

Subchapter 4: REQUIREMENTS FOR TRANSPORTERS OF HAZARDOUS WASTE

§ 7-401 PURPOSE, SCOPE, APPLICABILITY

- (a) This subchapter establishes requirements for persons transporting hazardous waste within or through Vermont.
- (b) This subchapter applies to:
 - (1) Transportation of hazardous waste accepted from:
 - (A) Conditionally exempt generators when the total amount accepted from all such generators in any shipment exceeds the amounts set forth in **§ 7-306(a)**;
 - (B) Any small or large quantity generator; or
 - (C) Any owner or operator of a facility;
 - (2) Transportation of recyclable hazardous wastes unless exempted from some or all provisions under **§ 7-608**;
 - (3) Transportation of used oil as specified under **§ 7-811**; and
 - (4) Any owner or operator of a transfer facility.
- (c) This subchapter does not apply to:
 - (1) Transportation of hazardous waste and used oil by generators within the site where the hazardous waste or used oil is generated;
 - (2) Transportation of hazardous waste within the site of a certified treatment, storage or disposal facility by the owner or operator of the facility;
 - (3) Self-transportation of hazardous waste by conditionally exempt generators, conducted in accordance with **§ 7-306(c)(3)**;
 - (4) Transportation of used oil by do-it-yourselfers, and used oil generators self-transporting up to 55 gallons of used oil, conducted in accordance with **§ 7-807(d)(1)**;
 - (5) Transportation of universal waste conducted in accordance with the universal waste management standards of **subchapter 9**;

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- (6) Transportation during an emergency response to a discharge or release, conducted in accordance with § 7-105(a)(4); and
- (7) Transportation during an explosives or munitions emergency response, conducted in accordance with §§ 7-105(a)(5) and 7-502(p).
- (d) Standards applicable to transportation of military munitions are specified under **40 CFR § 266.203**.
- (e) A transporter of hazardous waste shall comply with all applicable requirements of **49 CFR Parts 171 through 180**.

§ 7-402 APPLICABILITY OF OTHER SUBCHAPTERS

- (a) A transporter transporting hazardous waste into Vermont from a foreign country is a generator and must comply with the generator requirements of **subchapter 3**.
- (b) A transporter of hazardous waste shall comply with the manifest, reporting, and recordkeeping requirements of **subchapter 7**.
- (c) In the event of a release or discharge of hazardous waste during transport, a transporter shall comply with the emergency action requirements of § 7-105.

§ 7-403 Reserved

§ 7-404 TRANSFER FACILITY STANDARDS

- (a) Approval to Operate a Transfer Facility
 - (1) Prior to initiating operations of a transfer facility, the owner or operator must request and receive approval from the Secretary. The request for written approval shall describe how the requirements of this section will be met.
 - (2) For any transfer facility already in operation on the effective date of these regulations, within 90 days of the effective date of these regulations, the owner or operator of that facility shall:
 - (A) Notify the Secretary in writing of such activity; and
 - (B) Submit a schedule for bringing the existing facility into compliance with the requirements of this section that does not exceed one year from the effective date of these regulations.

- (b) Any transporter who owns or operates a transfer facility located in Vermont must:
- (1) Obtain an EPA identification number for the facility and maintain an up-to-date **Vermont Hazardous Waste Handler Site ID Form** in accordance with § 7-104;

Note: Written approval of the Secretary will not be granted for a transfer facility until a complete **Vermont Hazardous Waste Handler Site ID Form** is submitted for the facility.
 - (2) Ensure that all shipments of hazardous waste to the transfer facility comply with the manifest requirements of **subchapter 7**;
 - (3) Hold hazardous waste at the transfer facility for a period of ten days or less;
 - (4) Ensure that all hazardous waste managed at the transfer facility is packaged, labeled, and marked in accordance with **49 CFR Parts 172, 173, 178, and 179**; and
 - (5) Comply with the personnel training requirement of § 7-308(b)(10).
- (c) If containers of hazardous waste are off-loaded from a transport vehicle for temporary storage (10 days or less) at a transfer facility:
- (1) The containers must remain closed and be stored:
 - (A) In a manner to prevent leakage or rupture;
 - (B) Upon an impervious surface;
 - (C) Such that the hazardous waste labeling is visible;
 - (D) With sufficient aisle space between rows of containers to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of facility operation. In no circumstance shall the aisle space be less than twenty-four (24) inches wide;
 - (E) In an area with secondary containment capable of holding 110% of the capacity of the largest container to be placed in temporary storage, or 10% of the total design capacity of the storage area, whichever is greater;
 - (F) Within a structure that sheds rain and snow;
 - (G) If the waste is subject to freezing and expansion, in an area where mechanical or physical means are employed to prevent freezing; and

- (H) If wastes are incompatible with any waste or other materials stored nearby in other containers, in separate enclosures, buildings or structures unless the wastes are separated by means of a dike, berm, wall, or other device capable of preventing the wastes from coming in contact with one another under any circumstances (such as spillage or simultaneous leakage).
- (2) The owner or operator of the transfer facility must maintain a written operating log that tracks all hazardous waste managed at the transfer facility by date of receipt, date of shipment off-site, and manifest tracking number, if applicable;
- (3) The owner or operator of the transfer facility must maintain a written contingency plan for the facility as described in § 7-308(b)(9);
- (4) The owner or operator of the transfer facility must comply with the closure requirements of § 7-309(c); and
- (5) The owner or operator of the transfer facility must maintain a written closure cost estimate, in current dollars, of the cost of closing the facility in accordance with the standards of § 7-309(c) and 40 CFR § 265.142. This estimate must be adjusted annually for inflation, changes in operations, and changes in site conditions. The estimate must represent a worst-case scenario for closure. Proof of financial responsibility adequate to cover all costs of closure must be maintained until closure is complete. The financial responsibility mechanism must comply with the requirements of 40 CFR § 265.143. Proof of financial responsibility must be submitted by April 30th of each year.

§ 7-405 PROHIBITIONS

No transporter subject to this subchapter shall:

- (a) Remove hazardous waste from the container in which it was placed once it has been manifested and moved from the site of generation until it is accepted at the designated facility except:
 - (1) Under the emergency provisions of § 7-105; or
 - (2) For wastes of like DOT shipping descriptions, at a transfer facility with written consent of the generator.
- (b) Transport or accept for transport hazardous wastes which are unlabeled or which are in damaged, bulging, leaking, unsuitable or otherwise unsafe containers; or
- (c) Transport or accept for transport hazardous wastes which are incompatible with each other such that a danger to public health or safety or the environment could result from their being transported together.

- (d) Accept hazardous waste from a generator unless it is accompanied by a manifest signed in accordance with the provisions of **§ 7-702**. In the case of exports:
 - (1) A transporter may not accept such waste from a primary exporter or other person if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent; and
 - (2) A transporter may not accept such waste from a primary exporter or other person unless, in addition to a manifest signed in accordance with the provisions of **§ 7-702**, such waste is also accompanied by 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)).
- (e) Dilute any hazardous waste subject to the land disposal restrictions of **40 CFR Part 268**, as prohibited under **40 CFR § 268.3** (incorporated by reference through § 7-106 of these regulations).
- (f) Release hazardous material into the surface or groundwater, or onto the land of the state in violation of **10 V.S.A. § 6616**.

§ 7-406 TRANSPORTATION PERMIT

- (a) With the exception of those persons and activities specified under **§ 7-401(c)**, no person shall transport to or accept for transport from any location in Vermont any hazardous waste or used oil without first obtaining a permit to do so from the Secretary, as required under **10 V.S.A. § 6607a**.
- (b) Any transporter who is required to obtain a permit shall complete, sign, and submit an application to the Secretary on the form provided. The application form shall include, but not be limited to, the following information:
 - (1) The nature of the wastes to be transported;
 - (2) The method of transportation; and
 - (3) Specific information concerning the vehicles to be used.
- (c) Disclosure statement
 - (1) With the exception of those persons exempted under **10 V.S.A. § 6605f(k)**, any transporter who is required to obtain a permit under this section shall complete, sign, and submit to the Secretary at the time of application a disclosure statement pursuant to the requirements of **10 V.S.A. § 6605f**. In the event of any change in ownership, a disclosure statement must be submitted pursuant to the requirements of **10 V.S.A. § 6605f(e)**.

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- (2) Any person who has received a transporter permit under this section shall file a statement annually within 30 days prior to the month and day of issuance of that permit disclosing any changes in facts that would render the disclosure statement filed in connection with that permit inaccurate in any way, or stating that no such changes have occurred in the period of time covered by the annual statement. The annual statement shall be under oath or affirmation.
- (d) Any transporter who is required to obtain a permit under this section shall:
 - (1) Maintain an up-to-date **Vermont Hazardous Waste Handler Site ID Form** filed with the Secretary as required in § 7-104;
 - (2) Obtain an EPA identification number either from the Secretary by applying on the **Vermont Hazardous Waste Handler Site ID Form** provided, or from the state in which the transporter's base of operations is located;
 - (3) Maintain liability insurance for sudden accidental occurrences as specified in § 7-410;
 - (4) Conduct a personnel training program for all employees handling either hazardous waste or used oil as specified in § 7-409; and
 - (5) Report annually on the **Hazardous Waste Annual Report (Transporters) Form** provided by the Secretary.
- (e) A fee, as specified by 3 V.S.A. § 2822(j), shall be submitted with the permit application and each year thereafter for the duration of the permit, at the time of filing of the annual statement required by **subsection (c)(2) of this section**.
- (f) A permit shall be issued for a period of time not to exceed five years.

§ 7-407 MODIFICATION, SUSPENSION, REVOCATION, OR DENIAL OF A PERMIT

- (a) The Secretary may modify any transporter permit upon his or her own motion or upon the receipt of a written request for modification that contains facts and reasons supporting the request. If the Secretary determines that modification is appropriate, only the conditions subject to modification are reopened. Cause for modification of a transporter's permit is:
 - (1) Material alterations to the transporter's activities which occurred after issuance of the permit to the transporter which justify the application of permit conditions that are different or absent from the existing permit;
 - (2) The receipt of information concerning the transporter which was not available when the permit was issued; or

- (3) A change in the standards or regulations on which the permit was based, by promulgation of amended standards or regulations or by judicial decision after the permit was issued;
- (b) The Secretary may suspend or revoke any transporter permit or deny any application for a transporter permit upon his or her own motion or upon receipt of a written request for suspension, revocation, or denial which contains facts and reasons supporting the request. Cause for suspension, revocation or denial is:
- (1) Non-compliance by the transporter with the requirements of 10 V.S.A., chapter 159, these regulations, the regulations promulgated by the Vermont Agency of Transportation for the transportation of hazardous wastes, or any term or condition of a permit, order, or assurance;
 - (2) Failure by the transporter to disclose all relevant facts during the permit application process that were known at that time;
 - (3) A determination by the Secretary that:
 - (A) Any of the grounds for denial of a permit under **10 V.S.A. § 6605f(a)** either existed at the time of application or have arisen since that time; or
 - (B) The holder of the permit, or the applicant for the permit, knowingly omitted or falsified information required to be disclosed under **§ 7-406(c)**.
 - (4) Misrepresentation of any relevant fact at any time;
 - (5) A felony conviction of the transporter in any jurisdiction when the conviction concerns violations of hazardous waste statutes or regulations; or
 - (6) A determination by the Secretary that the transporter's activities constitute a serious threat to human health or the environment and that such threat can only be regulated to acceptable levels by suspension, revocation or denial of the permit.
- (c) The Secretary shall provide written notice of modification, suspension, revocation, or denial, including the reasons for such actions, to the transporter involved. Any transporter who receives such notification shall have thirty days from the receipt of the notice to submit a written request for a hearing to the Secretary. If requested, the Secretary shall provide an opportunity for a hearing. The submission of a request for a hearing does not stay the effective date of the Secretary's decision.
- (d) An appeal may be taken from a final decision on the approval or denial of a request for the modification of a permit.

§ 7-408 ACCEPTING SHIPMENTS OF HAZARDOUS WASTE

A transporter may accept hazardous waste only from the following:

- (a) A generator who has an EPA identification number issued by the Secretary;
- (b) Another transporter who at the time has a valid transporter permit from the Secretary;

§ 7-409 PERSONNEL TRAINING

- (a) Permitted hazardous waste and used oil transporters must provide employee training to all persons who in the course of employment directly affect hazardous waste transportation safety. The training program shall be consistent with DOT employee training requirements of **49 CFR § 172.700**. Such training, at a minimum, shall include:
 - (1) For hazardous waste transporters:
 - (A) DOT's labeling, packing, placarding and shipping requirements as set forth in **49 CFR Parts 171 through 179** and all other applicable DOT regulations;
 - (B) Familiarity with and use of the most recent edition of the North American Emergency Response Guidebook for hazardous materials published by the DOT;
 - (2) For hazardous waste and used oil transporters:
 - (A) Safe vehicle operations to avoid creating hazards to public health, safety, or welfare or the environment;
 - (B) Safe handling of hazardous waste and used oil; and
 - (C) Emergency handling procedures in the event of a release or discharge of hazardous waste or used oil during transportation.
- (b) For each person required to be trained pursuant to **subsection (a) of this section**, a record of current training inclusive of the preceding three (3) years shall be kept on file by the transporter while these individuals are employed by the transporter, and for 90 days after these individuals cease being employed by the transporter. This period shall be extended automatically for the duration of any unresolved enforcement action, or as ordered by the Secretary. These records shall include the following:
 - (1) Name of employee;

- (2) Date of most recent training;
- (3) Description of training materials;
- (4) Name and address of person providing training; and
- (5) Certification that the employee has been trained and tested.

Note: It is recommended that each person required to be trained pursuant to **subsection (a) of this section** have knowledge of the Vermont Hazardous Waste Management Regulations, in particular: **subchapter 4** (requirements for transporters of hazardous waste), **§ 7-105** (emergency and corrective actions), **§ 7-211** (Vermont listed hazardous wastes), and **subchapter 7** (manifest, reporting and recordkeeping requirements).

§ 7-410 LIABILITY INSURANCE REQUIREMENTS

- (a) All permitted hazardous waste transporters shall carry liability insurance, as required by U.S. DOT regulations, for sudden and accidental occurrences, exclusive of legal defense costs, for claims arising out of bodily injury and property damage from the hazardous waste transport operations of the transporter. Such insurance policy shall carry an approved DOT endorsement (Form MCS 90 - DOT) covering liability for accidents, including environmental restoration, bodily injury, and property damage.
- (b) The insurance policy shall be maintained in full force at all times during the term of the permit.

§ 7-411 EMERGENCY PREPAREDNESS

No transporter shall transport hazardous waste in Vermont without being in possession of the following on each vehicle:

- (a) Telephone numbers of:
 - (1) The generator of the waste being transported; and
 - (2) The Vermont Agency of Natural Resources and the telephone numbers specified in **§ 7-105**.
- (b) A copy of the most recent edition of the North American Emergency Response Guidebook for hazardous materials published by DOT.
- (c) All of the following equipment in good operating condition:
 - (1) A first aid kit with eyewash;

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- (2) An Underwriters' Laboratory listed explosion proof flashlight; and
- (3) A fire extinguisher of appropriate size and type for the vehicle and wastes carried.