

From: Heiss.Robert@epamail.epa.gov [mailto:Heiss.Robert@epamail.epa.gov]
Sent: Tuesday, October 06, 2009 11:17 AM
To: Matt Songer
Subject: Interpretation of "Primary Exporter" in EPA Hazardous Waste Regulations:

Dear Mr. Songer:

In the export regulations for hazardous waste, the "primary exporter" is defined as "any person who is required to initiate the manifest for a shipment of hazardous waste in accordance with Part 262 which specifies a treatment, storage, or disposal facility in a receiving country as the facility to which hazardous waste will be sent and any intermediary arranging for the export."
" (Emphases added.) 40 CFR 262.51. EPA interprets this to include either the generator itself, or a transporter, broker or other party which serves as intermediary arranging for the export. The party who is the primary exporter must submit the notification of intent to export the hazardous waste to the EPA (40 CFR 262.53), and is issued either an acknowledgement of consent or notice of objection, and, if any shipments occur during the year, the primary exporter must submit the annual report to EPA (40 CFR 262.56).

Thus the generator of hazardous waste, who must prepare and sign the manifest, and the primary exporter, responsible for the notification and annual report, can be and often are different parties. A generator utilizing the consent obtained by a different primary exporter can only ship those wastes included in the notification and to the receiving facility identified in the notification. The primary exporter, if different, must report all shipments by itself and others utilizing the same consent and must ensure that all shipments are in conformity with the consent, including maximum allowable quantities shipped during the term of the consent.

Best regards,

Robert Heiss
U.S. E.P.A.