

3745-65-12

**Required notices.**

(A) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to 40 C.F.R. Part 262 subpart H from a foreign source shall submit the following required notices:

- (1) Pursuant to 40 C.F.R. 262.84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to the competent authority of the country of export a notification proposing export and obtain consent from U.S. EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, shall provide notification of the proposed transboundary movement in English to U.S. EPA using the allowable methods listed in 40 C.F.R. 262.84(b)(1) at least sixty days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and "Organisation for Economic Co-operation and Development" (OECD) waste codes, and being sent from the same foreign exporter.
- (2) Pursuant to 40 C.F.R. 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three working days after receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to U.S. EPA electronically using U.S. EPA's waste import export tracking system (WIETS), or the successor system. The original of the signed movement document shall be maintained at the facility for at least three years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on U.S. EPA's WIETS, or the successor system, provided that copies are readily available to view and produce if requested by any U.S. EPA or Ohio EPA inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this rule if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with U.S. EPA's WIETS, or the successor system, for which the owner or operator of a facility bears no responsibility.

- (3) Pursuant to 40 C.F.R. 262.84(f)(4), if the owner or operator of a facility has physical control of the waste and the waste must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility shall inform U.S. EPA, using the allowable methods listed in 40 C.F.R. 262.84(b)(1) of the need to return or arrange alternate management of the shipment.
- (4) Pursuant to 40 C.F.R. 262.84(g), such owner or operator shall do all of the following:
- (a) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal of the waste in the shipment and no later than one calendar year after receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to U.S. EPA electronically using U.S. EPA's WIETS, or the successor system.
- (b) If the owner or operator of a facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 to D15, or DC17, promptly send copies of the confirmation of recovery or disposal that the facility receives from the final recovery or disposal facility within one year after shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 to R11, or RC16, or one of disposal operations D1 to D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to U.S. EPA electronically using U.S. EPA's WIETS, or the successor system. The recovery and disposal operations in this paragraph are defined in 40 C.F.R. 262.81.

[Comment 1: An owner's or operator's failure to notify the new owner or operator of the requirements of Chapters 3745-65 to 3745-69 and 3745-256 of the Administrative Code does not relieve the new owner or operator of the obligation to comply with all applicable requirements.]

[Comment 2: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see rule 3745-50-11 of the Administrative Code titled "Incorporated by reference."]

Replaces: 3745-65-12 rescinded  
Effective: 10/5/2020  
Five Year Review (FYR) Dates: Exempt

CERTIFIED ELECTRONICALLY

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Certification

09/21/2020

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Date

Promulgated Under: 119.03  
Statutory Authority: 3734.12  
Rule Amplifies: 3734.12  
Prior Effective Dates: 04/15/1981, 01/07/1983, 12/07/2000, 12/07/2004,  
02/16/2009, 03/17/2012, 02/12/2018

## TO BE RESCINDED

3745-65-12                    **Required notices.**

## (A) Prior notice.

- (1) The owner or operator of a facility who has arranged to receive hazardous waste from a foreign source shall notify the regional administrator in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.
- (2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to 40 CFR Part 262 subpart H shall provide a copy of the movement document bearing all required signatures to the foreign exporter, to the "Office of Federal Activities, International Compliance Assurance Division (2254A), United States Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC" 20460, and to the competent authorities of all other countries concerned. This shall occur within three working days after receipt of the shipment. The original signed copy of the movement document shall be maintained at the facility for at least three years after the date of the signature. In addition, such owner or operator, as soon as possible but no later than thirty days after the completion of recovery and no later than one calendar year after the receipt of the hazardous waste, shall submit a certificate of recovery to the foreign exporter, to the competent authority of the country of export, and to U.S. EPA's "Office of Enforcement and Compliance Assurance" at the above address. This submittal may be by mail, e-mail without a digital signature followed by mail, or fax followed by mail.

[Comment: The exercise of foreign relations and international commerce powers is reserved to the federal government under the Constitution. These responsibilities are not delegable to the states. Therefore, the importation and exportation of hazardous waste into and out of the United States is solely regulated by the federal government.]

- (B) Before transferring ownership or operation of a facility during the facility's operating life, or of a disposal facility during the post-closure care period, the owner or operator shall notify the new owner or operator in writing of the requirements of Chapters 3745-65 to 3745-69 and 3745-256 and rules 3745-50-40 to 3745-50-235 of the Administrative Code.

[Comment 1: An owner's or operator's failure to notify the new owner or operator of the requirements of Chapters 3745-65 to 3745-69 and 3745-256 of the Administrative Code does not relieve the new owner or operator of the obligation to comply with all applicable requirements.]

[Comment 2: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see rule 3745-50-11 of the Administrative Code titled "Incorporated by reference."]

Effective: 10/5/2020

Five Year Review (FYR) Dates: 7/13/2020

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09/21/2020

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Date

Promulgated Under: 119.03  
Statutory Authority: 3734.12  
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02/16/2009, 03/17/2012, 02/12/2018