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Chapter NR 663

HAZARDOUS WASTE TRANSPORTER STANDARDS

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Subchapter A — General

Note: Chapter NR 662 and this chapter establish the responsibilities of generators and transporters of hazardous waste in the handling, transportation and management of that waste. In these rules, the department has expressly referenced certain regulations of the U.S. department of transportation (DOT) governing the transportation of hazardous materials. These rules concern, among other things, labeling, marking, placarding, using proper containers and reporting discharges. The department has expressly referenced these rules in order to satisfy its statutory obligation to promulgate rules which are necessary to protect human health and the environment in the transportation of hazardous waste. The department's reference to these DOT regulations ensures consistency with the requirements of DOT and thus avoids the establishment of duplicative or conflicting requirements with respect to these matters.

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 49 CFR subpart C.

Except for transporters of bulk shipments of hazardous waste by water, a transporter who meets all applicable requirements of 49 CFR parts 171 to 179 and the requirements of ss. NR 663.11 and 663.31 will be deemed in compliance with this chapter. Regardless of DOT's action, the department retains its authority to enforce the requirements of ch. 663.

NR 663.10 Scope. (1) This chapter establishes standards which apply to persons transporting hazardous waste within Wisconsin if the transportation requires a manifest under ch. NR 662.

(2) This chapter does not apply to on-site transportation of hazardous waste by generators or by owners or operators of licensed hazardous waste management facilities.

(3) A transporter of hazardous waste shall also comply with ch. NR 662, hazardous waste generator standards, if the transporter does any of the following:

- (a) Transports hazardous waste into Wisconsin from abroad.
- (b) Mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container.

(4) A transporter of hazardous waste subject to the manifesting requirements of ch. NR 662, or subject to the universal waste management standards of ch. NR 673, that is being imported from or exported to any of the countries listed in s. NR 662.058 (1) (a) for purposes of recovery is subject to this subchapter and to all other relevant requirements of subch. H of ch. NR 662, including, but not limited to, s. NR 662.084 for tracking documents.

(5) This chapter does not apply to transportation during an explosives or munitions emergency response, conducted according to ss. NR 664.0001 (7) (h) 1. d. or 4. or 665.0001 (3) (k) 1. d. or 4., and 670.001 (3) (c) 1. d. or 3.

(6) Section NR 666.203 identifies how the requirements of this chapter apply to military munitions classified as solid waste under s. NR 666.202.

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NR 663.11 EPA identification number. (1) A transporter may not transport hazardous wastes without having received an EPA identification number from the department, another authorized state or EPA.

(2) A transporter who has not received an EPA identification number may obtain one by applying to the department using EPA form 8700-12. Upon receiving the request, the department will assign an EPA identification number to the transporter.

Note: See s. NR 660.07 for information on obtaining EPA form 8700-12.

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NR 663.12 Transfer facility requirements. A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of s. NR 662.030 at a transfer facility for a period of 10 days or less is not subject to regulation under chs. NR 664, 665, 668 and 670 with respect to the storage of those wastes.

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NR 663.13 Hazardous waste transportation licenses. (1) (a) An application for a hazardous waste transportation license shall be submitted on forms supplied by the department and shall be accompanied by the fee specified in Appendix II of ch. NR 670.

Note: These forms may be obtained from the department by E-mail: waste.management@dnr.state.wi.us, phone (608) 266-2111 or Fax (608) 267-2768.

(b) Each location at which a person transporting hazardous waste bases transport vehicles shall be licensed as a separate transportation service. An application form and fee for each transportation service shall be submitted to the regional office of the department in the region where the transportation service is located. A person who transports hazardous waste into or through Wisconsin, but whose operation is based out-of-state, shall submit an application form and fee for a transportation license in the region where the hazardous waste transportation activity is concentrated.

(c) The department shall notify the applicant that the application for a hazardous waste transportation license has been approved or denied within 65 business days after the application is received by the department.

(d) The owner or operator of a transportation service who has been issued a license shall renew the license annually by submitting both of the following to the department:

1. A completed license renewal form, by the date specified on the renewal form.
2. The fee listed on the environmental fee statement, by the date specified on the fee statement.

(e) The owner or operator of a transportation service who fails to renew the license according to par. (d) shall pay a late processing fee of \$150 in addition to the license fee.

(f) The license application shall be signed by the owner of the transportation service. If the transportation service is owned by one person and operated by another, both the owner or operator shall sign the application.

(g) If the department fails to approve or deny an application for issuance or renewal of a hazardous waste transportation license within 65 business days after a complete application is received by the department or by the date of expiration of the current

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license, whichever occurs later, the department shall refund the fees paid by the applicant for the transportation license.

(h) If there is a change in the ownership of the transportation service, the new owner or operator shall reapply for a license by submitting the license application form required by par. (a).

Note: The department will mail the annual license renewal form and environmental fee statement to the owners or operators of licensed transportation facilities.

Note: The license application is considered to be complete when the environmental fee and the completed and signed license application or renewal form are received by the department.

History: CR 05-032; cr. Register July 2006 No. 607, eff. 8-1-06.

Subchapter B — Compliance with the Manifest System and Recordkeeping

NR 663.20 The manifest system. (1) (a) 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 s. NR 662.023, unless the generator meets the conditional manifest exemptions in s. NR 662.220 (5) (f), (6) (f) or 662.191.

(b) In the case of exports other than those subject to subch. H of ch. NR 662, a transporter may not accept waste from a primary exporter or other person if the transporter knows the shipment does not conform to the EPA acknowledgment of consent; and unless, in addition to a manifest signed by the generator in accordance with the requirements of s. NR 662.023, the transporter shall also be provided with an EPA acknowledgment of consent which, except for shipment 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 subch. H of ch. NR 662, a transporter may not accept hazardous waste without a tracking document that includes all information required by s. NR 662.084.

(2) Before transporting the hazardous waste, the transporter shall sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter shall return a signed copy to the generator before leaving the generator's property.

(3) The transporter shall ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter shall ensure that a copy of the EPA acknowledgment of consent also accompanies the hazardous waste.

(4) A transporter who delivers a hazardous waste to another transporter or to the designated facility shall do all of the following:

(a) 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.

(b) Retain one copy of the manifest in accordance with s. NR 663.22.

(c) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(5) The requirements of subs. (3), (4) and (6) do not apply to water (bulk shipment) transporters if all of the following conditions are met:

(a) The hazardous waste is delivered by water (bulk shipment) to the designated facility.

(b) 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.

(c) 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.

(d) 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.

(e) Each water (bulk shipment) transporter retains a copy of the shipping paper or manifest in accordance with s. NR 663.22.

(6) For shipments involving rail transportation, the requirements of subs. (3), (4) and (5) do not apply and all of the following requirements do apply:

(a) When accepting hazardous waste from a non-rail transporter, the initial rail transporter shall do all of the following:

1. Sign and date the manifest acknowledging acceptance of the hazardous waste.

2. Return a signed copy of the manifest to the non-rail transporter.

3. Forward at least 3 copies of the manifest to one of the following:

a. The next non-rail transporter, if any.

b. The designated facility, if the shipment is delivered to that facility by rail.

c. The last rail transporter designated to handle the waste in the United States.

4. Retain one copy of the manifest and rail shipping paper in accordance with s. NR 663.22.

(b) Rail transporters shall 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.

(c) When delivering hazardous waste to the designated facility, a rail transporter shall do all of the following:

1. 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).

2. Retain a copy of the manifest or signed shipping paper in accordance with s. NR 663.22.

(d) When delivering hazardous waste to a non-rail transporter a rail transporter shall do all of the following:

1. Obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest.

2. Retain a copy of the manifest in accordance with s. NR 663.22.

(e) Before accepting hazardous waste from a rail transporter, a non-rail transporter shall sign and date the manifest and provide a copy to the rail transporter.

(7) Transporters who transport hazardous waste out of the United States shall do all of the following:

(a) Sign and date the manifest in the international shipments block to indicate the date that the shipment left the United States.

(b) Retain one copy in accordance with s. NR 663.22 (4).

(c) Return a signed copy of the manifest to the generator.

(d) Give a copy of the manifest to a U.S. customs official at the point of departure from the United States.

(8) A transporter transporting hazardous waste from a small quantity generator need not comply with the requirements of this section or those of s. NR 663.22 provided that all of the following conditions are met:

(a) The waste is being transported pursuant to a reclamation agreement as provided for in s. NR 662.191.

(b) The transporter records, on a log or shipping paper, all of the following information for each shipment:

1. The name, address and U.S. EPA identification number of the generator of the waste.

2. The quantity of waste accepted.

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3. All department of transportation required shipping information.

4. The date the waste is accepted.

(c) The transporter carries this record when transporting waste to the reclamation facility.

(d) The transporter retains these records for a period of at least 3 years after termination or expiration of the agreement.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; CR 06-102: am. (1), (7) (a) and (b) Register March 2007 No. 615, eff. 4-1-07.

NR 663.21 Compliance with the manifest. (1) The transporter shall deliver the entire quantity of hazardous waste which the transporter has accepted from a generator or a transporter to one of the following:

(a) The designated facility listed on the manifest.

(b) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery.

(c) The next designated transporter.

(d) The place outside the United States designated by the generator.

(2) (a) If the hazardous waste cannot be delivered in accordance with sub. (1) because of an emergency condition other than rejection of the waste by the designated facility, then the transporter shall contact the generator for further directions and shall revise the manifest according to the generator's instructions.

(b) If hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter shall obtain the following:

1. 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 shall retain a copy of this manifest in accordance with s. NR 663.22, 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 shall obtain a new manifest to accompany the shipment, and the new manifest shall include all of the information required in s. NR 664.0072 (5) (a) to (f) or (6) (a) to (f) or s. NR 665.0072 (5) (a) to (f) or (6) (a) to (f).

2. 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 shall be delivered. The transporter shall retain a copy of the manifest in accordance with s. NR 663.22, 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 shall obtain a new manifest for the shipment and comply with s. NR 664.0072 (5) (a) to (f) or 665.0072 (5) (a) to (f).

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; CR 06-102: am. (2) Register March 2007 No. 615, eff. 4-1-07.

NR 663.22 Recordkeeping. (1) A transporter of hazardous waste shall keep a copy of the manifest signed by the generator, the transporter and the next designated transporter or the owner or operator of the designated facility for a period of 3 years from the date the hazardous waste was accepted by the initial transporter.

(2) For shipments delivered to the designated facility by water (bulk shipment), each water (bulk shipment) transporter shall

retain a copy of the shipping paper containing all of the information required in s. NR 663.20 (5) (b) for a period of 3 years from the date the hazardous waste was accepted by the initial transporter.

(3) For shipments of hazardous waste by rail within the United States, all of the following conditions shall be met:

(a) The initial rail transporter shall keep a copy of the manifest and shipping paper with all of the information required in s. NR 663.20 (6) (b) for a period of 3 years from the date the hazardous waste was accepted by the initial transporter.

(b) The final rail transporter shall 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 3 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 rules.

(4) A transporter who transports hazardous waste out of the United States shall keep a copy of the manifest indicating that the hazardous waste left the United States for a period of 3 years from the date the hazardous waste was accepted by the initial transporter.

(5) 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.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

Subchapter C — Hazardous Waste Discharges

NR 663.30 Immediate action. (1) In the event of a discharge of hazardous waste during transportation, the transporter shall take appropriate immediate action as required by ch. NR 708 to protect human health and the environment (e.g., notify local authorities, dike the discharge area).

(2) 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 that person's 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 or transportation licenses and without the preparation of a manifest.

(3) An air, rail, highway or water transporter who has discharged hazardous waste shall do all of the following:

(a) Give notice, if required by 49 CFR 171.15, to the national response center.

(b) 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.

(c) Give notice to the division of emergency management and comply with the requirements of s. 292.11, Stats., and ch. NR 706.

(4) A water (bulk shipment) transporter who has discharged hazardous waste shall give the same notice as required by 33 CFR 153.203 for oil and hazardous substances.

Note: The telephone number for the national response center is (800) 424-8802. The telephone number for the division of emergency management in Wisconsin is (800) 943-0003.

History: CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

NR 663.31 Discharge clean up. A transporter shall clean up any hazardous waste discharge that occurs during transportation or take 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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