

Message

From: Daguillard, Robert [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBE9682B940C4F2C90732E4D37355DD4-DAGUILLARD,]
Sent: 3/8/2018 9:17:53 PM
To: Bobby Elliott [bobby@resource-recycling.com]
CC: Press [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b293283291dc44e0b5d1c36be9281d8a-Press]
Subject: FW: U.S. export law

Bobby, on background, please:

1.) Is RCRA the lone U.S. law that currently governs the export of e-scrap?

No, under RCRA and its implementing regulations, certain e-scrap may be regulated as hazardous waste, in which case specific legal requirements for U.S. export apply.

Exports of hazardous waste are subject to RCRA export requirements (See 40 Code of Federal Regulations (CFR) Part 262 Subpart H). Shipments of e-scrap, especially in cases where it may pose risks during transport, may be subject to Department of Transportation (DOT) regulations. In addition to U.S. requirements, U.S. exporters of e-scrap are subject to applicable regulations for such imports in the destination country, applicable regulations of transit countries and any applicable international agreement.

2.) As I understand it, RCRA exempts e-scrap from being classified as a hazardous waste as long as the waste is being sent for domestic or international recycling. Is this accurate?

No, there is no general hazardous waste exclusion under RCRA for e-scrap. However, when certain conditions are met, many types of e-scrap are not regulated either because they are not considered hazardous under U.S. law, or because they fall under specific recycling exemptions for scrap metal (40 CFR 261.6(a)(3)(ii)) or shredded circuit boards (40 CFR 261.4(a)(14)).

For example, cathode ray tubes (CRTs) are also exempt from hazardous waste regulation (40 CFR 261.4(a)(22)), but as a condition of that exemption are subject to certain export and management requirements (40 CFR 261.40 and 261.41). Batteries that meet the definition of hazardous waste are generally regulated as “universal waste” (40 CFR Part 273), the requirements for which include compliance with hazardous waste export rules.

Under U.S. regulations, exporters are responsible for determining whether or not the actual waste they intend to export is characterized as hazardous under RCRA (See 40 CFR 262.11). Determining whether e-scrap items being exported for recycling are RCRA hazardous may be done by testing a representative sample of used electronics intended for export, or by using available knowledge (e.g., design documentation, Material Safety Data Sheets, or published studies). General information on identifying whether a given waste is RCRA hazardous is available at <https://www.epa.gov/hw/criteria-definition-solid-waste-and-solid-and-hazardous-waste-exclusions> and <https://www.epa.gov/hw/defining-hazardous-waste-listed-characteristic-and-mixed-radiological-wastes>.

3.) Is the CRT rule the only device-specific regulation concerning the downstream movement of end-of-life electronics?

No, as mentioned above, circuit boards and batteries are examples of items subject to device-specific regulations.

4.) It's my understanding that firms specifically exporting CRT material must provide U.S. EPA with written approval from an importing country before shipping the material overseas. Are companies required to do this for any other devices bound for export?

Yes. U.S. exporters of a proposed shipment of RCRA regulated hazardous waste, including e-scrap that also meets the definition of hazardous waste, must notify EPA. EPA then seeks consent from the receiving country prior to allowing the hazardous wastes to leave the United States. If the proposed receiving country objects, then the export is not permitted. In addition to the notice and consent process, shipments of hazardous waste (including e-scrap regulated as hazardous waste) are subject to other tracking procedures that help ensure the safe management of shipments (See 40 CFR Part 262 Subpart H).

As noted in response to question #2, it is the responsibility of the exporter to determine whether or not the actual waste they intend to export is characterized as hazardous under RCRA (See 40 CFR 262.11).

Cheers, R.

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Ex. 6

From: Bobby Elliott [mailto:bobby@resource-recycling.com]
Sent: Wednesday, March 07, 2018 4:38 PM
To: Press <Press@epa.gov>; Jones, Enesta <Jones.Enesta@epa.gov>
Subject: Fwd: U.S. export law

----- Forwarded message -----

From: **Bobby Elliott** <bobby@resource-recycling.com>
Date: Wed, Mar 7, 2018 at 4:36 PM
Subject: U.S. export law
To: "Lynn, Tricia" <lynn.tricia@epa.gov>

Hey Tricia,

I am working on a multi-part story on U.S. exports of e-scrap and I wanted to reach out to you on background just to make sure I'm looking into every possible avenue for our coverage.

The first story we're working on is an effort to understand current U.S. law when it comes to exporting e-scrap. My questions below are pretty straightforward and just aimed at clarity above all - let me know if you can get back to me by end of day tomorrow. This is not for attribution, only for background.

- 1.) Is RCRA the lone U.S. law that currently governs the export of e-scrap?
- 2.) As I understand it, RCRA exempts e-scrap from being classified as a hazardous waste as long as the waste is being sent for domestic or international recycling. Is this accurate?
- 3.) Is the CRT rule the only device-specific regulation concerning the downstream movement of end-of-life electronics?

4.) It's my understanding that firms specifically exporting CRT material must provide U.S. EPA with written approval from an importing country before shipping the material overseas. Are companies required to do this for any other devices bound for export?

Thanks as always for your help on this, Tricia -

Bobby

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Ex. 6

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