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263 - Standards Applicable to Transporters of Hazardous Waste

Subpart A - General

263.10 Scope

(a) These regulations establish standards which apply to persons transporting hazardous waste within the State.

(b) These regulations do not apply to onsite 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 R.61-79.262 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.

(3) Spills hazardous waste during transportation and generates additional waste subsequent to cleanup as required under Section 263.30. The treatment, storage, and disposal of any additional waste must be in accordance with 263.21. (6/95)

(d) A transporter of hazardous waste subject to the federal manifesting requirements of 262, or subject to the waste management standards of 273, or subject to state requirements analogous to 273, that is being imported from or exported to any of the countries listed in 262.58(a)(1) for purposes of recovery is subject to this subpart and to all other relevant requirements of subpart H of part 262, including, but not limited to, 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

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). (9/98)

(f) Section 266.203 of this chapter identifies how the requirements of this part apply to military munitions classified as solid waste under 266.202. (9/98)

(g) Every person transporting a hazardous waste within the State must be permitted by the Department except as specifically exempted in paragraph (b).

(h) Every transporter shall insure that all equipment, such as tankers, vans, dumpsters, and roll-off containers, are leakproof and properly secured prior to their being used for transporting hazardous waste within the state.

(i) Every person who is permitted as a transporter shall ensure that personnel have completed a training program that is acceptable to the Department.

263.11 EPA Identification number

(a) A transporter must not transport hazardous wastes without having received an EPA identification number from the Department. (12/92)

(b) A transporter who has not received an identification number may obtain one by submitting the Notification Form required under Section 263.13. Upon receipt, the Department will assign an 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 R.61-79.262.30 at a transfer facility for a period of ten days or less is not subject to regulation under R.61-79.270, R.61-79.264, R.61-79.265 and R.61-79.268 with respect to the storage of those wastes. (11/90)

263.13 Notification

(a) Any person who transports hazardous waste within the State and has not previously done so shall

file with the Department a Notification Form for that activity within thirty (30) days after the effective date of this regulation.

(b) Any person who transports or accepts for transportation within the State a hazardous waste which is classified or listed for the first time by a revision of R.61-79.261 shall file with the Department a revised or new Notification Form for that waste within ninety (90) days after the effective date of such revision.

(c) This notification shall be on a form designed by the Department and shall be completed as required by the instructions supplied with such form. The information to be furnished on the form shall include but not be limited to the location and general description of such activity and the identified or listed hazardous wastes handled by such person.

263.14 Financial responsibility for sudden and accidental occurrences

(a) Except as provided in paragraph (b), a transporter of hazardous waste granted a transporter permit under R.61-79.270 shall have and maintain financial responsibility for sudden and accidental occurrences in the amount of at least one million dollars (\$1,000,000) per occurrence exclusive of legal defense costs. Coverage must provide for claims arising out of injury to persons, property or the environment including the spillage of hazardous wastes while such wastes are being transported and including the costs of cleaning up the spill. Such liability coverage must be maintained at all times while the permit is in force.

(b) [Reserved 5/93]

(c) The financial responsibility required in paragraph (a) may be established by any one or a combination of the following: (12/93)

(1) Evidence of liability insurance, either on a claim made or an occurrence basis, with or without a deductible with the deductible, if any, to be on a per occurrence or per accident basis and not to exceed ten (10) percent of the equity of the permittee;

(2) Self insurance, the level of which shall not exceed ten (10) percent of equity of the permittee; or

(3) Other evidence of financial responsibility approved by the Department.

263.15 [Reserved 6/95]

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 provisions of R.61-79.262, subpart B

(2) *Exports*. In the case of exports other than those subject to subpart H of 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 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by 262.84. (12/92, 12/93, 9/98, 2/07)

(3) *Compliance Date for Form Revisions*. The revised Manifest form and procedures in 260.10, 261.7, 263.20, and 263.21, shall not apply until September 5, 2006. The Manifest form and procedures in 260.10, 261.7, 263.20, and 263.21, contained in 260 to 265, edition revised as of July 1, 2004, shall be applicable until September 5, 2006. (12/92, 12/93, 9/98, 2/07)

(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 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; (12/92)

(iv) Retain one copy of the manifest and rail shipping paper in accordance with 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. (11/90)

Note: Intermediate rail transporters are not required to sign either the manifest or shipping paper. (12/92)

(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: (12/93)

(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 263.22 provided that: (added 12/96)

(1) The waste is being transported pursuant to a reclamation agreement as provided for in 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 264.72(e)(1) through (6) or (f)(1) through (6) or 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 264.72(e)(1) through (6) or 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 the shipping paper containing all the information required in 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 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. (12/92)

(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. (11/90)

(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 Department.

263.23 Treatment/storage by transporter

(a) If a transporter while in the State removes a hazardous waste from a transport vehicle for the purpose of blending, mixing, treating, or storing; the blending, mixing, treating, or storing shall be performed at a facility in the State having a permit under R.61-79.270.

(b) The transporter shall not allow hazardous wastes from different generators or separate wastes from the same generator to become mixed during transport, unless the transporter obtains prior written approval from the Department and complies with the generator standards under R.61-79.262, or can demonstrate that the information designated on the manifest(s) as required under R.61-79.262 Subpart B still identifies the hazardous waste.

263.24 [Reserved 5/93]

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 state and 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, DC 20590.

(3) Immediately telephone the Department's 24-hour emergency telephone number (803) 253-6488, giving all requested information.

(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.