

**CHAPTER 263a. TRANSPORTERS OF HAZARDOUS WASTE**

Subchap.	Sec.
<b>A. GENERAL</b> .....	<b>263a.10</b>
<b>B. COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING</b> .....	<b>263a.20</b>
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**Authority**

The provisions of this Chapter 263a issued under sections 105, 401—403 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.401—6018.403 and 6018.501); sections 105, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.105, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), unless otherwise noted.

**Source**

The provisions of this Chapter 263a adopted April 30, 1999, effective May 1, 1999, 29 Pa.B. 2367, unless otherwise noted.

**Cross References**

This chapter cited in 25 Pa. Code § 245.561 (relating to permanent closure or change-in-service); 25 Pa. Code § 245.614 (relating to requirements for closure); 25 Pa. Code § 252.3 (relating to scope); 25 Pa. Code § 261a.7 (relating to residues of hazardous waste in empty containers); 25 Pa. Code § 272.551 (relating to household hazardous waste transportation, storage and disposal); and 25 Pa. Code § 298.10 (relating to applicability).

**Subchapter A. GENERAL**

- Sec.
- 263a.10. Incorporation by reference and scope.
- 263a.11. EPA identification number.
- 263a.12. Transfer facility requirements.
- 263a.13. Licensing.

**§ 263a.10. Incorporation by reference and scope.**

(a) Except as expressly provided in this chapter, 40 CFR Part 263 (relating to standards applicable to transporters of hazardous waste) is incorporated by reference.

(b) Relative to the requirements incorporated by reference, when used in 40 CFR 263.10 (relating to scope), the phrase “Commonwealth of Pennsylvania” shall be substituted for the phrase “United States.”

**Cross References**

This section cited in 25 Pa. Code § 272.541 (relating to basic requirements); and 25 Pa. Code § 287.102 (relating to permit-by-rule).

**§ 263a.11. EPA identification number.**

Relative to the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations), does not apply in 40 CFR 263.11 (relating to EPA identification number).

**§ 263a.12. Transfer facility requirements.**

In addition to the requirements incorporated by reference:

(1) A transporter storing hazardous waste at a transfer facility for periods of not more than 10 days but greater than 3 days shall prepare an in-transit storage preparedness, prevention and contingency plan in addition to the transporter contingency plan as required by § 263a.13(b)(4) (relating to licensing). This plan shall be submitted under section 403(b)(10) of the act (35 P. S. § 6018.403(b)(10)) and approved in writing by the Department prior to the initiation of the storage.

(2) A transporter transferring hazardous waste from one vehicle to another at a transfer facility shall prepare an in-transit storage preparedness, prevention and contingency plan in addition to the transporter contingency plan as required by § 263a.13(b)(4). This plan shall be submitted under section 403(b)(10) of the act and shall be approved in writing by the Department.

**Authority**

The provisions of this § 263a.12 amended under sections 105, 402 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.402 and 6018.501); sections 303 and 305(e)(2) of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.303 and 6020.305(e)(2)); section 5, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.5, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-20).

**Source**

The provisions of this § 263a.12 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102; amended January 9, 2009, effective January 10, 2009, 39 Pa.B. 201. Immediately preceding text appears at serial page (331130).

**Cross References**

This section cited in 25 Pa. Code § 287.102 (relating to permit-by-rule).

**§ 263a.13. Licensing.**

(a) Except as otherwise provided in subsection (b), § 261a.5(c), § 266a.70(1) or § 266b.50 (relating to special requirements for hazardous waste generated by conditionally exempt small quantity generators; applicability and requirements; and applicability), a person or municipality may not transport hazardous waste within this Commonwealth without first obtaining a license from the Department.

(b) A person or municipality desiring to obtain a license to transport hazardous waste within this Commonwealth shall:

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- (1) Comply with 40 CFR 263.11 (relating to EPA identification number).
  - (2) File a hazardous waste transporter license application with the Department. The application shall be on a form provided by the Department and completed as required by the instructions supplied with the form.
  - (3) Deposit with the Department a collateral bond conditional upon compliance by the licensee with the act, this article, the terms and conditions of the license and a Department order issued to the licensee. The amount, duration, form, conditions and terms of the bond must conform to § 263a.32 (relating to bonding).
  - (4) Submit a transporter contingency plan for effective action to minimize and abate discharges or spills of hazardous waste from an incident while transporting hazardous waste, in accordance with the Department's guidelines for contingency plans.
  - (5) Supply the Department with relevant additional information it may require.
- (c) Upon receiving the application and the information required in subsection (b), the Department will evaluate the application for a license and other relevant information and issue or deny the license. If a license is denied, the Department will advise the applicant in writing of the reasons for denial.
- (d) A license granted or renewed under this chapter is valid for 2 years unless the Department determines that circumstances justify issuing a license for less than 2 years. The expiration date will be set forth on the license.
- (e) A license to transport hazardous wastes is nontransferable and nonassignable and usable only by the licensee and employees of the licensee.
- (f) The Department may revoke or suspend a license in whole or in part for one or more of the following reasons:
- (1) Violation of an applicable requirement of the act or a regulation promulgated under the act.
  - (2) Aiding or abetting the violation of the act or a regulation promulgated under the act.
  - (3) Misrepresentation of a fact either in the application for the license or renewal or in information required or requested by the Department.
  - (4) Failure to comply with the terms or conditions placed upon the license or renewal.
  - (5) Failure to comply with an order issued by the Department.
  - (6) Failure to maintain the required bond amount.
- (g) The application for a license shall be accompanied by a check for \$500 payable to the "Commonwealth of Pennsylvania." The application for license renewal shall be accompanied by a check for \$250 payable to the "Commonwealth of Pennsylvania."
- (h) In addition to the fees required by subsection (g), the transporter shall submit a fee of \$5 for each license card requested in excess of ten cards.

(i) The licensee shall notify the Department within 30 days of any change in the information contained in the license application.

(j) A copy of the transporter contingency plan approved at licensure or approved as amended shall be carried on the transport vehicle while transporting hazardous waste.

#### Authority

The provisions of this § 263a.13 amended under sections 105, 402 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.402 and 6018.501); sections 303 and 305(e)(2) of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.303 and 6020.305(e)(2)); section 5, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.5, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-20).

#### Source

The provisions of this § 263a.13 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102; amended January 9, 2009, effective January 10, 2009, 39 Pa.B. 201. Immediately preceding text appears at serial pages (294499) to (294500).

#### Cross References

This section cited in 25 Pa. Code § 263a.12 (relating to transfer facility requirements); 25 Pa. Code § 263a.32 (relating to bond); and 25 Pa. Code § 272.541 (relating to collection contractor).

### Subchapter B. COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING

Sec.

263a.20. Manifest system.

263a.21. [Reserved].

263a.23. Hazardous waste transportation fee.

263a.24. Documentation of hazardous waste transporter fee submission.

263a.25. [Reserved].

263a.26. [Reserved].

#### § 263a.20. Manifest system.

Relative to the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply in 40 CFR 263.20 (relating to manifest system), as incorporated by reference into this chapter.

#### Authority

The provisions of this § 263a.20 amended under sections 105, 402 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.402 and 6018.501); sections 303 and 305(e)(2) of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.303 and 6020.305(e)(2)); section 5, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.5, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-20).

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**Source**

The provisions of this § 263a.20 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102; amended January 9, 2009, effective January 10, 2009, 39 Pa.B. 201. Immediately preceding text appears at serial pages (294500) to (294501).

**Cross References**

This section cited in 25 Pa. Code § 263a.23 (relating to hazardous waste transportation fee).

**§ 263a.21. [Reserved].****Source**

The provisions of this § 263a.21 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102; reserved January 9, 2009, effective January 10, 2009, 39 Pa.B. 201. Immediately preceding text appears at serial page (294501).

**§ 263a.23. Hazardous waste transportation fee.**

(a) A fee is assessed on hazardous waste transportation to or from a location within this Commonwealth which requires a manifest under § 263a.20, 40 CFR 263.20 and 40 CFR 263.21 (relating to the manifest system; and compliance with the manifest). Each of the following are considered a separate transportation activity, subject to assessment of a fee:

- (1) Transport to a location within this Commonwealth from a location out-of-State.
- (2) Transport from a location within this Commonwealth to a location out-of-State.
- (3) Transport from one location to another within this Commonwealth.

(b) A hazardous waste transportation fee will not be assessed for:

- (1) Onsite shipments of hazardous waste.
- (2) Hazardous waste shipments through this Commonwealth not originating from, or destined for, a location within this Commonwealth.
- (3) Shipments of hazardous waste derived from the cleanup of a site under the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305), the Comprehensive Environmental Response Compensation and Liability Act of 1980 (P. L. 96-510, 94 Stat. 2767), known as the Federal Superfund Act (42 U.S.C.A. §§ 9601—9675), Title II of the Solid Waste Disposal Act (42 U.S.C.A. §§ 6901—6987) or the act.

(c) A transporter delivering a shipment of hazardous waste to a designated facility or recycler in this Commonwealth shall pay the transportation fees. If a shipment is destined for a location outside this Commonwealth, the transportation fee will be paid by the transporter that accepts the hazardous waste from a Commonwealth generator or other hazardous waste management location within this Commonwealth.

(d) A transporter shall remit to the Department hazardous waste transportation fees due for each quarter, accompanied by the forms required by § 263a.24 (relating to documentation of hazardous waste transporter fee submission).

(e) Payment of the fees, accompanied by the completed forms required by § 263a.24, shall be postmarked or received by the Department by the 20th day of the month following the quarter ending the last day of March, June, September and December of each year. If the submission deadline falls on a weekend or State holiday, the report shall be postmarked or received on or before the next business day after the 20th.

(f) Payment shall be by check or money order, payable to "The Hazardous Sites Cleanup Fund," and forwarded with the accompanying forms to the Department at the address specified on the form. Alternative payment methods may be accepted with prior written approval of the Department.

(g) Fees shall be calculated based on standard tons. For purposes of this section:

(1) A standard ton equals 2,000 pounds.

(2) A metric ton is converted to a standard ton by dividing the metric ton by a factor of 0.91.

(3) Liquid wastes shall be converted to tons as follows:

(i) Standard measure gallons are converted to tons using a factor of 8 pounds per gallon.

(ii) Liters are converted to tons using a factor of 2.1 pounds per liter.

(4) Cubic yards and cubic meters are converted to standard tons using a factor of 1 ton per each of these units, or part thereof.

(h) Fees are based on the quantities listed on the manifest by the treatment, storage or disposal facility (TSD) or, when not specified by the TSD, as provided by the generator.

#### Cross References

This section cited in 25 Pa. Code § 263a.24 (relating to documentation of hazardous waste transporter fee submission); and 25 Pa. Code § 266a.70 (relating to applicability and requirements).

#### § 263a.24. Documentation of hazardous waste transporter fee submission.

(a) A transporter receiving or delivering hazardous waste to or from a site in this Commonwealth shall submit specific information to the Department to document that the amount of fees submitted under § 263a.23 (relating to hazardous waste transportation fee) is accurate. This information shall be provided on forms provided or approved by the Department.

(1) A transporter who has transported hazardous waste during a quarter shall submit completed forms ER-WM-55G and ER-WM-55H, or their successor documents, with the appropriate fees.

(2) A transporter who has not transported hazardous waste during a quarter shall submit only form ER-WM-55G.

(b) The required forms shall be completed by the transporter in conformance with instructions provided.

(c) A transporter shall, upon request from the Department, provide additional information or documentation regarding its hazardous waste transportation activities necessary for the Department to assess the accuracy of the information contained on the required forms and the amount of fees due.

#### Source

The provisions of this § 263a.24 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102. Immediately preceding text appears at serial pages (254903) to (254904).

#### Cross References

This section cited in 25 Pa. Code § 263a.23 (relating to hazardous waste transportation fee).

### § 263a.25. [Reserved].

#### Source

The provisions of this § 263a.25 reserved January 9, 2009, effective January 10, 2009, 29 Pa.B. 201. Immediately preceding text appears at serial page (294503).

### § 263a.26. [Reserved]].

#### Source

The provisions of this § 263a.26 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102; reserved January 9, 2009, effective January 10, 2009, 39 Pa.B. 201. Immediately preceding text appears at serial page (294504).

## Subchapter C. HAZARDOUS WASTE DISCHARGES

Sec.  
263a.30. Immediate action.

### § 263a.30. Immediate action.

In addition to the requirements incorporated by reference, in the event of a discharge or spill of hazardous waste during transportation, the transporter shall immediately notify the Department by telephone at (717) 787-4343.

## Subchapter D. BONDING

Sec.  
263a.32. Bonding.

**§ 263a.32. Bonding.**

(a) A collateral bond means an indemnity agreement in a certain sum payable to the Department executed by the licensee and which is supported by the deposit with the Department of cash, negotiable bonds of the United States of America, the Commonwealth of Pennsylvania, the Turnpike Commission, the General State Authority, the State Public School Building Authority or a Commonwealth municipality, or an irrevocable letter of credit of any bank organized or authorized to transact business in the United States.

(b) A new, revised or renewed license to transport hazardous waste may not be issued by the Department before the applicant for a license has filed a collateral bond payable to the Department on a form provided or approved by the Department, and the bond is approved by the Department.

(c) The bond shall be in an amount sufficient to assure that the licensee faithfully performs the requirements of the act, the regulations promulgated thereunder, the terms and conditions of the license and any Department order issued to the licensee, but a minimum of \$10,000.

(d) Liability under the bond shall continue at a minimum for the duration of the license, any renewal thereof and for a period of 1 year after expiration, termination, revocation or surrender of the license. The 1-year extended period of liability shall include, and shall be automatically extended for, additional time during which administrative or legal proceedings are pending involving a violation by the transporter of the act, regulations promulgated thereunder, the terms or conditions of a license or a Department order.

(e) The Department may require additional bond amounts at any time if the methods of transporting wastes change, the kinds of wastes transported change or the Department determines the additional bond amounts are necessary to guarantee compliance with the act, regulations, the terms and conditions of the license or a Department order.

(f) Collateral bonds are subject to the following conditions:

(1) The Department will obtain possession of and keep in custody all collateral deposited by the licensee until authorized for release as provided in this section.

(2) The Department will value collateral at its current market value.

(3) Collateral shall be in the name of the licensee, not in the name of third parties and shall be pledged and assigned to the Department free and clear of claims.

(g) Letters of credit are subject to the following conditions:

(1) The letter may only be issued by a bank organized or authorized to do business in the United States.

(2) Letters of credit are irrevocable. The Department may accept a letter of credit not revocable for a term of 3 years if:



(i) The letter of credit is automatically renewable for additional terms, unless the bank gives at least 90 days prior written notice to the Department of its intent to terminate the credit at the end of the current term.

(ii) The Department has the right to draw upon the credit before the end of its term and convert it into a cash collateral bond if the licensee fails to replace the letter of credit with other acceptable collateral within 30 days of the bank's notice to terminate the credit.

(3) The letter of credit shall be payable to the Department in part or in full upon demand of the Department in the case of a forfeiture or the failure of the owner or operator to replace the letter of credit as provided in this section.

(4) The Department will not accept letters of credit from a bank for a licensee in excess of 10% of the bank's capital surplus account as shown on a balance sheet certified by a certified public accountant.

(5) Letters of credit are subject to the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 290, including amendments and successor publications.

(6) Letters of credit provide that the bank will give prompt notice to the licensee and the Department of a notice received or action filed alleging the insolvency or bankruptcy of the bank or alleging violations of regulatory requirements that could result in suspension or revocation of the bank's charter or license to do business.

(h) Upon the incapacity of a bank by reason of bankruptcy, insolvency or suspension or revocation of its charter or license, the licensee is deemed to be without collateral bond coverage in violation of § 263a.13 (relating to licensing). The Department will issue a notice of violation against a licensee who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed 90 days.

(i) Bonds not declared forfeit in accordance with subsection (j) are released to the licensee 1 year after expiration, termination, revocation or surrender of the license.

(j) The Department will declare forfeit all a licensee's bonds if the Department finds that the licensee violated any requirements of the act, this article, terms and conditions of a license or a Department order issued to the licensee when the Department finds that the licensee failed to remedy a violation promptly.

(k) Remedies provided in law for violation of the act, this article or the conditions of the license, are expressly preserved. Nothing in this section may be construed as an exclusive penalty or remedy for the violations of law. An action taken under this chapter does not waive or impair another remedy or penalty provided in law.

#### **Cross References**

This section cited in 25 Pa. Code § 263a.13 (relating to licensing); and 25 Pa. Code § 287.102 (relating to permit-by-rule).

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