NEBRASKA ADMINISTRATIVE CODE

Title 128 - Department of Environmental Quality

Chapter 10 - REQUIREMENTS FOR LARGE QUANTITY GENERATORS OF HAZARDOUS WASTE

001 Applicability. All of the requirements of this chapter apply to large quantity generators. As specified in Chapter 8 and 9, certain provisions of this chapter apply to small quantity generators and conditionally exempt generators. A large quantity generator is a generator who generates in a calendar month 1,000 kilograms or more of hazardous waste.

001.01 If a large quantity generator, small quantity generator or conditionally exempt generator generates or accumulates acute hazardous waste in quantities greater than those set out below, all quantities of the acute hazardous waste are subject to this Chapter.

001.01A A total of one kilogram of acute hazardous waste listed in Chapter 3, 013, through 016.

001.01B A total of 100 kilograms of any residue or contaminated soil, water or other debris resulting from the clean-up of a spill, into or on any land or water, of any acute hazardous waste listed in Chapter 3, 013 through 016.

001.02 A large quantity generator who generates and accumulates acute hazardous waste in a calendar month in quantities no greater than those specified in 001.01A and 001.01B of this Chapter is subject to the requirements of Chapter 8, 006.03 for all quantities of that acute hazardous waste.

001.03 When making the quantity determinations of this Title, the generator must include all hazardous waste that it generates, except hazardous waste that:

001.03A Is exempt from regulation under Chapter 2, Sections 010 through 013, 015.01, 016, or Chapter 7, Section 002; or

001.03B Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in Chapter 1; or

001.03C Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Chapter 7, Section 006; or

001.03D Is used oil managed under the requirements of Chapter 7, Section 002.02; or

001.03E Is spent lead-acid batteries managed under the requirements of Chapter 7, Section 012; or

001.03F Is universal waste managed under Chapter 25.

001.04 In determining the quantity of hazardous waste generated, a generator need not include:

001.04A Hazardous waste when it is removed from on-site storage as long as it is counted once;
001.04B Hazardous waste produced by on-site treatment (including reclamation) of hazardous waste, so long as the hazardous waste that is treated was counted once; or

001.04C Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

001.05 Large quantity generators are also subject to all requirements pertaining to determinations, notifications, reporting and recordkeeping as set forth in Chapter 4.

001.06 A generator who treats, stores, or disposes hazardous waste on-site must only comply with Chapter 4, 002 through 004, 005.03C, 005.04 and 005.05 and Sections 004, 005, and, if applicable, 007 of this Chapter. A generator who treats, stores, or disposes hazardous waste onsite must also comply with all other applicable chapters of this Title.

001.07 A farmer who generates waste pesticides which are hazardous waste and complies with all of Section 007 of this Chapter, is not required to comply with other standards in this Title with respect to such pesticides.

002 Generator manifest procedures.

002.01 General Requirements

002.01A A generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and if necessary, EPA Form 8700-22A, according to the instructions included in the Appendix to 40 CFR Part 262, which is hereby adopted and incorporated herein by reference.

002.01A1 The conditions and requirements of 40 CFR Part 262, Subpart B, 262.21 through 262.21(m)(2), pertaining to manifest tracking numbers, manifest printing, and obtaining manifests, are hereby incorporated herein by reference.

002.01B The requirements of Chapter 10, 002 and 003.01D do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding Chapter 11, 001, the generator or transporter must comply with the requirements

for transporters set forth in Chapter 11, 006.11 in the event of a discharge of hazardous waste on a public or private right-of-way.

002.02 A generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under these states' authorized programs. Generators also must determine whether the consignment state or generator state requires the generator to submit copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.

002.03 The manifest shall consist of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and another copy to be returned to the generator.

002.04 The generator shall designate on the manifest one primary facility which is approved to handle waste described on the manifest. The generator may also designate on the manifest one alternate facility which is approved to handle the waste in the event an emergency prevents delivery of the waste to the primary designated facility.

002.05 The generator shall completely and legibly fill out all applicable sections and certify that the information provided on the manifest is correct by placing their signature on the manifest.

002.06 The generator shall obtain the signature of the initial transporter and date of acceptance on the manifest.

002.07 The generator shall retain one copy of the manifest and shall give the transporter the remaining copies.

002.08 If the transporter is unable to deliver the hazardous waste to the designated facility, or the alternate facility in accordance with Section 002.04 of this Chapter, the generator must either designate another facility or instruct the transporter to return the waste.

002.09 The generator shall maintain on file a copy of each manifest retained in accordance with Section 002.07 of this Chapter for 3 years or until a signed copy of the manifest is received from the designated storage, treatment, or disposal facility that received the waste.

002.10 The generator shall retain the signed copies of the manifests received from the owners or operators of the storage, treatment, or disposal facilities until three years after the date of shipment of the hazardous waste.

002.11 For hazardous wastes emanating from Nebraska to be shipped within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with Sections 002.05 and 002.06 of this Chapter to the owner or operator of the designated facility or the last water (bulk shipment)

transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

002.12 For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with Sections 002.05 and 002.06 of this Chapter to:

002.12A The next non-rail transporter, if any; or

002.12B The designated facility if transported solely by rail; or

002.12C The last rail transporter to handle the waste in the United States if exported by rail.

002.13 For shipments of hazardous waste to a designated facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

002.14 A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the uniform hazardous waste manifest:

002.14A "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment;" or

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002.14B "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

003 Pre-transport requirements.

003.01 Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must:

003.01A Package the waste in accordance with the applicable U.S. Department of Transportation regulations on packaging hazardous materials under 49 CFR Parts 173, 178, and 179.

003.01B Label each package in accordance with the applicable U.S. Department of Transportation regulations on hazardous materials under 49 CFR Part 172;

003.01C Mark each package in accordance with the applicable U.S. Department of Transportation regulations on hazardous materials under 49 CFR Part 172;

003.01D Mark each container of 119 gallons or less used in such transportation with the following words and information displayed in accordance with requirements of 49 CFR 172.304: "Hazardous Waste - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U. S. Environmental Protection Agency. Generator's Name and Address_____.
Generator's EPA Identification Number _____.
Manifest Tracking Number _____"; and

003.01E Placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR Part 172, Subpart F.

004 Accumulation time.

004.01 A generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

004.01A The waste is placed in containers and the generator complies with the following:

004.01A1 If a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements of this chapter;

004.01A2 A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste;

004.01A3 A container holding hazardous waste must not be opened, handled or stored in a manner which may rupture a container or cause it to leak;

004.01A4 The generator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion and other factors; and

004.01A5 The generator must comply with Chapter 16 pertaining to requirements for ignitable, incompatible or reactive wastes.

004.01A6 The generator must comply with Chapter 22, Sections 019 and 020, and 021 pertaining to organic air emissions.

004.01B The waste is placed in tanks and the generator complies with the applicable requirements of Chapters 16 ~~and 26~~ and 40 CFR Part 265 subparts J, AA, BB, and CC, as incorporated by reference in Chapter 22, Sections 010, 019, 020 and 021 respectively, except that the generator need not comply with 40 CFR 265.197(c) and 265.200 of Subpart J.

004.01C The waste is placed on drip pads and the generator complies with Chapter 22, 018, and with the requirements of 40 CFR 262.34(a)(1)(iii), which are hereby adopted and incorporated herein by reference.

004.01D The waste is placed in containment buildings and the generator complies with Chapter 22, 022, and the requirements of 40 CFR 262.34(a)(1)(iv), which are hereby adopted and incorporated herein by reference.

004.01E If the waste is placed in tanks or containers, the generator complies with 40 CFR 265.111 and 265.114, as incorporated by reference in Chapter 22, 007. In addition, the generator is exempt from all other requirements in Subparts G and H of 40 CFR Part 265, as incorporated by reference in Chapter 22, 007 and 008.

004.01F The date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container;

004.01G While being accumulated on-site, each container and tank must be labeled or marked clearly with the words "Hazardous Waste."

004.01H The generator must comply with the requirements for owners or operators in Chapter 17 (Preparedness and Prevention), Chapter 18 (Contingency Plan and Emergency Procedures), Chapter 19 (Personnel Training) and the applicable requirements in Chapter 20, 005.01E.

004.02 A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of Chapters 12 through 15, 21 and 22, unless granted an extension to the 90 day period by the Director. The extension may be granted due to unforeseen, temporary, and uncontrollable circumstances for up to 30 days on a case-by-case basis.

004.03 A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:

004.03A The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants or contaminants entering F006 or otherwise released to the environment prior to its recycling;

004.03B The F006 waste is legitimately recycled through metals recovery;

004.03C No more than 20,000 kilograms of F006 waste is accumulated on-site at any one time; and

004.03D The F006 waste is managed in accordance with the following:

004.03D1 The F006 waste is placed:

004.03D1(a) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265, as incorporated by reference in Chapter 22, Sections 009, 019, 020 and 021; and/or

004.03D1(b) In tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265, as incorporated by reference in Chapter 22, Sections 010, 019, 020 and 021, except 40 CFR 265.197(c) and 265.200; and/or

004.03D1(c) In containment buildings and the generator complies with subpart DD of 40 CFR part 265, as incorporated by reference in Chapter 22, Section 022 and has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facilities operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

004.03D1(c)(1) A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or

004.03D1(c)(2) Documentation that the unit is emptied at least once every 180 days.

004.03D2 In addition, such a generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for 265.111 and 265.114, as incorporated by reference in Chapter 22, Sections 007 and 008.

004.03D3 The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

004.03D4 While being accumulated on-site, each container and tank is labeled or marked clearly with the words, “Hazardous Waste;” and

004.03D5 The generator complies with the requirements for owners or operators in Chapters 17, 18, 19 and Chapter 20, Section 005.01E.

004.04 A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on-site for more than 90 days, but not more than 270 days without a permit or without having interim status if the

generator complies with the requirements of Sections 004.03A through 004.03D of this Chapter.

004.05 A generator accumulating F006 in accordance with Sections 004.03 and 004.04 of this Chapter who accumulates F006 waste on-site for more than 180 days (or more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on-site is an operator of a storage facility and is subject to the requirements of Chapters 21 and 22 and the permit requirements of Chapters 12 through 15 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by the Director if F006 waste remain on-site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the Director on a case-by-case basis.

004.06 a generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of 40 CFR Part 264.72 or Part 265.72, as incorporated by reference in Chapter 21, 005, and Chapter 22, 005, respectively, may accumulate the returned waste on-site in accordance with Chapter 10, 004, or Chapter 9, 007 and 008, depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must:

004.06A Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

004.06B Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

005 Satellite accumulation.

005.01 A generator may accumulate as much as 55 gallons of hazardous waste, or one quart of acute hazardous waste listed in Chapter 3, 015, in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with Section 004.01 of this Chapter provided the generator:

005.01A Complies with Sections 004.01A1. and 004.01A2. of this Chapter and Chapter 16, 002.01C, and

005.01B Marks the containers with the words "Hazardous Waste" or with other words that identify the contents of the containers.

005.02 A generator who accumulates either hazardous waste or acute hazardous waste in excess of the amounts listed in Section 005.01 of this Chapter at or near any point of generation must, with respect to that amount of excess waste, comply within three days

with Section 004.01 of this Chapter or other applicable provisions of this Chapter. During the three day period the generator must continue to comply with Sections 005.01A and 005.01B of this Chapter. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

006 International Shipments. Any person who exports hazardous waste to a foreign country or imports hazardous waste from a foreign country into the United States must comply with the requirements of 40 CFR Part 262 Subparts E and F.

007 Farmers. Farmers disposing of waste pesticide containers or residues from their own use which are hazardous wastes are not required to comply with the standards in this Chapter, and Chapters 12 through 15 (Permitting), and 20 (Permitted Facilities), provided, they triple rinse each empty pesticide container in accordance with Chapter 2, 015.05 and dispose of the pesticide residues on their own farm in a manner consistent with the disposal instructions on the pesticide label.

Enabling Legislation: Neb. Rev. Stat. §81-1505(13)

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