

.0108 STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE - PART 263

(a) 40 CFR 263.10 through 263.12 (Subpart A), "General", are incorporated by reference including subsequent amendments and editions.

SUBPART A - GENERAL

263.10 Scope.

(a) These regulations establish standards which apply to persons transporting hazardous waste within the United States if the transportation requires a manifest under 40 CFR Part 262.

[Note: The regulations set forth in Parts 262 and 263 establish the responsibilities of generators and transporters of hazardous waste in the handling, transportation, and management of that waste. In these regulations, EPA has expressly adopted certain regulations of the Department of Transportation (DOT) governing the transportation of hazardous materials. These regulations concern, among other things, labeling, marking, placarding, using proper containers, and reporting discharges. EPA has expressly adopted these regulations in order to satisfy its statutory obligation to promulgate regulations which are necessary to protect human health and the environment in the transportation of hazardous waste. EPA's adoption of these DOT regulations ensures consistency with the requirements of DOT and thus avoids the establishment of duplicative or conflicting requirements with respect to those matters. These EPA regulations which apply to both interstate and intrastate transportation of hazardous waste are enforceable by EPA.

DOT has revised its hazardous materials transportation regulations in order to encompass the transportation of hazardous waste and to regulate intrastate, as well as interstate, transportation of hazardous waste. Transporters of hazardous waste are cautioned that DOT's regulations are fully applicable to their activities and enforceable by DOT. These DOT regulations are codified in Title 49, Code of Federal Regulations, Subchapter C.

EPA and DOT worked together to develop standards for transporters of hazardous waste in order to avoid conflicting requirements. Except for transporters of bulk shipments of hazardous waste by water, a transporter who meets all applicable requirements of 49 CFR Parts 171 through 179 and the requirements of 40 CFR 263.11 and 263.31 will be deemed in compliance with this part. Regardless of DOT's action, EPA retains its authority to enforce these regulations.]

- (b) These regulations do not apply to on-site transportation of hazardous waste by generators or by owners or operators of permitted hazardous waste management facilities.
- (c) A transporter of hazardous waste must also comply with 40 CFR Part 262, Standards Applicable to Generators of Hazardous Waste, if he:
- (1) Transports hazardous waste into the United States from abroad; or
 - (2) Mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container.
- (d) A transporter of hazardous waste subject to the Federal manifesting requirements of 40 CFR part 262, or subject to the waste management standards of 40 CFR part 273, or subject to State requirements analogous to 40 CFR part 273, that is being imported from or exported to any of the countries listed in 40 CFR 262.58(a)(1) for purposes of recovery is subject to this Subpart and to all other relevant requirements of subpart H of 40 CFR part 262, including, but not limited to, 40 CFR 262.84 for movement documents.
- (e) The regulations in this part do not apply to transportation during an explosives or munitions emergency response, conducted in accordance with 40 CFR 264.1(g)(8)(i)(D) or (iv) or 265.1(c)(11)(i)(D) or (iv), and 270.1(c)(3)(i)(D) or (iii).
- (f) Section 266.203 of this chapter identifies how the requirements of this part apply to military munitions classified as solid waste under 40 CFR 266.202.

263.11 EPA identification number.

- (a) A transporter must not transport hazardous wastes without having received an EPA identification number from the Administrator.
- (b) A transporter 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 transporter.

263.12 Transfer facility requirements.

A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of § 262.30 at a transfer facility for a period of ten days or less is not subject to regulation under parts 270, 264, 265, 267 and 268 of this chapter with respect to the storage of those wastes.

(b) 40 CFR 263.20 through 263.22 (Subpart B), "Compliance With the Manifest System and Recordkeeping", are incorporated by reference including subsequent amendments and editions.

SUBPART B - COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING

263.20 The manifest system.

- (a) (1) *Manifest requirement.* A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest signed in accordance with the requirements of §262.23.
- (2) *Exports.* In the case of exports other than those subject to subpart H of 40 CFR part 262, a transporter may not accept such waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed by the generator as provided in this section, the transporter shall also be provided with an EPA Acknowledgment of Consent which, except for shipments by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of subpart H of 40 CFR part 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by 40 CFR 262.84.
- (3) *Compliance Date for Form Revisions.* The revised Manifest form and procedures in 40 CFR 260.10, 261.7, 263.20, and 263.21, shall not apply until September 5, 2006. The Manifest form and procedures in 40 CFR 260.10, 261.7, 263.20, and 263.21, contained in the 40 CFR, parts 260 to 265, edition revised as of July 1, 2004, shall be applicable until September 5, 2006.
- (b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.
- (c) The transporter must ensure that that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the EPA Acknowledgment of Consent also accompanies the hazardous waste.
- (d) A transporter who delivers a hazardous waste to another transporter or to the designated facility must:
- (1) Obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest; and
 - (2) Retain one copy of the manifest in accordance with Section 263.22; and
 - (3) Give the remaining copies of the manifest to the accepting transporter or designated facility.
- (e) The requirements of paragraphs (c), (d), and (f) of this section do not apply to water (bulk shipment) transporters if:
- (1) The hazardous waste is delivered by water (bulk shipment) to the designated facility; and
 - (2) A shipping paper containing all the information required on the manifest [excluding the EPA identification numbers, generator certification, and signatures] and, for exports, an EPA Acknowledgment of Consent accompanies the hazardous waste; and
 - (3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper; and
 - (4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and
 - (5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with Section 263.22.
- (f) For shipments involving rail transportation, the requirements of paragraphs (c), (d) and (e) do not apply and the following requirements do apply:
- (1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must:
 - (i) Sign and date the manifest acknowledging acceptance of the hazardous waste;
 - (ii) Return a signed copy of the manifest to the non-rail transporter;
 - (iii) Forward at least three copies of the manifest to:
 - (A) The next non-rail transporter, if any; or
 - (B) The designated facility, if the shipment is delivered to that facility by rail; or
 - (C) The last rail transporter designated to handle the waste in the United States;
 - (iv) Retain one copy of the manifest and rail shipping paper in accordance with Section 263.22.
 - (2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest [excluding the EPA identification numbers, generator certification, and signatures] and, for exports an EPA Acknowledgment of Consent accompanies the hazardous waste at all times.

Note: Intermediate rail transporters are not required to sign either the manifest or shipping paper.

- (3) When delivering hazardous waste to the designated facility, a rail transporter must:
 - (i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and
 - (ii) Retain a copy of the manifest or signed shipping paper in accordance with Section 263.22.
- (4) When delivering hazardous waste to a non-rail transporter a rail transporter must:
 - (i) Obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and
 - (ii) Retain a copy of the manifest in accordance with Section 263.22.
- (5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.
- (g) Transporters who transport hazardous waste out of the United States must:
 - (1) Sign and date the manifest in the International Shipments block to indicate the date that the shipment left the United States;
 - (2) Retain one copy in accordance with §263.22(d);
 - (3) Return a signed copy of the manifest to the generator; and
 - (4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.
- (h) A transporter transporting hazardous waste from a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month need not comply with the requirements of this section or those of Section 263.22 provided that:
 - (1) The waste is being transported pursuant to a reclamation agreement as provided for in Section 262.20(e);
 - (2) The transporter records, on a log or shipping paper, the following information for each shipment:
 - (i) The name, address, and U.S. EPA Identification Number of the generator of the waste.
 - (ii) The quantity of waste accepted;
 - (iii) All DOT-required shipping information;
 - (iv) The date the waste is accepted; and
 - (3) The transporter carries this record when transporting waste to the reclamation facility; and
 - (4) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

263.21 Compliance with the manifest.

- (a) The transporter must deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter to:
 - (1) The designated facility listed on the manifest; or
 - (2) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or
 - (3) The next designated transporter; or
 - (4) The place outside the United States designated by the generator.
- (b)
 - (1) If the hazardous waste cannot be delivered in accordance with paragraph (a) of this section because of an emergency condition other than rejection of the waste by the designated facility, then the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.
 - (2) If hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter must obtain the following:
 - (i) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature, and the Manifest Tracking Number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with 263.22, and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in 40 CFR 264.72(e)(1) through (6) or (f)(1) through (6) or 40 CFR 265.72(e)(1) through (6) or (f)(1) through (6).
 - (ii) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and Identification Number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with §263.22, and give a

copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with 40 CFR 264.72(e)(1) through (6) or 40 CFR 265.72(e)(1) through (6).

263.22 Recordkeeping.

- (a) A transporter of hazardous waste must keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.
- (b) For shipments delivered to the designated facility by water (bulk shipment), each water (bulk shipment) transporter must retain a copy of a shipping paper containing all the information required in Section 263.20(e)(2) for a period of three years from the date the hazardous waste was accepted by the initial transporter.
- (c) For shipments of hazardous waste by rail within the United States:
 - (1) The initial rail transporter must keep a copy of the manifest and shipping paper with all the information required in Section 263.20(f)(2) for a period of three years from the date the hazardous waste was accepted by the initial transporter; and
 - (2) The final rail transporter must keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three years from the date the hazardous waste was accepted by the initial transporter.

Note: Intermediate rail transporters are not required to keep records pursuant to these regulations.

- (d) A transporter who transports hazardous waste out of the United States must keep a copy of the manifest indicating that the hazardous waste left the United States for a period of three years from the date the hazardous waste was accepted by the initial transporter.
- (e) 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.

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(c) Upon discovering a significant manifest discrepancy, the transporter must attempt to reconcile the discrepancy with the waste generator (e.g. with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the transporter must immediately submit to the Department a letter describing the discrepancy and attempts to reconcile it with a copy of the manifest or shipping paper at issue.

(d) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a transporter actually transports. Significant discrepancies in quantity are: for bulk waste, variations greater than 10 percent in weight; and, for batch waste, any variation in piece count (e.g. a discrepancy of one drum in a truckload). Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis (e.g. waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper).

(e) 40 CFR 263.30 through 263.31 (Subpart C), "Hazardous Waste Discharges", are incorporated by reference including subsequent amendments and editions.

SUBPART C - HAZARDOUS WASTE DISCHARGES

263.30 Immediate action.

- (a) In the event of a discharge of hazardous waste during transportation, the transporter must take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).
- (b) If a discharge of hazardous waste occurs during transportation and an official (State or local government or a Federal Agency) acting within the scope of his official responsibilities determines that immediate removal of the waste is necessary to protect human health or the environment, that official may authorize the removal of the waste by transporters who do not have EPA identification numbers and without the preparation of a manifest.
- (c) An air, rail, highway, or water transporter who has discharged hazardous waste must:
 - (1) Give notice, if required by 49 CFR 171.15, to the National Response Center (800-424-8802 or 202-426-2675); and
 - (2) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.
- (d) A water (bulk shipment) transporter who has discharged hazardous waste must give the same notice as required by 33 CFR 153.203 for oil and hazardous substances.

263.31 Discharge clean up.

A transporter must clean up any hazardous waste discharge that occurs during transportation or take such action as may be required or approved by Federal, State, or local officials so that the hazardous waste discharge no longer presents a hazard to human health or the environment.

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