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RCRA, Superfund & EPCRA Call Center Training Module

Introduction to:

Transporters
(40 CFR Part 263)

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TRANSPORTERS

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1. INTRODUCTION

Section 3003 of the Resource Conservation and Recovery Act (RCRA) required EPA to promulgate standards for hazardous waste transporters that would be protective of human health and the environment. In response, EPA adopted certain Department of Transportation (DOT) regulations pertaining to the transport of hazardous waste (49 CFR Parts 100-185). EPA worked with DOT to develop the RCRA transporter regulations, found in 40 CFR Part 263. These regulations establish management standards for the off-site transportation of hazardous wastes by highway, rail, air, or water.

A transporter is subject to all applicable regulations under Part 263 including compliance with transfer facility requirements, the requirement to obtain an EPA Identification (ID) number, compliance with the manifest system, and proper management of hazardous waste discharges. The provisions will be discussed in greater detail in the module.

When you have completed this module you will be familiar with the regulatory requirements for transporters of hazardous waste. Specifically, you will be able to:

- ☒ List the conditions and requirements for a transfer facility
- ☒ Identify transporter recordkeeping and manifesting requirements
- ☒ Identify transporter requirements when exporting hazardous waste
- ☒ State the conditions under which a transporter is subject to generator regulations, and
- ☒ Cite the CFR section covering the transporter responsibilities for hazardous waste discharges.

Use this list of objectives to check your knowledge of this topic after you complete the training session.

2. REGULATORY SUMMARY

As part of RCRA's comprehensive hazardous waste management program, EPA promulgated regulations governing the safe transport of hazardous wastes from generator to designated facility, which is usually a treatment, storage, or disposal facility (TSDF). Section 263 applies to carriers transporting hazardous waste within the United States when that waste is subject to the manifesting requirements of Section 262. Transportation means "the movement of hazardous waste by air, rail, highway, or water" (260.10). EPA promulgated the transporter requirements to be consistent with appropriate DOT regulations. In general, transporters of hazardous waste must comply with the requirements of Part 263, as well as the specific DOT requirements referenced throughout the transporter regulations.

Not all hazardous waste transportation is regulated in the same way. EPA regulates the off-site transportation of hazardous wastes. Part 263 does not apply to the on-site movement of wastes within a facility's boundary. The term on-site includes the transport of hazardous waste between contiguous properties, even when separated by a public road "provided that the entrance and exit between the properties in at a crossroads intersection, and access is by crossing, as opposed to going along, the right-of-way" (260.10). Generally, Part 263 does not apply to transportation of shipments that do not require a manifest.

Transporters are required to comply with the regulations in Part 262 if they import hazardous waste into the United States. They must also follow certain Part 262 requirements if they mix hazardous wastes of different DOT shipping descriptions in a single container (263.10(c)). In such instances, the transporter does not actually become the generator, but generator responsibilities must be assumed. If the transporter combines hazardous wastes with the same DOT shipping descriptions, they must ensure that the manifest contains accurate information, but they would not be required to assume generator responsibilities. There are also specific requirements for transporters exporting hazardous waste outside the United States (263.20(c) and (g)).

2.1 EPA IDENTIFICATION NUMBER

A transporter is required to obtain an EPA ID number before transporting hazardous waste (263.11). Transporters obtain EPA ID numbers by completing and submitting the Notification of Regulated Waste Activity Form (EPA Form 8700-12). EPA issues transporter ID numbers for primary offices or places of business, not individual transporting terminals. For example, separate truck terminals owned by the same company operate under the same EPA ID number (45 FR 12752; February 26, 1980); in contrast to generator ID numbers, which are generally site-specific.

2.2 COMPLIANCE WITH THE MANIFEST

EPA created a tracking mechanism to ensure that hazardous waste sent to a treatment, storage, and disposal facility (TSDF) reaches its destination. The manifest is the central element of this system. The Uniform Hazardous Waste Manifest (EPA Form 8700-22) and its instructions are found in the appendix to Part 262. The manifest is the control and transport document that accompanies the waste during transport from its generation site to its final destination facility.

Part 263, Subpart B, dictates transporter responsibilities for the manifest system as well as recordkeeping requirements with which a hazardous waste transporter must comply. Before hazardous waste can be transported, the transporter must sign and date the manifest. This enables the transporter to formally acknowledge the acceptance of hazardous waste from the generator and return a signed copy to the generator before leaving the generator's property (263.20(b)). The transporter must then deliver the hazardous waste shipment to the next transporter, the designated facility, or the alternate facility listed on the manifest or the place outside the United States designated by the generator (263.21(a)). If the waste cannot be delivered to the designated receiver, the generator must be contacted for further instructions, and the manifest must be revised accordingly (263.21(b)). The manifesting responsibilities vary depending on the mode of transportation (i.e., highway, water, rail, or air).

2.3 HAZARDOUS WASTE DISCHARGES

If a transporter discharges or spills hazardous waste, he or she is required to take immediate action to protect human health and the environment (263.30). "Immediate action" is not specifically defined, however, it may include containing the spill, notifying local authorities, and notifying the National Response Center as required by DOT or Superfund regulations. DOT may require a written report (see 263.30 for specific reporting requirements). In addition, federal, state, or local authorities may require a transporter to take actions in response to a discharge or spill if the discharge is determined to present a long-term hazard to human health or the environment (263.31). This may include authorization of a nonmanifested removal of the hazardous waste by a transporter without an EPA ID number when an immediate removal is deemed necessary to protect human health and the environment.

2.4 MODES OF TRANSPORTATION

Transportation of hazardous waste from the generator to the designated facility can be accomplished by several means of transportation. The regulations establish guidelines for the proper handling and recordkeeping of hazardous waste transported by highway, water, rail, or air. The requirements for each method of transportation are discussed below.

HIGHWAY SHIPMENTS

Under 263.20, highway transporters must complete the following manifest and recordkeeping requirements:

- ☒ Sign and date the manifest
- ☒ Leave a signed and dated copy of the manifest with the generator
- ☒ Ensure that the manifest accompanies the waste
- ☒ Obtain the dated signature of the next transporter or the owner/operator of the designated facility, and
- ☒ Keep a copy of the manifest for at least three years (all three-year record retention requirements are extended in case of an enforcement action).

WATER (BULK) SHIPMENTS

In 263.20(e), EPA established regulations governing the shipment of hazardous waste by water. Water transporters must comply with the directions on the manifest, obtain an EPA ID number, and be listed on the manifest. When shipping hazardous waste by water, however, the manifest is not required to physically accompany the shipment. Instead, the person delivering the waste to the initial water transporter obtains the date of delivery and signature of the water transporter on the manifest and forwards it to the designated facility. In addition, if the waste is delivered directly to the TSDF, the water transporter must:

- ☒ Ensure that a shipping paper (e.g., waybill), containing the same information as the manifest, accompanies the waste (excluding the EPA ID number, generator certification, and signatures)
- ☒ Obtain the dated signature of the owner or operator of the designated facility on the shipping paper or the manifest
- ☒ Sign and date the manifest
- ☒ Retain a copy of the shipping paper or manifest for three years (263.20(e)).

RAIL SHIPMENTS

Rail transport is another method by which hazardous waste is shipped to the designated facility (263.20(f)). As with the other methods of transport, rail transporters must have an EPA ID number and ensure the designated facility is listed on the manifest. Similar to water shipments, rail transporters must comply with the directions on the manifest and must be listed as a transporter on the manifest, but the actual manifest form does not have to accompany the waste shipments at all times. Instead, a standard waybill or other shipping document containing all the manifest information except EPA ID number, generator certification, and signatures may accompany the waste (45 FR 12739; February 26, 1980).

Initial Rail Duties (263.20(f)(1))

Initial rail transporter's duties include:

- ☒ Signing and dating the manifest
- ☒ Returning a signed copy of the manifest to the non-rail transporter
- ☒ Retaining a copy of the manifest and rail shipping paper for three years
- ☒ Forwarding at least three copies to the next non-rail transporter or designated facility (if the shipment is delivered by rail), or the last rail transporter designated to handle the waste in the United States.

Rail to TSDF (263.20(f)(3))

For rail delivery to the designated facility, the rail transporter must obtain the dated signature of the owner or operator of the designated facility on the manifest or shipping paper, and retain one copy of the manifest or shipping paper for three years.

Rail to Non-Rail (263.20(f)(4) and 263.20(f)(5))

For delivery by rail to a non-rail transporter, the rail transporter must obtain the dated signature of the non-rail transporter on the manifest and must retain a copy for at least three years. Since the manifest is not required to accompany the rail shipment, the non-rail transporters might obtain a copy of the manifest directly from the generator. If the hazardous waste is leaving the United States, the transporter must receive an Acknowledgment of Consent from the generator, and ensure that it accompanies the shipment at all times. The Acknowledgment of Consent is consent from the receiving country to accept the shipment. (Note that this requirement is not specific to rail, but also applies to all other modes of transportation).

Pipeline Shipments

Transportation of hazardous waste by pipeline does not meet the RCRA definition of transportation (260.10) and therefore is not subject to Part 263 regulations. Piping as a mode of transport is not specifically addressed by RCRA, nor is it prohibited. However, hazardous waste piped off-site may be subject to other provisions of RCRA.

2.5 TRANSFER FACILITIES

A transfer facility, as defined in 260.10, is an area used to temporarily store wastes on route to a TSDF. Transfer facilities may be carrier terminals, loading docks, or other areas where waste is kept during the normal course of transportation (e.g., when drivers change shifts). Transporters may store manifested shipments of hazardous waste in containers at a transfer facility for 10 days or less without a storage permit under 263.12 (45 FR 86966; December 31, 1980).

Transfer facilities are not required to operate under RCRA storage permits when the hazardous waste is held during the normal course of transportation and the waste is manifested, kept in DOT specification containers, and stored less than 10 days. There is no specific time limit for a hazardous waste shipment to reach the designated facility. If a large quantity generator (LQG) does not receive a signed copy of the manifest from the designated facility within 35 days of the date the initial transporter accepted the waste, the generator must contact the transporter and the owner or operator of the designated facility to determine the status of the waste (262.42(a)). If a copy of the manifest is not received within 45 days of the date the waste was accepted by the initial transporter, then the LQG must submit an Exception Report to the EPA Regional Administrator. Small quantity generators have reduced reporting requirements under 262.42(b). The requirements to contact the transporter and to report the discrepancy prevent waste from being held or re-routed unnecessarily during transport.

2.6 EXPORTING HAZARDOUS WASTE

There are additional requirements for transporters who export hazardous waste (263.20(g)). Before waste can be exported to a foreign country, the generator (or primary exporter) must obtain the country's approval for the shipment via an Acknowledgment of Consent that is processed by the State Department. The regulations governing exports of hazardous waste are found in Part 262, Subpart E. Transporters of hazardous waste that is exported also must:

- ☒ Ensure that the manifest and Acknowledgment of Consent accompany the waste; in the case of rail and water shipments, the Acknowledgment of Consent must go with the waste but the manifest does not need to be attached to the shipping paper
- ☒ Verify that the waste conforms to the Acknowledgment of Consent
- ☒ Ensure that the date the hazardous waste left the United States is indicated on the manifest
- ☒ Sign the manifest and retain a copy
- ☒ Return a signed copy of the manifest to the generator
- ☒ Give a copy of the manifest to the United States Customs Official when the waste leaves the country, and
- ☒ Retain the manifest for three years.

2.7 TRANSPORTER AS A GENERATOR

Under Section 262.60, anyone, including a transporter, who imports hazardous waste from a foreign country must comply with the generator requirements, including initiating a manifest. If the transporter mixes wastes with different DOT shipping descriptions by placing them in a single container (e.g., drum, tank, truck), the transporter must initiate a new manifest and comply with the generator regulations (Section 263.10(c)(2)). The transporter should be named in the generator block and the old manifest(s) should still accompany the waste. Additionally, any other substantial shipping changes would require that a new manifest be prepared.

2.8 PERMITS, LICENSES, AND INSURANCE

Transporters do not need RCRA permits if they comply with Part 263. However, if the transporter stores hazardous waste longer than 10 days or treats or disposes of wastes at their facility, a RCRA permit would be required. In addition, states often require special permits or licenses for transporters. Although EPA does not require transporters to have liability insurance, the Federal Motor Carrier Act, implemented by DOT, does require it (49 CFR Parts 387).

3. EPA/DOT INTERFACE

As part of the RCRA cradle-to-grave waste management system, the transporter regulations ensure proper delivery of the hazardous waste to the designated TSDF. The Part 263 transporter requirements adopted portions of the DOT regulations for the safe transport of DOT classified hazardous materials. The DOT references in the RCRA regulations include requirements for labeling, marking, placarding, and containers, and also outline the DOT requirements for responding to spills or discharges. EPA incorporated these requirements by reference, to ensure consistency with the DOT regulations and to avoid duplicative and burdensome requirements (see note at 263.10(a)). In addition, DOT incorporates RCRA hazardous wastes as one of the types of hazardous materials that must be transported according to DOT specifications (49 CFR/171.3). The Joint Uniform Hazardous Waste Manifest, promulgated on March 20, 1984 (49 FR 10490), serves as both the EPA tracking form (262.20) and the shipping paper required under DOT (49 CFR/172.205). This system allows the in-transit management of hazardous waste to be regulated safely and efficiently while allowing both EPA and DOT to retain enforcement of their respective regulations.

4. REGULATORY DEVELOPMENTS

On May 22, 2001, EPA proposed revisions to the Uniform Hazardous Waste Manifest regulations and the manifest form (66 FR 28240). EPA expects to standardize the content and appearance of the current manifest form, Forms 8700-22 and 22a, so that the same form could be used by waste handlers nationwide. Other anticipated changes include improved tracking procedures for problem shipments and an option to complete, send, and store the manifest information electronically. Consequently, the regulations for generators and transporters in 40 CFR Parts 262-263 are affected by this proposal.