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DEPARTMENT OF HEALTH

Compilation of Chapter 11-263
Hawaii Administrative Rules

SEP 2 1999

SUMMARY

1. Chapter 11-263 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 263

HAZARDOUS WASTE MANAGEMENT

STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

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SUBCHAPTER A

GENERAL

§11-263-10 Scope. (a) This chapter establishes standards which apply to persons transporting hazardous waste into, within, and out of the State if the transportation requires a manifest

under chapter 11-262.

(b) These rules do not apply to on-site 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 chapter 11-262, 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 United States Department of Transportation (DOT) shipping descriptions by placing them into a single container.

(d) A transporter of hazardous waste subject to the federal manifesting requirements of 40 CFR Part 262, or subject to the waste management standards of 40 CFR Part 273, or subject to chapter 11-273, that is being imported from or exported to any of the countries listed in 40 CFR 262.58(a)(1) for purposes of recovery is subject to this subchapter and to all other relevant requirements of subchapter H of chapter 11-262, including, but not limited to, section 11-262-84 for tracking documents.

(e) The regulations in this chapter do not apply to transportation during an explosives or munitions emergency response, conducted in accordance with section 11-264-1(g)(8)(i)(D) or (iv) or 11-265-1(c)(11)(i)(D) or (iv), and section 11-270-1(c)(3)(i)(D) or (iii).

(f) Section 11-266-203 identifies how the requirements of this chapter apply to military munitions classified as solid waste under section 11-266-202.

(g) All references in tables and appendices to provisions of the Code of Federal Regulations shall be construed to mean the State rule analogue of the referenced federal regulation (for example, 40 CFR 260.1 shall be construed to mean section 11-260-1 of the Hawaii Administrative Rules). [Eff 6/18/94; am 3/13/99; comp SEP 20 1999] (Auth: HRS §§342J-4, 342J-31, 342J-33, 342J-35) (Imp: 40 C.F.R. §263.10)

§11-263-11 <u>EPA identification number.</u> (a) A transporter must not transport hazardous wastes without having received an EPA identification number from the Administrator or the director.

(b) A transporter who has not received an EPA identification number may obtain one by applying to the director using EPA Form 8700-12. Upon receiving the request, the Administrator or director will assign an EPA identification number to the transporter. [Eff 6/18/94; comp SEP 20 1999] (Auth: HRS §§342J-4, 342J-31, 342J-33, 342J-35) (Imp: 40 C.F.R. §263.11)

§11-263-12 <u>Transfer facility requirements.</u> A transporter

who stores manifested shipments of hazardous waste in containers meeting the requirements of section 11-262-30 at a transfer facility for a period of ten days or less is not subject to regulation under chapters 11-270, 11-264, 11-265, and 11-268 with respect to the storage of those wastes. [Eff 6/18/94; comp SEP 20 1999] (Auth: HRS §§342J-4, 342J-31, 342J-33, 342J-35)(Imp: 40 C.F.R. §263.12)

SUBCHAPTER B

COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING

§11-263-20 The manifest system. (a) A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest signed in accordance with the provisions of section 11-262-20. In the case of exports other than those subject to subchapter H of chapter 11-262, a transporter may not accept such waste from a primary exporter or other person if he or she knows the shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed in accordance with the provisions of section 11-262-20, 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)). For exports of hazardous waste subject to the requirements of chapter 11-262, subchapter H, a transporter may not accept hazardous waste without a tracking document that includes all information required by section 11-262-84.

(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 11-263-22; and

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

(e) The requirements of subsections (c), (d) and (f) 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 11-263-22.

(f) For shipments involving rail transportation, the requirements of subsections (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;
  (iv) Retain one copy of the manifest and rail shipping paper in accordance with section 11-263-22.
(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.
(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 11-263-22.

(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 11-263-22.

(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:

(1) Indicate on the manifest the date the hazardous waste left the United States; and

(2) Sign the manifest and retain one copy in accordance with subsection 11-263-22(c); and

(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 one-hundred kilograms but less than one-thousand kilograms of hazardous waste in a calendar month need not comply with the requirements of this section or those of section 11-263-22 provided that:

(1) The waste is being transported pursuant to a reclamation agreement as provided for in subsection 11-262-20(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 U.S. Department of Transportation-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. [Eff 6/18/94; am 3/13/99; comp SEP 20 1999] (Auth: HRS 342J-4, 342J-31, 342J-33, 342J-35) (Imp: 40 C.F.R. §263.20)

§11-263-21 <u>Compliance with the manifest.</u> (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) If the hazardous waste cannot be delivered in accordance with subsection (a), the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions. [Eff 6/18/94; comp SEP 20 1999] (Auth: HRS 342J-4, 342J-31, 342J-33, 342J-35) (Imp: 40 C.F.R. §263.21)

§11-263-22 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 paragraph 11-263-20(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 State:

(i) The initial rail transporter must keep a copy of the manifest and shipping paper with all the information required in paragraph 11-263-20(f)(2) for a period of three years from the date the hazardous waste was accepted by the initial transporter; and
(ii) 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.

(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.

(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 director. [Eff 6/18/94; comp SEP 20 1999]

(Auth: HRS §§342J-4, 342J-31, 342J-33, 342J-35) (Imp: 40 C.F.R. §263.22)

SUBCHAPTER C

HAZARDOUS WASTE DISCHARGES

§11-263-30 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 local authorities, dike the discharge area).

(b) If a discharge of hazardous waste occurs during transportation and an official (State or county 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 an EPA identification number 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 federal National Response Center (800-424-8802 or 202-426-2675); and to the State Department of Health, Hazard Evaluation and Emergency Response Office via the State Hospital (808-247-2191) after business hours or directly at (808) 586-4249 during business hours; 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.

(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. [Eff 6/18/94; am 3/13/99; comp SEP 20 1999] (Auth: HRS 342J-4, 342J-31, 342J-33, 342J-35) (Imp: 40 C.F.R. §263.30)

§11-263-31 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 county officials so that the hazardous waste discharge no longer presents a hazard to human health or the environment. [Eff 6/18/94; comp SEP 20 1999] (Auth: HRS 342J-4, 342J-31, 342J-33, 342J-35) (Imp: 40 C.F.R. §263.31)

DEPARTMENT OF HEALTH

The compilation of chapter 11-263, Hawaii Administrative Rules, on the Summary page dated SEP 2 1999, was adopted on SEP 2 1999. No public notice was provided and no public hearing was conducted.

This compilation shall take effect ten days after filing with the Office of the Lieutenant Governor.

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