

## Chapter 857: HAZARDOUS WASTE MANIFEST REQUIREMENTS

**SUMMARY:** This rule establishes requirements for the use of manifests to track the movement of hazardous waste from the point of generation to any intermediate points and finally to its ultimate disposition and establishes related responsibilities and liabilities of generators, transporters and owners and operators of waste facilities for hazardous waste.

**1. Legal Authority.** This rule is authorized by and adopted under 38 M.R.S.A., Section 1301, *et seq.*

**2. Preamble.** It is the purpose of the Department of Environmental Protection, consistent with legislative policy, to provide effective controls for the management of hazardous waste in order to protect public health, safety and welfare and the environment. This rule provides one such control by requiring the use of a manifest to track the movement of hazardous waste from the point of generation to any intermediate points and finally to its ultimate disposition and by establishing related responsibilities and liabilities of generators, transporters, and owners and operators of waste facilities for hazardous waste.

Portions of this rule refer to federal regulations of the United States Environmental Protection Agency (EPA). Unless otherwise specified, the federal regulations referenced are those interim final or final regulations revised as of July 1, 1988, as they appeared in volume 40 of the Code of Federal Regulations (CFR). Where specifically stated, the terms of a referenced federal regulation are hereby adopted as terms of this rule, except that in regulations incorporated thereby, "EPA" shall mean "the Maine Department of Environmental Protection (DEP)" except for references to 40 CFR 262, subpart E which means just "EPA"; "Administrator", "Regional Administrator" and "Director" shall mean "the Maine Board of Environmental Protection or its designated representative"; and the phrase "treat, store, and/or dispose" shall mean "handle." In addition, where the terms of federal regulations hereby incorporated by reference differ from or are inconsistent with other terms of this Chapter or Chapters 850-860, the more stringent of the requirements shall apply. Other changes to regulations incorporated hereby are as expressly made in this rule.

### 3. Definitions

**A. Board.** "Board" means the Board of Environmental Protection.

**B. Department.** "Department" means the Department of Environmental Protection.

**C. Generator.** "Generator" means a person whose act or process produces a waste which is or may be hazardous.

**D. Handle.** "Handle" means to store, transfer, collect, separate, salvage, process, reduce, recover, incinerate, treat or dispose of.

**E. Site.** "Site" means the same or geographically contiguous property which may be divided by a public or private right-of-way, provided that the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered site property.

**F. Transport.** "Transport" means the movement of hazardous waste from the point of generation to any intermediate points and finally to the point of ultimate disposition. Movement of hazardous waste on the site where it is generated or on the site of a licensed waste facility for hazardous waste is not "transport."

**G. Transporter.** "Transporter" means a person who transports hazardous waste in any quantity within, into or through the State of Maine.

**H. Waste.** "Waste" means any useless, unwanted or discarded substance or material, whether or not such substance or material has any other or future use and includes any substance or material that is spilled, leaked, pumped, poured, emitted, emptied, or dumped onto the land or into the water or ambient air.

**4. Manifest Form.** The hazardous waste manifest and recyclable hazardous material uniform bill of lading form approved by the Board and instructions related to the form are hereby incorporated as provisions of this rule. All information required on the form and all related instructions are requirements of this rule, to which penalties for non-compliance attach. The Department may authorize an alternative form to the uniform bill of lading for the transport of universal wastes if it contains the information required to meet the needs of the Department.

NOTE: The Department has approved an alternative form entitled "Maine Recyclable Material Uniform Bill of Lading" in place of the Recyclable Hazardous Material Uniform Bill of Lading. For shipments of universal wastes, this alternative form should be used in place of the Recyclable Hazardous Material Uniform Bill of Lading. This alternative form is designed to be utilized for those Maine universal wastes which are not DOT regulated hazardous materials, as well as for any universal wastes that are

hazardous materials. Since the new form is an approved alternative to the Recyclable Hazardous Material Uniform Bill of Lading, use of the alternative form will satisfy all requirements set out in the State of Maine Hazardous Waste Management Rules regarding use of the Recyclable Hazardous Material Uniform Bill of Lading.

## **5. General Requirements**

**A.** A generator who transports, or offers for transportation, hazardous waste for handling shall prepare a manifest before the waste is transported.

**B.** A generator shall comply with the manifest requirements of 40 CFR Parts 262.20(a), 262.21, and the Appendix to 40 CFR Part 262, including the use of a uniform hazardous waste manifest, which are hereby adopted and incorporated by reference.

NOTE: Federal regulations require that a generator obtain and use the manifest provided by or authorized by the state to which the hazardous waste is destined and in which the licensed hazardous waste facility is located.

**C.** A generator whose waste is to be transported to a waste facility for hazardous waste in Maine shall, in addition to all other manifest requirements, use the manifest form(s) adopted by the Board and shall fully complete all state-optional information required by the manifest form.

**D.** Each generator, transporter and owner or operator of a waste facility for hazardous waste shall comply with all the requirements and instructions which are specified on the manifest.

**E.** If the transporter is unable to deliver the hazardous waste to the designated facility or to the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste.

## **6. Exceptions**

**A.** A person may transport PCBs which are contained in a totally enclosed manner in PCB equipment without using a manifest provided that the PCBs are not discarded or intended to be discarded. In addition, a person who discharges or suffers a discharge of PCBs or who generates PCB contaminated material as a result of routine servicing of off-site PCB containing equipment may transport that PCB waste to a facility with an approved PCB management plan or to a Maine hazardous waste storage facility licensed to handle PCBs without using a manifest provided that the facility is under the control of the entity who has care or custody of or who owns the PCBs waste.

NOTE: The generator controlled facility which first accepts the waste shall be the site of generation.

B. A person may transport universal wastes without using a manifest, provided that the Uniform Bill of Lading referenced in Section 4 or an alternative form approved by the Department, or for small universal waste generators and central accumulation facilities the log requirements of Section 13, are utilized. For the purposes of administering this Section, where the rule in Sections 5, 7, 8, and 9 states "manifest" it shall be replaced with "Manifest or Uniform Bill of Lading".

NOTE: The Department has approved an alternative form entitled "Maine Recyclable Material Uniform Bill of Lading." For shipments of universal wastes, this alternative form should be used in place of the Recyclable Hazardous Material Uniform Bill of Lading. This alternative form is designed to be utilized for those Maine universal wastes which are not DOT regulated hazardous materials, as well as for any universal wastes that are hazardous materials. Since the new form is an approved alternative to the Recyclable Hazardous Material Uniform Bill of Lading, use of the alternative form will satisfy all requirements set out in the State of Maine Hazardous Waste Management Rules regarding use of the Recyclable Hazardous Material Uniform Bill of Lading.

## **7. Manifest Requirements for Generators**

NOTE: Additional requirements for generators appear in other rules of the Board dealing with specific aspects of hazardous waste management. See, for example, Chapter 851, Standards for Generators of Hazardous Waste; Chapter 852, Land Disposal Restrictions; Chapter 854, Standards for Hazardous Waste Facilities; and Chapter 856, Licensing of Hazardous Waste Facilities.

**A.** A generator of hazardous waste who transports, or offers for transport, hazardous waste for handling shall:

(l) Complete the generator portion of the manifest, including his handwritten signature.

(a) A generator shall designate on the manifest one waste facility for hazardous waste authorized to handle the waste covered by the manifest under a State hazardous waste program approved by the United States Environmental Protection Agency or under the Federal hazardous waste program.

(b) A generator may also designate on the manifest one alternate waste facility for hazardous waste authorized to handle the waste covered by the manifest under a State hazardous waste program approved by the United States Environmental Protection Agency or under the Federal hazardous waste program. The waste may be delivered to the alternate facility in the event that an emergency prevents its delivery to the primary designated facility.

(c) If the generator is also the transporter for all or part of the waste's transport, he shall also complete the appropriate transporter portion of the manifest.

(d) A generator shall identify and list each waste separately on the manifest.

NOTE: Lab packs containing hazardous wastes are not exempted from this requirement.

(2) After having obtained the transporter's handwritten acceptance signature and date of acceptance thereon, remove the Generator copy (copy #8), the Generator State copy (copy #7) and the Destination State copy (copy #6) and give the remaining copies of the manifest to the transporter.

NOTE: If a continuing Transporter is used, the Generator is responsible for supplying him with a legible photocopy of the manifest which must contain signatures where required.

(3) Send the Destination State copy (copy #6) of the manifest to the State where the designated facility (hazardous waste facility) is located within 7 days of the date the waste is accepted by the initial licensed transporter.

(4) Send the Generator State copy (copy #7) of the manifest to the State where the waste was generated within 7 days of the date the waste is accepted by the initial licensed transporter.

(5) A generator who completes a manifest other than a Maine manifest, which does not include a Generator State copy and/or a Destination State copy shall produce a photocopy(ies) of the Generator copy and send the copy(ies) to the appropriate State agency(ies) in the destination and/or generator state within seven (7) days of acceptance of the waste by a licensed transporter.

(6) Retain the signed generator copy (copy #8) of the manifest for at least three (3) years or until the signed generator-completed copy (copy #3) is returned to him by the designated facility which received the waste. The generator-completed copy (copy #3) shall be retained by the generator for at least three (3) years.

NOTE: The generator-completed copy (copy #3) of the manifest is the copy signed by the generator, all transporters and the owner or operator of the designated facility which received the waste.

(7) A generator who completes a manifest other than a Maine manifest, which does not include a Generator State completed copy and/or a for Destination State completed copy shall produce a photocopy(ies) of the Generator completed copy and send the copy(ies) to the appropriate state agency(ies) in the destination and/or generator state within seven (7) days of the generator's receipt of the completed manifest.

**B.** A generator, by generating hazardous waste and initiating its transport, agrees to its return to him. Upon return of the hazardous waste, he shall accept any of the waste which cannot be delivered to a designated facility. Thereafter, he shall meet all the generator requirements for the waste as if he had generated the waste on the date of its return to him.

**C.** Generators who ship hazardous waste within the United States solely by rail or water shall comply with the requirements of 40 CFR Part 262.23(c) and (d), which are hereby adopted and incorporated by reference, and in addition shall send copy #7 of the manifest to the Department and copy #6 of the manifest to the State where the designated hazardous waste facility is located, at the same time as the manifest is sent to the designated waste facility.

**D.** Generators who import hazardous waste from or export hazardous waste to a foreign country shall comply with the requirements of 40 CFR Part 262 Subparts E and F, and shall obtain and use a Maine manifest. Copies of all notices, reports, manifests and other documents filed with the United States Environmental Protection Agency in accordance with the requirements of these subparts shall be filed with the Department.

**E.** A generator who does not receive the generator-completed copy (copy #3) from the designated waste facility within thirty-five (35) days from the date waste was accepted by the initial transporter shall immediately notify the Department and shall immediately undertake to track and locate the waste, contacting the transporter(s) of the waste and the designated facility(ies) and keeping the Department advised.

**F.** A generator who transports or offers for transport, hazardous waste to a designated facility located in another state and who does not receive the generator-completed copy (copy #3) of the manifest from the designated facility within thirty-five (35) days from the date the waste was accepted by the initial transporter shall, in addition to the requirements of Section 7(E) of this rule, notify the governmental agency responsible for administering

the manifest system in: 1) the state in which the designated facility is located and in 2) the state in which the waste may have been delivered, or notify the

United States Environmental Protection Agency where either or both states do not have a State hazardous waste program approved by the United States Environmental Protection Agency.

NOTE: The names and addresses of State and Federal agencies may be obtained by calling the Department at (207) 287-2651.

**G.** A generator who has not received the generator-completed copy (copy #3) of the manifest from the designated facility within forty-five (45) days from the date the waste was accepted by the initial transporter shall file a written Exception Report with the Department. The Exception Report shall include:

- (1) A legible copy of the manifest for which the generator has not received the generator-completed copy (copy #3); and
- (2) A cover letter signed by the generator or his authorized representative explaining the efforts that have been and are being taken to locate the waste and the results of those efforts.

NOTE: For generators using a UBOL, the Department will initially identify discrepancies in shipments, it is however the generator's responsibility to resolve the discrepancies.

**H.** For any hazardous waste rejected at the designated and alternate facility if designated, the generator must provide to the Department within 20 days of such rejection a Rejection Report indicating:

- (1) Uniform Hazardous Waste Manifest number(s) for the rejected waste shipments;
- (2) The disposition of the rejected waste; and
- (3) Any changes in the information previously supplied by the generator on the Uniform Hazardous Waste Manifest.

Copies of the Rejection Report shall be provided to the transporter(s), the facility(s) that rejected the waste, and the appropriate regulatory agencies of the Generator and Destination State(s).

## **8. Manifest Requirements for Transporters**



NOTE: Other requirements for transporters appear in other rules of the Board dealing with specific aspects of hazardous waste management. See, for example, Chapter 853, Licensing of Transporters of Hazardous Waste and Chapter 854, Standards for Hazardous Waste Facilities. It should be noted that manifest requirements are in effect for transporters as of the effective date of this rule without regard to the dates established in Chapter 853 for licensing.

**A.** A transporter of hazardous waste shall:

- (1) Not accept hazardous waste from a generator or from another transporter unless the waste is accompanied by its manifest, properly completed by the generator and/or prior transporter(s), including signature and identification numbers;
- (2) Ensure that the manifest accompanies the hazardous waste;
- (3) In the presence of the generator or, for subsequent transporters, the prior transporter, complete the appropriate transporter portion of the manifest, including handwritten acceptance signature and date of acceptance, and immediately give a signed copy of the manifest to the generator or prior transporter, noting any discrepancies in manifest information;
- (4) Upon delivery of the hazardous waste to another transporter or to the designated facility:
  - (a) complete delivery information section of transporter portion of manifest;
  - (b) obtain the subsequent transporter's or the facility owner's or operator's handwritten acceptance signature and date of acceptance on the manifest;
  - (c) if a particular shipment of hazardous waste is delivered to a continuing transporter, the original transporter must, within seven (7) days, submit a photocopy of the transporter copy (copy #5) of the manifest to the Department. Such photocopy must be signed and dated by the continuing transporter, indicating acceptance of the hazardous waste;
  - (d) give the original and remaining copies of the manifest to the subsequent transporter or to the facility owner or operator;
  - (e) retain, for at least three (3) years from the date the hazardous waste was accepted by him, the transporter copy (copy #5) of the manifest signed by the generator, prior transporters, himself, and subsequent transporters or the owner or operator of the designated hazardous waste facility. If more than one transporter is involved, and the generator has not provided a



photocopy of the Transporter copy (copy #5) of the manifest, the original transporter shall make photocopies so that each transporter retains copy #5 of the manifest.

**B.** The requirements of Sections 8(A)(2), (3), and (4) of this rule do not apply to rail or water (bulk shipment) transporters if such a transporter complies with requirements of 40 CFR Part 263.20(e)(1)-(5) and (f)(1)-(5), and 40 CFR 263.22(b) and (c), which are hereby adopted and incorporated by reference, except that a copy of the manifest or shipping paper shall also be sent to the Department by each delivering transporter upon delivery to any other transporter or to the designated facility within seven (7) days of delivery.

**C.** Transporters who transport hazardous waste out of the United States shall comply with the applicable requirements of 40 CFR Part 263.20; and in addition, shall send a photocopy of manifest copy #5 to the Department within seven (7) days after the hazardous waste left the United States.

**D.** A transporter shall deliver the entire quantity of hazardous waste which he has accepted from a generator or a prior transporter to:

- (1) The subsequent transporter;
- (2) The waste facility designated on the manifest;
- (3) The alternate designated facility, if an emergency prevents delivery to the primary designated facility; or
- (4) The place outside the United States designated by the generator.

**E.** If the hazardous waste cannot be delivered in accordance with Section 7(D) of this rule, the transporter shall contact the generator for further instructions and shall revise the manifest according to the generator's instructions, or shall return the waste to the generator.

**F.** If hazardous waste in any amount is discharged during transportation, the transporter shall:

- (1) Take immediate appropriate action to protect public health and safety and the environment;
- (2) Immediately notify the Maine Department of Public Safety by calling 1-800-452-4664 or (207) 624-7000.

**NOTE:** The Maine Department of Public Safety (State Police) will immediately notify the Department.

(3) Immediately notify, if required by 49 CFR 171.15, the National Response Center at 1-800-424-8802 or (202) 426-2675;

(4) Immediately notify the local public safety agency;

(5) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulation, Department of Transportation, Washington, DC 20590; and

(6) If the transporter is a water (bulk shipment) transporter, give the same notice as required by 33 CFR 153.023 for oil and hazardous substances.

Compliance with this subsection does not relieve a transporter of any obligations or liabilities for such discharges imposed by statute or other rules.

NOTE: For further information and guidance, refer to Chapter 801 of the Department's rules, Discharge of Hazardous Matter; Removal and Written Reporting Procedures.

## **9. Manifest Requirements for Owners or Operators of Hazardous Waste Facilities**

NOTE: Other requirements for owners and operators of waste facilities for hazardous waste appear in other rules of the Board dealing with specific aspects of hazardous waste management. See, for example, Chapters 852, Land Disposal Restrictions; 855, Interim Licenses for Waste Facilities for Hazardous Waste; and 854, Standards for Hazardous Waste Facilities.

**A.** The owner or operator of a hazardous waste facility shall:

(1) Not accept hazardous waste from a generator or transporter unless the waste is accompanied by its manifest, properly completed by the generator and all transporters;

(2) Not accept any hazardous waste for which his facility is not licensed;

(3) Upon acceptance of a shipment of hazardous waste:

(a) complete the facility owner or operator portion of the manifest including his handwritten signature and date of acceptance, noting any discrepancy in manifest information and attempts made to reconcile the discrepancy. If a discrepancy in a manifest is discovered, he shall attempt to reconcile the discrepancy. If not resolved within 15 days, he shall submit a letter report including a copy of the manifest to the Department.

(b) send the Destination State completed copy (copy #1) of the manifest to the State in which his facility is located within seven (7) days of acceptance;

(c) send the Generator State completed copy (copy #2) to the State in which the waste was generated within seven (7) days of acceptance;

NOTE: If the waste was generated out-of-state an owner or operator can obtain the name and address of the appropriate out-of-state agency by calling the Department at 207/287-2651.

(d) send the signed generator-completed copy (copy #3) of the manifest to the generator within seven (7) days of acceptance;

(e) immediately give the transporter copy (copy #5) of the manifest to the transporter, and

(f) retain the hazardous waste facility copy (copy #4) of the manifest signed by the generator, all transporters and himself for at least three (3) years from the date of his acceptance of the waste, except that if the waste facility for hazardous waste is the point of ultimate disposition of the waste, the owner or operator shall retain the copy of the manifest for the life of the facility or until he establishes to the satisfaction of the Commissioner that the waste is no longer hazardous;

(i) when the waste facility is no longer in operation, the owner's or operator's copies of manifests shall be returned or disposed of as the Commissioner may direct.

**B.** An owner or operator of a hazardous waste facility which accepts a bulk shipment of hazardous waste by rail or water shall comply with the requirements of 40 CFR Part 264.71(b), which are hereby adopted and incorporated by reference, and in addition shall send a copy of the manifest or shipping paper to the Department within seven (7) days of acceptance.

**C.** If hazardous waste accepted by a facility is subsequently to be moved to another facility, for whatever reason, the owner or operator of the waste facility from which the waste is to be moved becomes the generator of the waste and is subject to the generator requirements of this rule and other related rules.

**10. Permission to Move Hazardous Waste in Exceptional Circumstances.** In exceptional circumstances, where required to protect public health or safety or the environment, the Commissioner may give permission to a generator or transporter of hazardous waste or to an owner or operator of a waste facility for hazardous waste to deliver, transport or accept hazardous waste without a manifest. In all such cases, each

generator, transporter and owner or operator who deals with the waste shall file a written report with the Department giving such information as the Department may require.

**11. Retention of Records.** The periods of retention of records established in this rule are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Commissioner of the Department of Environmental Protection or by the Regional Administrator or Administrator of the United States Environmental Protection Agency.

**12. Department's Hazardous Waste Manifest and Uniform Bill of Lading for Hazardous Recyclable Material Copies: Where to Send.** Generators, transporters and owners and operators of waste facilities for hazardous waste shall send copies of the manifest or Uniform Bill of Lading or other form approved for use by the Department as required by this rule to the Department at:

Hazardous Waste Manifest

Bureau of Remediation and Waste Management

Department of Environmental Protection

State House Station #17

Augusta, Maine 04333

**13. Log Requirements.** In lieu of a manifest or Uniform Bill of Lading, an instate small universal waste generator or instate central accumulation facility operator may utilize a log system of tracking provided the following requirements are met:

**A.** For a small universal waste generator:

(1) the waste is sent to either an instate central accumulation facility or instate consolidation facility;

(2) all the required universal waste information pursuant to Section 13(B)(4) below is recorded on the log sheet upon the generator's arrival at the facility; and

(3) the instate consolidation facility submits the quarterly waste tracking information to the Department on a timely basis.

**B.** For a central accumulation facility:

- (1) the waste is sent to an instate consolidation facility;
- (2) in the case of transfer stations and recycling centers the operator ensures that all the universal waste information is recorded on the log sheet;
- (3) the log sheet accompanies the universal waste to the instate consolidation facility;
- (4) the log sheet contains at a minimum the following information:
  - (a) name, address and phone number of generator or in the case of a household, the notation that it is from a household in lieu of a specific name, address and phone number;
  - (b) date universal waste was delivered to facility; and
  - (c) type and quantity of universal waste delivered; and
- (5) the consolidator submits the quarterly waste tracking information to the Department on a timely basis.

**C. For the instate consolidation facility:**

- (1) the facility ensures that the log sheets are accurately completed;
- (2) on a quarterly basis, a waste tracking document will be submitted to the Department in a format specified by the Department.

AUTHORITY: 38 M.R.S.A., Section 1301, *et seq.*

EFFECTIVE DATE: November 24, 1980

AMENDED March 23, 1983

February 10, 1985

November 30, 1986

March 16, 1994

EFFECTIVE DATE

(ELECTRONIC CONVERSION): May 4, 1996

AMENDED: January 23, 2001

MINOR CORRECTIONS: March 5, 2001

**06 096 Me. Code R. Ch. 857 Hazardous Waste Manifest  
Requirements (Code of Maine Rules (2021 Edition))**

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July 23, 2008 - informational notes added to Sections 4 and 6