

HAZARDOUS SECONDARY MATERIAL GUIDANCE

Introduction

Large volumes of hazardous secondary materials (HSMs) are generated across a wide variety of business, manufacturing, and institutional sectors. On January 13, 2015, the federal “[Definition of Solid Waste](#)” regulation was promulgated. The regulation revises several recycling-related provisions associated with the definition of waste used to determine hazardous waste management requirements. The purpose of these revisions is to ensure that the HSM recycling regulations, as implemented, encourage reclamation in a way that does not result in increased risk to human health and the environment from discarded HSM.

Michigan has incorporated these provisions into the [administrative rules](#) promulgated pursuant to [Part 111](#), Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, effective August 3, 2020. This publication provides guidance on the management of HSM and should not be considered a substitute for the applicable Part 111 rules.

What is a Hazardous Secondary Material and When is it Eligible for Exclusion?

A HSM is a secondary material such as a spent material, by-product, or sludge that, when discarded, would be identified as a hazardous waste under the Part 111 rules.

The following HSMs are eligible for conditional exclusion under Rule 204(1)(aa)-(dd):

- HSM that is generated and legitimately reclaimed within the United States (U.S.) or its territories and under the control of the generator.
- HSM that is generated and then transferred to another person for the purpose of reclamation.
- HSM that is generated and then transferred to another person for the purpose of remanufacturing.
- HSM that is exported from the United States and reclaimed at a reclamation facility located in a foreign country.

The aforementioned HSMs are not required to be included in the generator status calculation.

In order for a HSM to be a hazardous waste, the material must first be a waste. Under the provisions of Rule 202(6)(d)-(e), the Director of the Materials Management Division (MMD) of the Michigan Department of Environment, Great Lakes, and Energy (EGLE) may determine, on a case-by-case basis, that the following HSMs are not wastes and, therefore, are not hazardous wastes:

- Those reclaimed in a continuous industrial process.
- Those indistinguishable in all relevant aspects from a product or intermediate.

While not specifically excluded under Rule 204(1)(aa)-(dd), if the EGLE MMD Director determines that these HSMs are not wastes, they are not required to be included in the generator status calculations.

HSM that is not excluded or is determined to be a waste under the Part 111 rules must be managed as a hazardous waste and included in the generator status calculation.

Key Definitions

Before addressing exclusion conditions and associated responsibilities, it is important to define some key terms.

- As it relates to HSMs that are legitimately recycled under Rule 232, **contained** means held in a unit, including a land-based unit, that meets all of the following criteria:
 - The unit is in good condition, with no leaks or other continuing or intermittent unpermitted HSM releases to the environment, and is designed, as appropriate for materials, to prevent releases of the materials to the environment. Unpermitted releases are releases that are not covered by a permit, such as a permit to discharge to water or air and may include releases through surface transport by precipitation runoff, releases to the soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic failures.
 - The unit is properly labeled or otherwise has a system, such as a log, to immediately identify the HSM in the unit.
 - The unit holds HSMs that are compatible with other HSM placed in the unit and with the materials used to construct the unit and addresses any potential risks of fires or explosions.

HSM in units that meet the applicable requirements of Part 6 of the Part 111 rules are presumptively contained.

- A HSM **generator** is a person whose act or process produces HSM at the generating facility.
- A **generating facility** includes all contiguous property owned, leased, or otherwise controlled by the HSM generator.
- An **intermediate facility** is any facility that stores HSM for more than 10 days, other than generator or reclaimer of such material.
- A **tolling contractor** is a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer.

- A **toll manufacturer** is a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.
- **Reclamation** means either processing to recover a usable product or regeneration, such as in the recovery of lead values from spent batteries and the regeneration of spent solvents. For the purpose of R 299.9204(1)(aa) and (bb), smelting, melting, and refining furnaces are considered to be solely engaged in metals reclamation if the metal recovery from the hazardous secondary materials meets the same requirements as those specified for metals recovery from hazardous waste of 40 CFR 266.100(d)(1)-(3), and if the residuals meet the requirements of R 299.9808.
- **Remanufacturing** means processing higher-value secondary material to manufacture a product that serves a similar functional purpose as the original commercial-grade material. For the purpose of this definition, a hazardous secondary material is considered higher-value if it was generated from the use of a commercial-grade material in a manufacturing process and can be remanufactured into a similar commercial-grade material.
- An **analogous raw material** is a raw material for which a HSM is a substitute and serves the same function and has similar physical and chemical properties as the HSM.

Concept of Legitimacy

The recycling of a HSM for the purpose of exclusion or exemption from the regulation as hazardous waste must be legitimate. To be considered legitimate, **all** of the following requirements must be met:

- The recycling involves a HSM that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. A HSM provides a useful contribution if it meets one of the following requirements:
 - It contributes a valuable ingredient to a product or intermediate.
 - It replaces a catalyst or carrier in the recycling process.
 - It is the source of a valuable constituent recovered in the recycling process.
 - It is recovered or regenerated by the recycling process.
 - It is used as an effective substitute for a commercial product.
- The recycling process produces a valuable product or intermediate. A product or intermediate is valuable if it meets one of the following requirements:
 - It is sold to a third party.
 - It is used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.
- The generator and the recycler manage the HSM as a valuable commodity when it is under their control. If there is an analogous raw material, the HSM must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. If there is no analogous raw material, the HSM must be contained. A HSM that is released to the environment and not immediately recovered for reclamation is discarded. HSMs managed in a unit with leaks, or other continuing or intermittent unpermitted releases, is discarded and a waste.

- A person making a determination regarding the legitimacy of a specific recycling activity shall consider the following factors:
 - The product of the recycling process does not do any of the following:
 - Contain significant concentrations of any hazardous constituents found in Appendix VIII of 40 CFR Part 261 at levels that are not found in analogous products.
 - Contain concentrations of hazardous constituents found in appendix VIII of 40 CFR Part 261 at levels that are significantly elevated from those found in analogous products.
 - Exhibit a hazardous characteristic as defined in Rule 212 that analogous products do not exhibit.
- A person shall evaluate all factors and consider the legitimacy as a whole. If the evaluation of the considerations of this subrule indicate that the factor is not met, it may be an indication that the material is not legitimately recycled. The factor in subdivision (a) of this subrule does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons may consider exposure from toxics in the product, the bioavailability of the toxics in the product, and other relevant considerations.

Exclusion Conditions and Associated Responsibilities

Even if the material is determined to be a HSM conditionally excluded from the definition of waste, the generator and subsequent handlers still have certain regulatory responsibilities. This section highlights each of the four HSM exclusions and the conditions and responsibilities that must be met when handling the HSM.

1. **HSM that is generated and legitimately reclaimed within the U.S. or its territories and under the control of the generator** is not a waste if all of the following conditions are met:
 - The HSM is generated and legitimately reclaimed in accordance with any of the following:
 - At the generating facility.
 - At a different facility which is controlled by the generator and the generator provides the certification required under Rule 204(1)(aa)(i)(B) to EGLE's MMD Director.
 - At a different facility and both the generating facility and the reclaiming facility are controlled by the same person, and the generator provides the certification required under Rule 204(1)(aa)(i)(C) to EGLE's MMD Director. Control means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person shall not be deemed to "control" such facilities. Both the generator and the claimer maintain at their facilities, for not less than three years, records of the HSM sent or received under this exclusion. In both cases, the records shall contain:
 - The name of the transporter.
 - The date of the HSM shipment.
 - The type and quantity of HSM shipped or received under this exclusion.

These requirements may be satisfied by routine business records such as financial records, bills of lading, copies of U.S. Department of Transportation (DOT) shipping papers, or electronic confirmations of receipt.

- The HSM is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor if the tolling contractor prepares the certification required under Rule 204(1)(aa)(i)(D). The tolling contractor and toll manufacturer maintain at their facilities, for not less than three years, records of HSM received pursuant to its written contract with the toll manufacturer, and the toll manufacturer shall maintain at its facility, for not less than three years, records of HSM shipped pursuant to its written contract with the tolling contractor. In both cases, the records shall contain:
 - The name of the transporter.
 - The date of the HSM shipment.
 - The type and quantity of HSM shipped or received pursuant to the written contract.

These requirements may be satisfied by routine business records such as financial records, bills of lading, copies of U.S. DOT shipping papers, or electronic confirmations of receipt.

- The HSM is contained. A HSM that is released to the environment and not immediately recovered for reclamation is discarded. HSMs managed in a unit with leaks, or other continuing or intermittent unpermitted releases, are discarded and considered a waste.
- The HSM is not speculatively accumulated¹.
- A notification is provided to EGLE's MMD Director in accordance with 40 C.F.R. §260.42 using the Site Identification Form ([EQP 5150](#)).
- The HSM is not otherwise subject to material-specific management conditions under Rule 204(1) when reclaimed, and it is not a spent lead-acid battery.
- The HSM recycler maintains the required documentation of their legitimacy determination on-site, for not less than three years, after the recycling operation has ceased.

2. **HSM that is generated and then transferred to another person for reclamation** is not a waste if all of the following conditions are met:

- The HSM is not speculatively accumulated¹.

¹ Speculative accumulation means accumulation before recycling. HSM being legitimately recycled is not speculatively accumulated if the person accumulating HSM shows that:

- 1) During the calendar year commencing on January 1, the amount of material that is recycled equals not less than 75% by weight or volume of the amount of HSM accumulated at the beginning of the period. When calculating the percentage of turnover, the 75% requirement is to be applied to each HSM of the same type that is recycled in the same way.
- 2) The HSM being accumulated is equipped with a label indicating the first date that the material began to be accumulated. If placing a label on the accumulation unit is not practical, the accumulation period must be documented through an inventory log or other method approved by EGLE.

- The HSM is not handled by any person or facility other than the HSM generator, the transporter, an intermediate facility, or a reclaimer as specifically designated by the HSM generator.
- While in transport, the HSM is not stored for more than 10 days at a transfer facility and is packaged in accordance with applicable U.S. DOT regulations in 49 C.F.R. Parts 173, 178, and 179.
- The HSM is not otherwise subject to material-specific management conditions under Rule 204(1) when reclaimed, and it is not a spent lead-acid battery.
- The reclamation of the HSM is legitimate as outlined in Rule 232.
- The HSM generator meets all of the following conditions:
 - The HSM is contained. A HSM that is released to the environment and not immediately recovered for reclamation is discarded. HSMs managed in a unit with leaks, or other continuing or intermittent unpermitted releases, are discarded and considered a waste. The HSM is not speculatively accumulated.
 - Before arranging for transport to a reclamation facility or facilities where the management of the HSM is not addressed under an operating license or the interim status standards under the Part 111 rules, the HSM generator makes reasonable efforts to ensure that the reclaimer intends to properly manage the HSM in a manner that is protective of human health and the environment.
 - If the HSM will be passing through an intermediate facility where the management of the HSM is not addressed under an operating license or the interim status standards under the Part 111 rules, the HSM generator makes contractual arrangements with the intermediate facility to ensure that the material is sent to the reclamation facility identified by the generator. The generator must repeat these reasonable efforts every 3 years.
 - The HSM generator must confirm that all of the following requirements are met for each reclamation facility and intermediate facility:
 - The reclamation is legitimate under Rule 232.
 - The reclamation facility has notified EGLE of their HSM reclamation activities in accordance with 40 CFR 260.42 using the Site Identification Form ([EQP 5150](#)).
 - The reclamation facility has met the financial assurance requirements of Rule 204 (1)(bb)(vi)(F).
 - The reclamation and any intermediate facilities have not had a formal enforcement action taken against the facility in the previous 3 years.
 - The reclamation and intermediate facilities have the necessary equipment and trained personnel to safely recycle the HSM.
 - The reclamation facility must properly manage any residuals generated from the reclamation of HSM.
 - The HSM generator must maintain at the generating facility, for not less than three years, documentation and certification that reasonable efforts were made for each

reclamation facility and, if applicable, intermediate facility where the management of the HSM is not addressed under an operating license standards under the Part 111 rules before transferring HSM. The certification statement must include all of the following information:

- The printed and official title of an authorized representative of the HSM generator company, the authorized representative's signature, and the date signed.
- The following statement:

"I hereby certify in good faith and to the best of my knowledge that, before arranging for transport of excluded HSMs to [insert name(s) of reclamation facility and any intermediate facility], reasonable efforts were made in accordance with Rule 204(1)(bb)(v)(B) to ensure that the HSMs would be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment, and that the efforts were based on current and accurate information."
- The HSM generator must maintain at the generating facility, for not less than three years, records of all off-site shipments of HSM. For each shipment, the records must, at a minimum, include:
 - The name of the transporter.
 - The date of the HSM shipment.
 - The name and address of each reclaimer.
 - The name and address of each intermediate facility, if applicable.
 - The type and quantity of HSM in the shipment.
 - The HSM generator must maintain, for not less than three years, confirmations of receipt from each reclaimer and, if applicable, each intermediate facility for all off-site shipments of HSM. Confirmation of receipt shall include:
 - The name and address of the reclaimer.
 - The name and address of the intermediate facility.
 - The type and quantity of the HSM received.
 - The date the HSM was received.

These requirement may be satisfied with routine business records such as financial records, bills of lading, copies of U.S. DOT shipping papers, or electronic confirmations of receipt.

- The HSM must be managed in accordance with Rule 234, which references 40 C.F.R. Part 261, Subpart M.
- Reclaimers of HSM excluded from regulation under this exclusion and intermediate facilities must meet all of the following conditions:
 - The reclaimer and any intermediate facility maintain at their facilities, for not less than three years, records of all shipments of HSM received and, if applicable, for all shipments of HSM received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records must, at a minimum, include:

- The name of the transporter.
- The date of the HSM shipment.
- The name and address of the HSM generator.
- The name and address of the reclaimer that the HSM was received from.
- The name and address of each intermediate that the HSM was received from.
- The type and quantity of HSM in the shipment.
- For HSM received by the reclaimer or intermediate facility and subsequently transferred off-site for further reclamation:
 - The name and address of the subsequent HSM reclaimer.
 - The name and address of each intermediate HSM facility.
- The intermediate facility must send the HSM to the reclaimer(s) designated by the HSM generator.
- All reclaimers and intermediate facilities must send the HSM generator confirmation of receipt for all off-site shipments of HSM. Confirmation of receipt must include:
 - The name and address of the reclaimer.
 - The name and address of the intermediate facility.
 - The type and quantity of HSM received.
 - The date the HSM was received.

This requirement may be satisfied by routine business records such as financial records, bills of lading, copies of U.S. DOT shipping papers, or electronic confirmations of receipt.
- The reclaimer and intermediate facility must manage the HSM in a manner that is at least as protective as that employed for analogous raw material and the HSM must be contained. An analogous raw material is a raw material for which a HSM is a substitute and serves the same function and has similar physical and chemical properties as the HSM.
- Any residuals that are generated from reclamation processes must be managed in a manner that is protective of human health and the environment. If any residuals exhibit a hazardous characteristic according to the Part 111 rules, or they themselves are specifically listed in the Part 111 rules, the residuals are hazardous waste and must be managed in accordance with the Part 111 rules.
- The reclaimer and intermediate facility must have financial assurance as required under the Part 111 rules.
- The reclaimer and intermediate facility must have an operating license or comply with the interim status standards under the Part 111 rules that address HSM.
- All persons claiming the exclusion under Rule 204(1)(bb) must provide notification to EGLE's MMD Director as required under 40 C.F.R. §260.42 using the Site Identification Form ([EQP 5150](#)).

3. **HSM that is generated and then transferred to another person for the purpose of remanufacturing** is not a waste if all of the following conditions are met:

- The remanufacturing of the HSM is legitimate under Rule 232.
- The HSM consists of one or more of the following spent solvents:

Toluene	Cyclohexane	Methyl isobutyl ketone
Xylenes	Methyl tert-butyl ether	NN-dimethylformamide
Ethylbenzene	Acetonitrile	Tetrahydrofuran
1,2,4-trimethylbenzene	Chloroform	n-butyl alcohol
Chlorobenzene	Chloromethane	Ethanol
n-hexane	Dichloromethane	Methanol
- The HSM originated from using one or more of the solvents listed above in a commercial grade for reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions, in one or more of the following sectors:
 - Pharmaceutical manufacturing (NAICS 325412)
 - Basic organic chemical manufacturing (NAICS 325199)
 - Plastics and resins manufacturing (NAICS 325211)
 - Paints and coatings manufacturing (NAICS 325510)
- The HSM generator sends the HSM spent solvents listed above to a remanufacturer in one or more of the following sectors:
 - Pharmaceutical manufacturing (NAICS 325412)
 - Basic organic chemical manufacturing (NAICS 325199)
 - Plastics and resins manufacturing (NAICS 325211)
 - Paints and coatings manufacturing (NAICS 325510)
- After manufacturing one or more of the solvents listed above, the use of the remanufactured solvent is limited to reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions, or to using them as ingredients in a product, in one or more of the following sectors:
 - Pharmaceutical manufacturing (NAICS 325412)
 - Basic organic chemical manufacturing (NAICS 325199)
 - Plastics and resins manufacturing (NAICS 325211)
 - Paints and coatings manufacturing (NAICS 325510)

These allowed uses correspond to chemical functional uses enumerated under the chemical data reporting rule of the Toxic Substances Control Act, 40 C.F.R. Parts 704, 710, and 711, including industrial function codes U015 (solvents consumed in a reaction to produce other chemicals) and U030 (solvents become part of mixture).

- After remanufacturing one or more of the solvents listed above, the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles. These disallowed continuing uses correspond to chemical functional uses in industrial function code U029 under the chemical data reporting rule of the Toxic Substances Control Act.

- Both the HSM generator and the remanufacturer do all of the following:
 - Provide notification to the MMD Director and update the notification every two years pursuant to 40 C.F.R. §260.42 using the Site Identification Form ([EOP 5150](#)).
 - Develop and maintain an up-to-date remanufacturing plan which identifies all of the following prior to and during remanufacturing:
 - The name, address, and site identification number of the generator and remanufacturer.
 - The types and estimated annual volumes of spent solvents to be remanufactured.
 - The processes and industry sectors that generate the spent solvents.
 - The specific uses and industry sectors for the remanufactured solvents.
 - A certification statement from the remanufacturer stating:

"On behalf of [insert remanufacturer facility name], I certify that this facility is a remanufacturer under [insert appropriate code(s) pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or paints and coatings manufacturing (NAICS 325510)] sectors, and will accept the spent solvents for the sole purpose of remanufacturing into commercial-grade solvents that will be used for reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions, or for use as a product ingredient. I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 C.F.R. Parts 60, 61, or 63, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in 40 C.F.R. Part 261, Subparts AA to CC."
- Maintain records of shipments and confirmations of receipts for a period of three years
 - from the dates of the shipments.
 - Prior to remanufacturing, accumulate the HSM in containers or tanks that meet the technical standards specified in Rule 233(1) and (2), respectively, with the containers and tanks being labeled or otherwise having immediately available record of the material being accumulated.
 - Meet the requirements prohibiting speculative accumulation (see footnote on page 5).
4. **HSM that is exported from the United States and reclaimed at a reclamation facility located in a foreign country** is not a waste if the HSM generator complies with the applicable requirements of Rule 204(1)(bb), paragraphs (i)-(v) of subdivision (bb), except subparagraph (B)(II) of paragraph (v) for foreign reclaimers and foreign intermediate facilities, and all of the following requirements:
- The reclamation of the HSM is legitimate under Rule 232.

- Provides notification to the EPA of an intended export before the HSM is scheduled to leave the United States. A complete notification must be submitted at least 60 days before the initial shipment is intended to be shipped off-site. The notification may cover export activities extending over no more than a 12-month period. The notification must be in writing, signed by the HSM generator, and include all of the following information:
 - The name, mailing address, telephone number, and site identification number, if applicable, of the HSM generator.
 - A description of the HSM and the hazardous waste number that would apply if the HSM was managed as a hazardous waste and the U.S. DOT proper shipping name, hazard class, and ID number (UN/NA) for each HSM as identified in 49 CFR Parts 171 to 177.
 - The estimated frequency or rate at which the HSM is to be exported and the period of time over which the material is to be exported.
 - The estimated total quantity of HSM.
 - All points of entry to and departure from each foreign country through which the HSM will pass.
 - A description of the means by which each shipment of HSM will be transported, including the mode of transportation vehicle and the types of containers.
 - A description of the manner in which the HSM will be reclaimed in the country of import.
 - The name and address of the reclaimer, any intermediate facility, and any alternate reclaimer and intermediate facilities.
- The name of any countries of transit through which the HSM will be sent and a description of the approximate length of time it will remain in the countries and the nature of its handling while there. For the purposes of this provision, the terms "EPA Acknowledgment of Consent," "country of import," and "country of transit" have the same meanings as defined in 40 CFR 262.81, with the exception that the terms in this subparagraph refer to HSMs, rather than hazardous waste.
- Notifications must be submitted electronically using the Waste Import Export Tracking System (WIETS), or its successor system.
- Except for changes to the telephone number in subparagraph (A) of paragraph (i) of this subdivision and decreases in the quantity of HSM indicated under subparagraph (D) of paragraph (i) of this subdivision, when the conditions specified on the original notification change, including any exceedance of the estimate of the quantity of HSM specified in the original notification, the HSM generator must provide the EPA with written renotification of the change. The shipment cannot take place until consent of the country of import to the changes and in the ports of entry to and departure from countries of transit has been obtained and the HSM generator receives from the EPA an Acknowledgment of Consent reflecting the country of import's consent to the changes.

- Upon request by the EPA, the HSM generator must furnish to the EPA any additional information which a country of import requests to respond to a notification.
- The EPA shall provide a complete notification to the country of import and any countries of transit. A notification is complete when the EPA receives a notification that the EPA determines satisfies the requirements of paragraph (i) of this subdivision. If a claim of confidentiality is asserted with respect to any notification information required by paragraph (i) of this subdivision, the EPA may find the notification not complete until the claim is resolved under 40 CFR 260.2.
- The export of HSM under this subdivision is prohibited unless the country of import consents to the intended import. When the country of import consents in writing to the receipt of the HSM or withdraws a prior consent, the EPA shall notify the HSM generator in writing. The EPA shall also notify the HSM generator of any responses from the countries of transit.
- For exports to Organization for Economic Co-operation and Development member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or any country of transit to a notification provided under to paragraph (i) of this subdivision within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, the EPA shall send an Acknowledgment of Consent to inform the HSM generator that the country of import and any relevant countries of transit have not objected to the shipment and are therefore presumed to have consented tacitly. Tacit consent expires 1 calendar year after the close of the 30-day period. Renotification and renewal of all consents is required for exports after that date.
- A copy of the EPA Acknowledgement of Consent must accompany the shipment. The shipment must conform to the terms of the Acknowledgement of Consent.
- If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility, or the alternate reclaimer or alternate intermediate facility, the HSM generator shall re-notify the EPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with paragraph (iii) of this subdivision and obtain another EPA Acknowledgement of Consent.
- HSM generators shall keep a copy of each notification of intent to export and each EPA Acknowledgement of Consent for a period of not less than 3 years from the date of receipt of the EPA Acknowledgement of Consent. This recordkeeping requirement may be satisfied by retaining electronically submitted notifications or electronically generated Acknowledgements of Consent in the generator's account on WIETS, provided the copies are readily available for viewing and production if requested by any EPA or authorized state inspector. A HSM generator may not be held liable for the inability to produce a notification or Acknowledgment of Consent for inspection under this paragraph if the generator can demonstrate that the inability to produce the copies are due exclusively to technical difficulty with WIETS for which the generator bears no responsibility.

- HSM generators shall file with the EPA no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all HSMs exported during the previous calendar year. Annual reports must be submitted electronically using WIETS. The reports must include all of the following information:
 - The name, mailing and site addresses, and site identification number, if applicable, of the HSM generator.
 - The calendar year covered by the report.
 - The name and site address of each reclaimer and intermediate facility.
 - Organized by reclaimer and intermediate facility, for each HSM exported, a description of the material and the hazardous waste number that would apply if the material were managed as a hazardous waste, the U.S. DOT hazard class, the name, and site identification number, if applicable, for each transporter used, the total amount material shipped, and the number of shipments under each notification.
 - A certification signed by the HSM generator that states: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."
- All persons claiming an exclusion under this subdivision shall provide notification as required by 40 CFR 260.42.

This publication is intended for guidance only and may be impacted by changes in legislation, rules, policies, and procedures adopted after the date of publication. Although this publication makes every effort to teach users how to meet applicable compliance obligations, use of this publication does not constitute the rendering of legal advice.

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