

CHAPTER 8

STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS OIL AND GAS WASTE

APPLICABILITY

The transporter standards of Rule 98, subsection (w), apply to persons transporting hazardous oil and gas waste from a LQG site or SQG site to any designated facility. The transporter requirements do not apply in the case of hazardous oil and gas waste generated by CESQGs. Nor do the transporter standards apply to on-site movements of hazardous oil and gas waste.

The Rule 8 requirement that oil and gas waste be transported by a permitted oil and gas waste hauler does not apply when hazardous oil and gas waste is transported by a registered hazardous waste transporter (i.e., a transporter having an EPA identification number).

In addition to these transporter standards, a transporter must comply with standards applicable to generators of hazardous oil and gas waste if he mixes hazardous oil and gas wastes of different DOT shipping descriptions by placing them into a single container.

It is important to note that if a transporter mixes a hazardous oil and gas waste with a hazardous waste regulated by the TCEQ (i.e., a hazardous waste not regulated under Rule 98), the mixture becomes a TCEQ-regulated hazardous waste. The transporter **must comply with the TCEQ's standards for generators of hazardous waste** (found in Title 30, Texas Administrative Code, Chapter 335, Subchapter C) for such mixtures.

The following guidance addresses the most common hazardous oil and gas waste transport situations--a generator using an over-the-road transporter to deliver waste to a facility within Texas or a facility in a neighboring state.

Less frequently, transportation of hazardous oil and gas waste will be by rail or water (bulk shipments), or to a facility outside the United States. The standards applicable to transportation of waste transported by rail or by water, or outside the U.S., vary from the guidance provided below. Therefore, you should refer to the appropriate portions of subsection (w) of Rule 98, in the event such a shipment is necessary.

PERMITS AND EPA ID NUMBERS

No transporter may transport hazardous oil and gas waste unless he has an EPA ID number (see Chapter 4). The transporter may obtain an EPA ID number by filing EPA Form 8700-12 with the appropriate regulatory entity (either EPA, TCEQ, the RRC, or another state).

TRANSFER FACILITY REQUIREMENTS

No transporter may store manifested hazardous oil and gas waste at a transfer facility for any period of time unless:

- the hazardous oil and gas waste is packaged in containers that meet the packaging requirements of Rule 98, subsection(p), (also see page 5-34); and
- the hazardous oil and gas waste is stored at the transfer facility for no longer than 10 days.

MANIFEST REQUIREMENTS

A transporter may not accept hazardous oil and gas waste for shipment from a generator unless it is accompanied by a manifest signed in accordance with the manifest provisions of Rule 98, subsection (o), (also see “Manifests” in Chapter 5).

Before transporting hazardous oil and gas waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous oil and gas waste from the generator. The transporter must return a signed copy of the manifest to the generator before leaving the generation site.

The transporter must ensure that the manifest accompanies the shipment of hazardous oil and gas waste.

A transporter who delivers a hazardous oil and gas waste to another transporter or to the designated facility must:

- obtain the date of delivery and the handwritten signature of the other transporter or of the owner or operator of the designated facility on the manifest;
- retain one copy of the manifest in accordance with the manifest recordkeeping provisions (see “Manifests” in Chapter 5); and
- give the remaining copies of the manifest to the accepting transporter or owner or operator of the designated facility.

Additionally, a transporter may not accept hazardous oil and gas waste for export from a primary exporter or other person if:

- the transporter knows that the shipment does not conform to the EPA Acknowledgment of Consent; or
- except in the case of shipments by rail, an EPA Acknowledgment of Consent is not attached to the manifest (or shipping paper in the case of exports by water (bulk shipment)).

An EPA Acknowledgment of Consent means the cable sent to EPA from the U.S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment. To obtain an EPA Acknowledgment of Consent, a primary exporter of hazardous waste must notify EPA of an intended export before such waste is scheduled to leave the United States. The requirements for notification of intent to export are provided in 40 CFR §262.53. Once consent is obtained, EPA will issue to the primary exporter the EPA Acknowledgment of Consent.

A sample of an EPA Acknowledgment of Consent, which is cited by EPA in the RCRA Inspection Manual, is provided below.

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This document will serve as the EPA Acknowledgment of Consent for SCHUYLKILL METALS CORPORATION, BATON ROUGE, LOUISIANA to export 250 TONS OF NICKEL/CADMIUM BATTERIES (EPA HAZARDOUS WASTE NUMBER D006) to S.N.A.M., CEDEX, FRANCE. This consent is VALID for the period of APRIL 28, 1992 TO APRIL 27, 1993. Please be advised that a copy of this Consent must accompany each shipment of hazardous waste and that a copy of the manifest must be left with the U.S. Customs Service, when the material leaves the jurisdiction of the United States.

SQG EXCEPTION FROM MANIFEST REQUIREMENTS

A transporter accepting hazardous oil and gas waste for shipment from an SQG need not comply with the manifest or recordkeeping requirements of Rule 98 provided that the hazardous oil and gas waste is being transported pursuant to a hazardous oil and gas waste reclamation agreement that meets the following federal requirements:

- the transporter records, on a log or shipping paper, the following information for each shipment:
 - the name, address, and EPA ID number of the generator of the hazardous oil and gas waste,
 - the quantity of hazardous oil and gas waste accepted,
 - all DOT required shipping information, and
 - the date the hazardous oil and gas waste is accepted; and
- the transporter carries this record when transporting the hazardous oil and gas waste to the reclamation facility; and

- the transporter retains these records for a period of at least three years after termination or expiration of the agreement.

The requirements of Rule 98, subsection (o)(1)(E), also apply to hazardous oil and gas waste reclamation agreements and are discussed on page 5-32 under “When is a Manifest Not Required.”

DELIVERY OF WASTE

The transporter must deliver the entire quantity of hazardous oil and gas waste accepted from a generator or a transporter to:

- the primary designated facility;
- the alternate designated facility, if the hazardous oil and gas waste cannot be delivered to the primary designated facility because an emergency prevents delivery;
- the next designated transporter; or
- for exports, the location designated in the EPA Acknowledgment of Consent.

Inability to Deliver Waste

If the hazardous oil and gas waste cannot be delivered as provided above, the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

RECORDKEEPING

A transporter of hazardous oil and gas waste must keep a copy of the manifest signed by the generator, himself, and the next transporter or the owner or operator of the designated facility for a period of three years from the date the hazardous oil and gas waste was accepted by the initial transporter (Rule 98, subsection (w)(7)).

The period of transporter record retention is extended automatically during the course of any unresolved enforcement action regarding the regulated activity or upon request by the RRC.

ADDITIONAL REQUIREMENTS APPLICABLE TO INTERNATIONAL SHIPMENTS

Exports

Any person who exports hazardous oil and gas waste to a foreign country must comply with the requirements of 40 CFR Part 262, Subpart E. Primary exporters of hazardous oil and gas waste generated within the State of Texas must submit to the

RRC a copy of the annual report submitted to the administrator in compliance with 40 CFR §262.56.

Imports

Any person who imports hazardous oil and gas waste generated outside the United States into the State of Texas will be considered the generator of such hazardous oil and gas waste for the purposes of Rule 98. Such a person must comply with the applicable provisions of Rule 98, except that:

- the name and address of the foreign generator and the importer's name, address, and EPA ID number shall be substituted on the manifest in place of the generator's name, address, and EPA ID number;
- the importer or the importer's agent must sign and date the certification and obtain the signature of the initial transporter in place of the generator's certification statement on the manifest; and
- the importer shall use the manifest form prescribed by the TCEQ, or its successor.

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