or agreements.

Second, the Exception Report requirements have been revised to reflect the special circumstances involved in international shipment. The proposal required that every international shipment be reported in the Quarterly Report, but this will not be necessary with the transporter returning the manifest. The transporter who takes the waste outside the United States

must, in the final rule, return a copy of the manifest to the generator within 30 days of acceptance of the waste by the initial transporter. The generator must file an Exception Report if he has not received the manifest within 45 days. Also the generator must require the foreign consignee of the waste to confirm that he has received the waste. If the generator does not receive this confirmation within 90 days of acceptance of the waste by the initial transporter, he must file an Exception Report. The proposal required a Quarterly Report that listed every international shipment, but this will not be necessary with the transporter returning the manifest.

2. Requirements for Farmers.—Farmers generating any amount of waste pesticides from their own use which is hazardous waste are exempted from the requirements of this Part provided they dispose of these waste pesticides in an environmentally sound manner on their own farm. Further, this exception also requires that the pesticide container be triple rinsed after it has been emptied and the rinsate be disposed of in accordance with the label instructions. If the label does not contain disposal instructions, the farmer may not dispose of the pesticide or the rinsate on his property. Disposal of this hazardous waste, like others, must be done in accordance with Subtitle C regulations. However, farmers may be excluded from the regulations pursuant to the small quantity provision of Part 261. Use of pesticide residues and rinsate (i.e., their application as a pesticide in accordance with FIFRA regulations) is not disposal of the pesticide, and therefore, does not subject the user to these hazardous waste regulations. Farmers generating other hazardous waste are required to comply with all the applicable provisions of this Part.

VII. OMB Review

Under the Federal Reports Act of 1942, the Office of Management and Budget (OMB) reviews reporting requirements in proposed forms and regulations in order to minimize the reporting burden on respondents and the cost to the government. EPA submitted Form 8700-12 implementing section 3010 notification requirements to OMB on December 6, 1979. Reporting requirements implementing sections 3002 and 3003 were submitted on February 4, 1980.

In the course of OMB's preliminary review, OMB staff raised no objection to the form itself. OMB has, however, stated that it cannot complete its review of these requirements until the

Administrator of EPA has made decisions regarding the coverage of the RCRA program under Subtitle C and OMB has had an opportunity to review the reporting burden of the entire regulatory program.

VII I. Regulatory Analysis

In accordance with Executive Orders 12044 and 11821 as amended by Executive Order 11949, OMB Circular A-107 and EPA policy as stipulated in 39 FR 37419 (October 21, 1974), draft analyses of economic and environmental impacts have been prepared for all of Subtitle C, Hazardous Waste Management. The final Environmental Impact Statement will be available following promulgation of 40 CFR Part 261.

Dated: February 19, 1980.

Douglas M. Costle,
Administrator.

Title 40 CFR is amended by adding a new Part 262 to read as follows:

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

Subpart A—General

Sec.

- 262.10 Purpose, scope, and applicability.
- 262.11 Hazardous waste determination.
- 262.12 EPA identification numbers.

Subpart B—The Manifest

- 262.20 General requirements.
- 262.21 Required information.
- 262.22 Number of copies.
- 262.23 Use of the manifest.

Subpart C—Pre-Transport Requirements

- 262.30 Packaging.
- 262.31 Labeling.
- 262.32 Marking.
- 262.33 Placarding.
- 262.34 Accumulation time.

Subpart D—Recordkeeping and Reporting

- 262.40 Recordkeeping.
- 262.41 Annual reporting.
- 262.42 Exception reporting.
- 262.43 Additional reporting.

Subpart E—Special Conditions

- 262.50 International shipments.
- 262.51 Farmers.

Appendix—Form. Annual Report (EPA Form 8700-13).

Authority: Secs. 2002(a), 3001, 3002, 3003, 3004, and 3005, Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 (42 U.S.C. 6912(a), 6921, 6922, 6923, 6924, 6925).

Subpart A—General

§ 262.10 Purpose, scope, and applicability.

(a) These regulations establish standards for generators of hazardous waste.

(b) A generator who treats, stores, or disposes of hazardous waste must only comply with the following sections of this Part: § 262.11 for determining whether or not he has a hazardous waste, § 262.12 for obtaining an EPA identification number, § 262.40 (c) and (d) for Recordkeeping, § 262.43 for additional reporting and if applicable, § 262.51 for Farmers.

(c) Any person who imports hazardous waste into the United States must comply with the standards applicable to generators established in this Part.

(d) A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of § 262.51 is not required to comply with other standards in this Part or 40 CFR Parts 122, 264, or 265 with respect to such pesticides.

(e) A person who generates a hazardous waste as defined by 40 CFR Part 261 is subject to the compliance requirements and penalties prescribed in Section 3008 of the Act if he does not comply with the requirements of this Part.

Note.—A generator who treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in 40 CFR Parts 264, 265, and 266 and Part 122.

§ 262.11 Hazardous waste determination.

A person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method:

(a) He should first determine if the waste is excluded from regulation under 40 CFR 261.4.

(b) He must then determine if the waste is listed as a hazardous waste in Subpart D of 40 CFR Part 261.

Note.—Even if the waste is listed, the generator still has an opportunity under 40 CFR 261.39 to demonstrate to the Administrator that the waste from his particular facility or operation is not a hazardous waste.

(c) If the waste is not listed as a hazardous waste in Subpart D of 40 CFR Part 261, he must determine whether the waste is identified in Subpart C of 40 CFR Part 261 by either:

(1) Testing the waste according to the methods set forth in Subpart C of 40 CFR Part 261, or according to an equivalent method approved by the administrator under 40 CFR 261.44; or

(2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

§ 262.12 EPA identification numbers.

(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator.

(b) A generator who has not received an EPA identification number may obtain one by applying to the Administrator using EPA form 8700-12. Upon receiving the request the Administrator will assign an EPA identification number to the generator.

(c) A generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

Subpart B—The Manifest

§ 262.20 General requirements.

(a) A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal must prepare a manifest before transporting the waste off-site.

(b) A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest.

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

§ 262.21 Required information.

(a) The manifest must contain all of the following information:

- (1) A manifest document number;
- (2) The generator's name, mailing address, telephone number, and EPA identification number;
- (3) The name and EPA identification number of each transporter;
- (4) The name, address, and EPA identification number of the designated facility and an alternate facility, if any;
- (5) The description of the waste(s) (e.g., proper shipping name, etc.) required by regulations of the U.S. Department of Transportation in 49 CFR 172.101, 172.202, and 172.203;
- (6) The total quantity of each hazardous waste by units of weight or volume, and the type and number of containers as loaded into or onto the transport vehicle.

(b) The following certification must appear on the manifest: "This is to certify that the above named materials are properly classified, described, packaged, marked, and labeled and are

in proper condition for transportation according to the applicable regulations of the Department of Transportation and EPA."

§ 262.22 Number of copies.

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

§ 262.23 Use of the manifest.

(a) The generator must:

- (1) Sign the manifest certification by hand; and
- (2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and
- (3) Retain one copy, in accordance with § 262.40(a).

(b) The generator must give the transporter the remaining copies of the manifest.

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

Note.—See Part 263.20(e) for special provisions for rail or water (bulk shipment) transporters who deliver hazardous waste by rail or water to the designated facility.

Subpart C—Pre-Transport Requirements

§ 262.30 Packaging.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable Department of Transportation regulations on packaging under 49 CFR Parts 173, 178, and 179.

§ 262.31 Labeling.

Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable Department of Transportation regulations on hazardous materials, under 49 CFR 172.

§ 262.32 Marking.

(a) Before transporting or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable Department of Transportation

regulations on hazardous materials under 49 CFR 172;

(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 110 gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of 49 CFR 172.304:

"Hazardous Waste—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency. Generator's Name and Address _____, Manifest Document Number _____."

§ 262.33 Placarding.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR Part 172, Subpart F.

§ 262.34 Accumulation time.

(a) A generator may accumulate hazardous waste on-site without a permit for 90 days or less, provided that:

- (1) All such waste is shipped off-site in 90 days or less;
- (2) The waste is placed in containers which meet the standards of § 262.30;
- (3) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
- (4) Each container is properly labeled and marked according to § 262.31 and 262.32.

(b) A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR Part 264 and 265 and the permit requirements of 40 CFR Part 122.

(b) A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR Part 264 and 265 and the permit requirements of 40 CFR Part 122.

Subpart D—Recordkeeping and Reporting

§ 262.40 Recordkeeping.

(a) A generator must keep a copy of each manifest signed in accordance with § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

(b) A generator must keep a copy of each Annual Report and Exception Report for a period of at least three years.

(c) A generator must keep records of any test results, waste analyses, or other determinations made in accordance with § 262.11 for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

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

§ 262.41 Annual reporting.

(a) A generator who ships his hazardous waste off-site must submit Annual Reports:

(1) On EPA form 8700-13, according to the instructions on the form (See the Appendix to this Part);

(2) To the Regional Administrator for the Region in which the generator is located;

(3) No later than March 1 for the preceeding calendar year.

(b) Any generator who treats, stores, or disposes of hazardous waste on-site must submit an Annual Report covering those wastes in accordance with the provisions of 40 CFR Parts 264, 265, and 266 and 40 CFR 122.

§ 262.42 Exception reporting.

(a) A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

(b) A 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 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

(1) A legible copy of the manifest for which the generator does not have confirmation of delivery;

(2) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

§ 262.43 Additional reporting.

The Administrator, as he deems necessary under section 2002(a) and section 3002(6) of the Act, may require generators to furnish additional reports concerning the quantities and

disposition of wastes identified or listed in 40 CFR Part 261.

Subpart E—Special Conditions

§ 262.50 International shipments.

(a) Any person who exports hazardous waste to a foreign country or imports hazardous waste from a foreign country into the United States must comply with the requirements of this Part and with the special requirements of this section.

(b) When shipping hazardous waste outside the United States the generator must:

(1) Notify the Administrator in writing four weeks before the initial shipment of hazardous waste to each country in each calendar year. The waste must be identified by its EPA hazardous waste identification number and its DOT shipping description;

(2) Require that the foreign consignee confirm the delivery of the waste in the foreign country. A copy of the manifest signed by the foreign consignee may be used for this purpose;

(3) Meet the requirements under § 262.21 for the manifest, except that:

(i) In place of the name, address, and EPA identification number of the designated facility, the name and address of the foreign consignee must be used;

(ii) The generator must identify the point of departure from the United States through which the waste must travel before entering a foreign country.

(c) A generator must file an Exception Report, if:

(1) He has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within 45 days from the date it was accepted by the initial transporter; or

(2) Within 90 days from the date the waste was accepted by the initial transporter, the generator has not received written confirmation from the foreign consignee that the hazardous waste was received.

(d) When importing hazardous waste, a person must meet all requirements of § 262.21 for the manifest except that:

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

(2) In place of the generator's signature on the certification statement, the U.S. importer or his agent must sign and date the certification and obtain the signature of the initial transporter.

§ 262.51 Farmers.

A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this Part or other standards in 40 CFR Parts 122, 264 or 265 for those wastes provided he triple rinses each emptied pesticide container in accordance with Part 260 and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.

BILLING CODE 6560-01-M

APPENDIX - FORM

Please print or type with ELITE type (12 characters per inch)

GSA No. 12345-XX

Form Approved OMB No. 158-R00XX

[illegible]

Please print or type with ELITE type (12 characters per inch).

GSA No. 12345-XX

Form Approved OMB No. 153-R00XX



U.S. ENVIRONMENTAL PROTECTION AGENCY

HAZARDOUS WASTE REPORT (continued)

(Collected under the authority of Section 3002 of RCRA.)

FOR OFFICIAL USE ONLY (Items 1 and 2)	1. DATE RECEIVED	IX. GENERATOR'S EPA I.D. NUMBER																																								
	2. TYPE OF REPORT	<table border="1"> <tr> <td>G</td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> <tr> <td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td> </tr> </table>												G															1	2	3	4	5	6	7	8	9	10	11	12	13	14
G																																										
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15																												
X. FACILITY'S EPA I.D. NUMBER	XI. FACILITY NAME (specify)						XII. FACILITY ADDRESS (specify street or P.O. box no., city, state, & zip code)																																			

XIII. WASTE IDENTIFICATION

LINE NUMBER	A. WASTE DESCRIPTION		2. DOT HA- ZARD CLASS		3. EPA HAZARDOUS WASTE NUMBER (see instructions)		B.		UNIT OF MEASURE (code)	C.				
	1. GENERATOR'S DESCRIPTION OF WASTE						AMOUNT OF WASTE							
1					30	-	33	34	-	37				
2			28	29	38	-	41	42	-	45	46	-	54	55
3														
4														
5														
6														
7														
8														
9														
10														
11														
12					30	-	33	34	-	37				
			38	39	38	-	41	42	-	45	46	-	54	55

XIV. COMMENTS (enter information by line number — see instructions)

General Instructions—Hazardous Waste Report

Important: Read All Instructions Before Completing This Form.

Section I.—Type of Hazardous Waste Report:

Type A: Generator—Off-site Shipments Only. For generators who ship their waste off-site, fill in the four boxes with the reporting year for this report (e.g., 1984).

Type B: [Reserved].

Type C: [Reserved].

Section II. thru Section VI.—Installation I.D. Number, Name of Installation, Installation Mailing Address, Location of Installation and Installation Contact:

If you received a preprinted label from EPA, attach it in the space provided and leave sections II through VI blank. If there is an error or omission on the label, cross out the incorrect information and fill in the appropriate item(s). If you did not receive a preprinted label, complete items I through VI.

Section VII.—Transportation Services Used (For Type A Reports Only):

List the EPA Identification Numbers for those transporters whose services were used during the reporting year represented by this report.

Section VIII.—Certification:

The authorized representative of the installation completing this report must review the report, read the certification, and sign and date the certification where indicated. The printed or typed name of the authorized representative must also be included where indicated.

Note.—Since more than one page is required for each report, indicate the number of each sheet in the lower right corner where indicated and indicate the total number of pages.

Type-A Report—Instructions

Hazardous Waste Annual Report for generators who ship their hazardous waste off-site.

Important: Read All Instructions Before Completing This Form.

Section IX.—Generator's Identification Number:

Enter your EPA identification number.

Section X.—Facility Identification Number:

Enter the EPA identification number of the facility to which you sent the waste described below in section XIII (a separate sheet must be used for each facility to which you sent hazardous waste.)

Section XI.—Facility Name:

Enter the name of the facility corresponding to the facility EPA identification number in Section X.

Section XII. Facility Address:

Enter the address of the facility corresponding to the facility EPA identification number in Section X.

Section XIII.—Waste Information:

All information in this section must be entered by line number. Each line entry will describe each waste as shipped to the facility identified in Section X above.

Section XIII-A-1—Waste Description: Generator's Description.

On each line, enter the description which you believe best describes each waste. (The description may use the process or function which best describes the source of the hazardous waste).

Section XIII-A-2—Waste Description: DOT Hazard Class.

Enter the two digit code from Table 1 which corresponds to the DOT hazard class of the waste described on this line in Section XIII-A-1. (If the waste described under XIII-A-1 has been shipped under more than one DOT hazard class, use a separate line for each DOT hazard class.

Section XIII-A-3—Waste Description: EPA Hazardous Waste Number.

For each line, enter the four digit EPA Hazardous Waste Number from Table 2¹ which identifies the waste.

If the waste has several EPA listed wastes, enter the four digit EPA Hazardous Waste Numbers which identify each listed waste included in that waste.

Four spaces are provided. If more are needed:

(1) Enter the first three as described above;

(2) Enter 0000 in the lower right boxes of Section XIII-A-3 on this line;

(3) Enter additional EPA Hazardous Waste Numbers under Section XIV—Comments.

If the waste described on this line is not a listed waste in Table 2,¹ but meets one or more of the characteristics determined by you as required by § 262.11 under the Standards Applicable to generators (Part 262), enter the EPA Hazardous Waste Number(s) from Table 3¹ which identifies the waste described on this line. If more than four spaces are required, follow the same procedure described above.

Section XIII-B—Amount of Waste:

Enter the amount of this waste you shipped to the facility identified in Section X and include the weight of containers if left at the treatment, storage, or disposal facility. If more than 999,999,999 units of the waste were shipped during the reporting period:

(1) Enter 999999999 in the boxes provided;

(2) In Section XIV—Comments, enter the line number, "Section XIII-B", and the correct amount (including the unit of measure).

Section XIII-C—Unit of Measure:

Enter the unit of measure code for the quantity of waste described on this line. Units of measure which must be used in this report and the appropriate codes are:

Unit of measure	Code
Pounds	P
Short tons	T
Kilograms	K
Tonnes	M

If shipments were made in any other units they must be converted into the one of the required units of measure taking into account the appropriate density or specific gravity of the waste.

Table 1

DOT Hazard class	Code
Combustible	1
Corrosive	2
Etiologic Agent	3
Explosive A	4
Explosive B	5
Flammable Gas	6
Flammable Liquid	7
Flammable Solid	8
Irritating Agent	9
Non-Flammable Gas	10
Organic Peroxide	11
ORM-E	12
Oxidizer	13
Poison A	14
Poison B	15
Radioactive	16

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BILLING CODE 6560-01-M

40 CFR Part 263

[Docket No. 3003; FRL 1396-1]

Standards Applicable to Transporters of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Section 3003 of the Resource Conservation and Recovery Act requires the EPA Administrator, after consultation with the Secretary of Transportation and the States, to promulgate regulations establishing standards applicable to transporters of hazardous waste, as are necessary to protect human health and the environment.

This document establishes standards applicable to any person who transports hazardous waste which requires a manifest under the provisions of 40 CFR

¹ Table 2 and Table 3 will be included in these instructions at the time Part 261 is promulgated.