



GUIDE TO MONTANA HAZARDOUS WASTE TRANSPORTER RULES



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Introduction

Montana Department of Environmental Quality's (DEQ) Hazardous Waste Program has been authorized by the U.S. EPA to operate in lieu of the Federal Program in Montana. To receive this authorization status, Montana DEQ had to demonstrate that the Montana Program was equivalent to the Federal Program and with other states' authorized programs. We also had to commit to maintain this equivalency over time, as the Federal Program undergoes changes.

There are some differences, however, between the Montana Program and the Federal Program. The following sections summarize what these differences are and what effect they can have on hazardous waste handlers in Montana.

Transporter Registration

The 1985 Montana Legislature gave Montana DEQ the authority to improve the registration of hazardous waste transporters who operate in Montana. Under the Federal Program regulations, a transporter is required to notify once only, in the state in which the business is headquartered, and can operate nationwide with this single EPA identification number. Under this system, EPA and the states have no good way of knowing in how many and in which states the transporter actually operates.

The Montana Program transporter registration rule requires all hazardous waste transporters who maintain depots, terminals, offices, or transfer facilities in Montana to register with Montana DEQ and identify each of those sites that they maintain in the state. There is no fee for registration, and registration renewal is accomplished every three years. This transporter registration requirement does not apply to out-of-state transporters who pass through Montana or who only pick up or deliver wastes at locations in Montana without having any terminals, depots, offices, or transfer facilities in the state. [Note: Our office does gain knowledge of which transporters pick up or deliver hazardous wastes in Montana via the annual reports submitted by generators and hazardous waste management facilities.]

Transporter Transfer Facilities

The 1987 Montana legislature passed legislative amendments specifying additional requirements for transfer facilities operated by hazardous waste transporters. Under the federal regulations, a transporter may temporarily hold waste shipments at transfer facilities for up to ten days without a permit and without additional regulatory requirements. The Montana rules require that these less-than-ten day facilities must meet requirements regarding personnel training, site security, emergency preparedness and response, and safe container handling. Also, those transfer facilities where hazardous waste transportation and transfer is the major business activity (defined as "commercial transfer facilities"), are subject to public hearing requirements at the site proposal stage and to annual reporting requirements.

Montana Transporter Rules

The Montana Department of Environmental Quality (DEQ) adopted, by referencing the Code of Federal Regulations (CFR), the transporters of hazardous waste standards in 40 CFR 263.

<https://www.govinfo.gov/content/pkg/CFR-2016-title40-vol28/xml/CFR-2016-title40-vol28-part263.xml>

- (1) In accordance with the Act, ARM Title 17, chapter 53, subchapter 7, establishes a hazardous waste management (HWM) program for transporters which is the equivalent of the federal HWM program. Additional transporter requirements are contained in subchapter 7.
<http://mtrules.org/gateway/Subchapterhome.asp?scn=17%2E53.7>
- (2) In view of the Act's requirement of equivalence with the federal RCRA program and in order to simplify the rulemaking process and make the rules less cumbersome, the Department has relied heavily upon incorporation and adoption by reference of federal requirements as set forth in Title 40 of the Code of Federal Regulations (CFR).
- (3) When incorporated by reference in this chapter, references to 40 CFR 263 shall mean the version of that publication revised as of July 1, 2016. When used in 40 CFR 263 as incorporated in this chapter, references to federally incorporated publications shall mean that version of the publication as specified at 40 CFR 260.11.

For more information on the transporter standards and/or to obtain an EPA notification Form 8700-12, please contact the Department of Environmental Quality, Waste & Underground Tank Management Bureau at 406-444-5300, or email at DEQHazWaste@mt.gov, or write to P.O. Box 200901, Helena, Montana 59620-0901.

This document is designed to present only the Montana Hazardous Waste Transporter Regulations. This document does not address transportation regulations set forth by the U.S. Department of Transportation or the Montana Department of Transportation. A Hazardous Waste Transporter Registration Form, and a Transporter Service List Form are available upon request. A transporter who wishes to transport hazardous wastes into Montana from a foreign country or mix hazardous waste of different DOT shipping descriptions should contact our agency for further information.

Individuals or companies who wish to do business as a transporter in Montana may also want to contact the following agencies regarding the listed issues:

Commercial Drivers Licensing

Montana Driver Services Bureau -
(406) 444-3244

Vehicle Licensing and Size and Weight Permits

Montana Vehicle Services Bureau -
(406) 444-3661

Registration of Business Name

Montana Business Services Division -
(406) 444-3665

Worker Safety and Safety Training

U.S. OSHA Office - (406) 488-7087
Billings -
(406) 247-7494

Transporting Hazardous Materials

Federal Motor Carriers Safety Administration -
(406) 449-5304
Montana Department of Transportation -
(406) 444-6200

Sub-Chapter 7

Standards Applicable to Transporters of Hazardous Waste

17.53.701 ADOPTION OF FEDERAL STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE (40 CFR 263) (1) Except as provided otherwise in [RULE XXVII], the department hereby adopts and incorporates by reference 40 CFR 263, pertaining to requirements for transporters of hazardous waste.

17.53.702 EXCEPTIONS AND ADDITIONS TO ADOPTION OF FEDERAL STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

Exceptions and additions to federal standards for transporters are as follows:

(1) All references to "EPA", "United States", and "Administrator" are retained.

(2) In addition to the transfer facility requirements of 40 CFR 263.12, a transfer facility is subject to ARM 17.53.704 through 707.

(3) The period of retention of records referred to in 40 CFR 263.22(e) may be extended by the department as well as by EPA.

(4) Copies of the manifest, as required under 40 CFR 263.22(a), must be maintained on file at the transfer facility location for all hazardous waste shipments that are transported to a transfer facility.

(5) In addition to the notices and reports required by 40 CFR 263.30 in the event of discharges of hazardous waste during transportation, the transporter shall also notify the department by immediately contacting the Montana Hazardous Materials Emergency Response System (406-841-3911).

17.53.703 TRANSPORTER REGISTRATION (1) In addition to the requirements of ARM 17.53.111 and 40 CFR 263.11 for obtaining an EPA identification number, transporters that maintain offices, terminals, depots, or transfer facilities within Montana related to their hazardous waste transportation activities shall register with the Department. Montana registration is not required for out-of-state transporters whose activities are limited to passing through Montana with hazardous waste loads or to picking up loads from Montana generators or delivering loads to designated facilities in Montana.

(2) Transporter registration is not subject to any fee.

(3) In order to obtain registration, a transporter shall provide, at a minimum, the following information on forms provided by the department:

(a) business name and mailing address;

(b) EPA identification number (if one has already been assigned);

(c) contact person(s) and contact phone number(s);

(d) the locations of all of the transporter's hazardous waste transportation-related offices, terminals, depots, and/or transfer facilities situated within Montana;

(e) the mode(s) of hazardous waste transportation employed; and

(f) whether the transporter and generator are the same person or whether the transportation activity is done on a commercial for-hire basis.

(4) Registration remains in effect for 3 years. Upon expiration, the department shall notify the transporter and provide appropriate forms for renewing the registration. Registration is transferable to a new owner or operator upon written notice to the department and proper updating of all pertinent registration information on file with the department.

17.53.704 TRAINING OF TRANSFER FACILITY PERSONNEL

(1) Transfer facility personnel shall successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in compliance with the requirements of this rule and ARM 17.53.705 through 17.53.707.

(2) At a minimum, the training program must be designed to ensure that transfer facility personnel are able to respond to emergencies by familiarizing the transfer facility personnel with emergency procedures, emergency equipment, and emergency systems.

(3) Transfer facility personnel shall successfully complete the required training program within 6 months after the first day of their employment. Employees may not work in unsupervised positions until they have completed the required training.

(4) Transfer facility personnel shall take part in an annual review of the initial training required in (1) of this rule.

(5) The owner or operator of the transfer facility shall maintain the following documents and records at the facility:

(a) the job title for each position at the transfer facility related to hazardous waste management, and the name of the employee filling each job;

(b) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position related to hazardous waste management; and

(c) records that document that the training or job experience required under (1) and (2) of this rule has been given to, and completed by, transfer facility personnel.

(6) Training records on current personnel must be kept until closure of the transfer facility. Training records on former employees must be kept for at least 3 years from the date the employee last worked at the transfer facility. Personnel training records may accompany personnel transferred within the same company.

Rule 17.53.705 reserved.

17.53.706 EMERGENCY PREPAREDNESS, PREVENTION, AND RESPONSE AT TRANSFER FACILITIES

(1) Transfer facility owners and operators shall comply with the emergency preparedness and prevention requirements set forth in 40 CFR 265, subpart C.

(2) Transfer facility owner and operators shall also comply with the following additional emergency planning and response requirements:

(a) At all times during which hazardous wastes are temporarily stored at the transfer facility there must be an emergency coordinator or a trained designee who is on the premises or on call and available to respond to an emergency by reaching the facility within a short period of time. The emergency coordinator shall coordinate all emergency response measures specified in (c) below.

(b) The transfer facility owner or operator shall post the following information next to the telephone:

(i) the name and telephone number of the emergency coordinator;

(ii) the location of fire extinguishers and spill control material and, if present, fire alarm;

(iii) the telephone number of the local fire department, unless the transfer facility has a direct alarm; and

(iv) the name, address, and EPA identification number of the transfer facility.

(c) The emergency coordinator or the coordinator's designee shall respond to any emergencies that arise by formulating a contingency plan under the guidelines of 40 CFR 265, Subpart D, and by making appropriate responses.

Appropriate responses include the following:

(i) In the event of a fire, the emergency coordinator shall call the fire department and/or attempt to extinguish the fire using a fire extinguisher.

(ii) In the event of a spill, the emergency coordinator shall first determine whether the conditions under (iii) below apply and, if so, the emergency coordinator shall follow the steps in (iii); then the emergency coordinator shall contain the flow of hazardous waste to the extent possible, and as soon as is practicable, appropriately clean up the hazardous waste and any contaminated materials or soil.

(iii) In the event of a fire, explosion, spill or other release event that could threaten human health or when the emergency coordinator has knowledge that a spill has reached surface water, the emergency coordinator shall immediately notify the National Response Center (800-424-8802) and the department (using the 24-hour telephone number, 406-841-3911). The notifications must include the following information:

(A) the name, address, and EPA identification number of the transfer facility;

(B) the date, time, and type of incident (e.g., spill or fire);

(C) the quantity and type of hazardous waste involved in the incident;

(D) the extent of injuries, if any; and

(E) the estimated quantity and disposition of recovered materials, if any.

17.53.707 TRANSFER FACILITY CONTAINER HANDLING REQUIREMENTS (1)

During hazardous waste unloading, transfer, and loading operations, each hazardous waste container must be visually inspected for evidence of corrosion, pressure buildup, physical damage, or leakage. Questionable containers must be set aside for further evaluation and possible repackaging and/or return to the waste generator. Leaking containers may not be loaded back onto a transportation vehicle, trailer, or railcar unless and until they are properly packaged, labeled, and marked according to 40 CFR 262.30 through 262.32.

(2) All handling of hazardous waste containers must be conducted in a manner that minimizes the risk of leaks, spills, releases, or similar accidents. Hazardous waste containers may not be opened unless necessary to correct container damage or leakage of the contents, and the generator's consent must be obtained for any necessary repackaging.

(3) Loading docks, temporary container storage areas, and all areas where transfer of hazardous wastes occurs must have a base or floor that is smooth, free of cracks or gaps, and sufficiently impervious to contain leaks or spills until the spilled material is detected and removed. Temporary storage areas must be designed with a containment system having sufficient capacity to contain, at a minimum, 10 times the volume of the largest container that will be stored there. Any leaks or spills that do occur must be promptly cleaned up by the transfer facility operator.

(4) Containers of ignitable or reactive waste must be handled and stored in a manner so as to prevent accidental ignition or reaction of the waste. Such waste containers must be separated and protected from sources of ignition or reaction (e.g., open flames, sparks, cigarette smoking, cutting and welding activities, hot surfaces, frictional heat, spontaneous ignition, and radiant heat). "NO SMOKING" signs must be conspicuously placed wherever there is or may be a hazard from ignitable or reactive wastes.

17.53.708 COMMERCIAL TRANSFER FACILITY REQUIREMENTS (1) A commercial transfer facility is subject to ARM 17.53.702(5) and ARM 17.53.704 through 707, and the public hearing requirements of 75-10-441, MCA.

(2) The owner or operator of a commercial transfer facility shall prepare and submit a written annual report to the department by March 1 of each year. The report must cover transfer facility activities during the previous calendar year, and must include the following information:

(a) the EPA identification number, name, and address of the transfer facility;

(b) the calendar year covered by the report;

(c) a summary of all hazardous wastes that the commercial transfer facility handled during the report year, organized by EPA hazardous waste number and showing quantitative waste totals for each waste type;

(d) a written summary of each hazardous waste leak, spill, fire, or similar incident that occurred in the report year, including the response actions taken, the cause of the incident, and a legible copy of the pertinent waste manifests(s) for the hazardous wastes involved in the incident; and

(e) a certification signed and dated by the owner or operator of the transfer facility or an authorized representative, worded as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and where I haven't personally obtained the information, I have made inquiry of those individuals immediately responsible for obtaining the information, about the truth and accuracy of the information contained in this document. I certify that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."