

Title 27. Transportation

Chapter V. Arkansas Department of Transportation, State Highway Commission

Subchapter C. Motor Vehicles

Part 113. Rules Governing the Transportation of Hazardous Waste in the State of Arkansas

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Current with amendments included in the Arkansas Register, Volume XL, Number 11, May 2017."

Subpart 1. Generally

27 CAR § 113-101. Definitions.

(a) As used in this part:

(1) "Act" means the Arkansas Hazardous Waste Management Act of 1979, Acts 1979, No. 406;

(2) "Commission" means the State Highway Commission;

(3) "Container" means any enclosure that is open or closed in which a material can be:

(A) Stored;

(B) Handled;

(C) Treated; or

(D) Disposed;

(4) "Discharge" means any accidental or intentional release of hazardous waste into or onto the land, air, or water by any means, including but not limited to:

(A) Spilling;

(B) Leaking;

- (C) Pumping;
- (D) Pouring;
- (E) Emitting;
- (F) Emptying; or
- (G) Dumping;

(5) "Disposal" means the discharge, deposit, or placing of any hazardous waste into or on any land or water, in whatever manner, so that such hazardous waste, or any constituent thereof, might, or might not, enter the environment, or be emitted into the air or discharged into the waters, including ground waters;

(6) "EPA identification number" means the unique number assigned by the Environmental Protection Agency and/or the Division of Environmental Quality to each generator, transporter, and to each treatment, storage, or disposal facility;

(7) "Facility" means any land or appurtenance thereto, thereon used for the treatment, storage, and/or disposal of hazardous waste;

(8) "Generation" means the act or process of producing waste material;

(9) "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristic, may in the judgment of the Division of Environmental Quality:

(A) Cause or significantly contribute to an increase in mortality, an increase in serious irreversible or incapacitating reversible illness;

(B)(i) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise improperly managed.

(ii) Such wastes include, but are not limited to, those which are:

- (a) Radioactive;
- (b) Toxic;
- (c) Corrosive;
- (d) Flammable;
- (e) Irritants; or

(f) Strong sensitizers;

(C) Which generate pressure through decomposition, heat, or other means; or

(D) Which are identified, by characteristic or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.);

(10) "Incompatible waste" means a waste unsuitable for commingling with another waste or material which, if commingled, might result in generation of extreme heat, extreme pressure, fire, explosions, or other violent reaction; which might form toxic gases, toxic fumes, or toxic dust; or other similar reactions;

(11) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transport;

(12) "Manifest document numbers" means the serially increasing number assigned to the manifest by the generator for recording purposes;

(13) "Off-site facility" means a facility in operation to which a generator or shipper transports hazardous waste for:

(A) Treatment;

(B) Storage; or

(C) Disposal;

(14) "On-site" means:

(A) The same or geographically contiguous property which may be divided by public or private right-of-way or rights-of-way;

(B) Noncontiguous property owned by the generator but connected by a right-of-way which he or she controls and to which the public does not have access; or

(C) Other property determined as on-site by the Division of Environmental Quality;

(15) "Permit" means a written permit issued by:

(A) The State Highway Commission authorizing a person to transport hazardous waste (hazardous waste transportation permit); or

(B) The Division of Environmental Quality authorizing the establishment, construction, operation, and/or maintenance of hazardous waste treatment, disposal, or storage facility or site;

(16) "Permitted site" means any site used for disposal, treatment, or storage of hazardous waste which has a current valid operating permit issued by the Division of Environmental Quality;

(17) "Person" means any individual, corporation, company, firm, partnership, association, trust, joint stock company, state agency, government instrumentality or agency, institution, county, city, town, or municipal authority or trust, venture, or any other legal entity, however organized;

(18) "Site" means any real property contemplated and/or later acquired for the purpose of treatment, storage, disposal, or generation of hazardous waste;

(19) "Storage" means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of hazardous waste;

(20) "Tank" means any bulk container placed on or carried by a vehicle to transport waste, including wheel-mounted tanks;

(21) "Transport" or "transportation" means the movement of waste from the point of generation to any intermediate point, and finally to the point of ultimate treatment, storage, or disposal by any means of commercial or private transport;

(22) "Transporter" means any person engaged in transportation;

(23) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste, so as to neutralize such waste or so as to render such waste:

- (A) Less hazardous;
- (B) Safer for transport;
- (C) Amenable to recovery;
- (D) Amenable to storage;
- (E) Amenable to disposal; or

(F) Reduced in volume; and

(24) "Treatment facility" means a location at which waste is subjected to treatment and may include a facility where waste has been generated.

(b) Other terms not defined herein shall have the ordinary practical meaning unless inconsistent with Act 1979, No. 406.

Authority. Arkansas Code § 8-7-224.

Codification Notes. The Arkansas Hazardous Waste Management Act of 1979 is codified at Arkansas Code § 8-7-201 et seq.

27 CAR § 113-102. Shipper requirements.

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

(1) Package the waste in accordance with applicable United States Department of Transportation regulations;

(2) Label each package in accordance with applicable United States Department of Transportation regulations;

(3) Mark each package and/or container in accordance with United States Department of Transportation regulations;

(4) Offer the initial transporter the appropriate placards according to United States Department of Transportation regulations;

(5) Prepare a manifest before transporting the waste off-site in accordance with this part, rules of the Division of Environmental Quality, and Environmental Protection Agency regulations;

(6) Designate on the manifest one (1) facility which is permitted to handle the waste described on the manifest; and

(7) Designate on the manifest one (1) alternate permitted facility to handle his or her waste in the event an emergency prevents delivery of the waste to the primary designated facility.

Authority. Arkansas Code § 8-7-224.

27 CAR § 113-103. Manifest — Shipper.

(a) **Requirements.** No generator or other shipper shall offer for transportation any hazardous waste unless accompanied by a completed manifest as herein provided.

(b) **Number of copies.** Manifest consists 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 (1) copy each for their records and other copies to be returned to the generator.

(c) **Use of the manifest.** The generator must:

(1) Sign a manifest certification by hand stating that the information therein is true, accurate, and complete;

(2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest;

(3) Retain one (1) copy; and

(4) Give the transporter the remaining copies of the manifest.

(d) **Rail and water requirements.**

(1) For shipment of hazardous waste within the State of Arkansas solely by railroad or solely by water (bulk shipments only), the generator must send three (3) copies of the manifest dated and signed in accordance with the preceding section to the owner or operator of the designated facility.

(2) Copies of the manifest are not required for each transporter.

(e) **Exemption.** A farmer disposing of waste pesticides from his or her own use which are hazardous waste is not required to comply with the provisions of this part provided he or she complies with rules established by the Division of Environmental Quality for disposal of pesticides on his or her farm.

Authority. Arkansas Code § 8-7-224.

27 CAR § 113-104. Transporter rules.

(a) No person shall transport any hazardous waste over any public highway within the State of Arkansas without having received an EPA identification number.

(b) No person shall transport over any highway within the state any hazardous waste without having in force a current hazardous waste transportation permit issued by the State Highway Commission authorizing such activity by such person.

(c) Each hazardous waste transportation permit shall be nontransferable, shall be applicable for one (1) year subject to renewal, and may be suspended or revoked in whole or in part as provided in Arkansas Code § 23-13-233 for cause, including but not limited to the following:

(1) Violation of any term of the permit or the Arkansas Hazardous Waste Management Act of 1979, Acts 1979, No. 406;

(2) Any violation of the rules adopted by the commission pursuant to the Arkansas Motor Carrier Act, 1955, Arkansas Code § 23-13-201 et seq., the Arkansas Hazardous Waste Management Act of 1979, or the Hazardous Materials Transportation Act of 1977, Arkansas Code § 27-2-101 et seq.;

(3) Any violation of applicable rules adopted by the Division of Environmental Quality pursuant to the Arkansas Hazardous Waste Management Act of 1979; or

(4) Misrepresentation of any material fact in the permit application.

(d) **United States Department of Transportation regulations.** Every transporter of hazardous waste shall comply with all United States Department of Transportation regulations adopted by the commission in 27 CAR § 110-1801 of General Rules of Practice and Procedure, 27 CAR pt. 110, and Rules Governing the Transportation of Hazardous Materials In and Through the State of Arkansas, 27 CAR pt. 112.

(e) **Incompatible waste.** No transporter shall permit the transportation of incompatible waste in any one (1) vehicle.

(f) **Hazardous waste discharge.**

(1)(A) In the event of a discharge of hazardous waste during transportation, the transporter must:

(i) Immediately contact the Division of Arkansas State Police and the principal office of the carrier; and

(ii) Take appropriate action to protect the public health and safety and the environment.

(B) The Division of Arkansas State Police will immediately notify the Division of Emergency Management who will contact commission officials and officials of the Division of Environmental Quality.

(2) If a discharge of hazardous waste occurs during transportation and a federal or state official, acting within the scope of his or her 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 have no EPA identification number or hazardous waste transportation permit, provided that no, or insufficient numbers of, authorized transporters are available.

(3) An air, rail, highway, or water transporter who has discharged hazardous waste must also give notice as required by the United States Department of Transportation.

(g) **Discharge cleanup.** A transporter must clean up the hazardous waste discharge that occurs during transportation or take such actions that may be required or approved by federal, state, or local officials so that hazardous waste discharge no longer presents a hazard to human health or the environment.

Authority. Arkansas Code § 8-7-224.

27 CAR § 113-105. Manifest — Transporters.

(a) A transporter may not accept hazardous waste from a generator or other shipper unless it is accompanied by a manifest signed by the generator in accordance with 27 CAR § 113-103.

(b)(1) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator.

(2) 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.

(d) A transporter who delivers a hazardous waste to another transporter or to a designated facility must:

(1) Obtain the date of delivery and the handwritten signature of that transporter, or the owner or the operator of the designated facility on the manifest;

(2) Retain one (1) copy of the manifest; and

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

(e) The requirements of subsections (c) and (d) of this section do not apply to rail or water (bulk shipment) transporters if:

(1) The hazardous waste is delivered by rail or water to a designated facility;

(2) A shipping paper containing all information required on the manifest (excluding the EPA numbers, generator certification, and signatures) accompanies the hazardous waste;

(3) The delivery transporter obtains the date and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper;

(4) The person delivering the hazardous waste to the initial rail or water transporter obtains the date of delivery and signature of the rail or water transporter on the manifest or shipping paper and forwards it to the designated facility; and

(5) A copy of the shipping paper or manifest is retained by each rail or water transporter.

(f) 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;

(2) Sign the manifest and retain one (1) copy; and

(3) Return a signed copy of the manifest to the generator.

(g) The transporter must deliver the entire quantity of hazardous waste which he or she has accepted from the generator or a transporter to:

- (1) The designated facility listed on the manifest;
- (2) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because emergency prevents delivery;
- (3) The next designated transporter; or
- (4) The place outside the United States designated by the transporter.

(h) If the hazardous waste cannot be delivered in accordance with subsection (g) of this section, the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

(i) **Recordkeeping.**

(1) A transporter of hazardous waste and the next designated transporter or the owner or operator of the designated facility must keep a copy of the manifest signed by the generator for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter.

(2) For shipments delivered to the designated facility by rail or water, each rail or water transporter must retain a copy of shipping papers containing all public information required by the Division of Environmental Quality and the Environmental Protection Agency for a period of three (3) years.

(3) 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.

(4) 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:

- (A) Administrator of the Environmental Protection Agency;
- (B) Division of Environmental Quality; or
- (C) State Highway Commission.

Authority. Arkansas Code § 8-7-224.

27 CAR § 113-106. Enforcement.

This part shall be enforced by enforcement personnel of the State Highway Commission and the enforcement personnel of the Division of Environmental Quality as provided in the act.

Authority. Arkansas Code § 8-7-224.

27 CAR § 113-107. Application for Arkansas hazardous waste transportation permits.

(a) The General Rules of Practice and Procedure, 27 CAR pt. 110, before the State Highway Commission are amended to include 27 CAR § 110-1102 which sets out the application procedure for a hazardous waste transportation permit.

(b) See 27 CAR § 110-1102 of General Rules of Practice and Procedure.

Authority. Arkansas Code § 8-7-224.

27 CAR § 113-108. Identification of vehicles.

(a) 27 CAR § 110-1204 of the General Rules of Practice and Procedure, 27 CAR pt. 110, is amended by including a second paragraph as follows:

“Each carrier operating under authority of a hazardous waste transportation permit must, in addition to the requirements of the preceding paragraph, have displayed on both sides of all power units, the location of the principal office of the operator and the hazardous waste transportation permit number.”

Authority. Arkansas Code § 8-7-224.

27 CAR § 113-109. Minimum insurance requirements.

(a) The minimum insurance requirements of 27 CAR § 110-1301 of General Rules of Practice and Procedure, 27 CAR pt. 110, are amended to include an additional section as follows.

(b) On vehicles used to transport hazardous material and hazardous waste:

(1)(A) Type of carriage: for-hire and private in interstate, foreign, and/or intrastate commerce.

(B) Kind of equipment: freight vehicles of ten thousand pounds (10,000 lbs.) or more gross vehicle weight rating.

(C) Commodity transported: hazardous substances, as defined in 49 C.F.R. § 171.8, transported in:

(i) Cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of three thousand five hundred (3,500) water gallons;

(ii) In bulk Class A or B explosives, poison gas, or compressed gas; or

(iii) Highway route-controlled quantity radioactive materials as defined in 49 C.F.R. § 173.403.

(D) Liability limit: five million dollars (\$5,000,000);

(2)(A) Type of carriage: for-hire and private in interstate or foreign commerce, in any quantity; or in intrastate commerce, bulk only.

(B) Kind of equipment: freight vehicles of ten thousand pounds (10,000 lbs.) or more gross vehicle weight rating.

(C) Commodity transported:

(i) Oil listed in 49 C.F.R. § 172.101; or

(ii) Hazardous waste, hazardous materials, and hazardous substances defined in 49 C.F.R. § 171.8 and listed in 49 C.F.R. § 172.101, but not mentioned above or below.

(D) Liability limit: one million dollars (\$1,000,000); and

(3)(A) Type of carriage: for-hire and private in interstate commerce.

(B) Kind of equipment: freight vehicles under ten thousand pounds (10,000 lbs.) gross vehicle weight rating.

(C) Commodity transported:

(i) Any quantity of Class A or B explosives;
(ii) Any quantity of poison gas (Poison A); or
(iii) Highway route-controlled quantity radioactive materials as defined in 49 C.F.R. § 173.403.

(D) Liability limit: five million dollars (\$5,000,000).

Authority. Arkansas Code § 8-7-224.

27 CAR § 113-110. Subsequent hearings and amendments.

This part shall be subject to future amendments, exemptions, or modifications, as the State Highway Commission recognizes are necessary for the accomplishment of the purposes of the Arkansas Hazardous Waste Management Act of 1979, Acts 1979, No. 406, or as otherwise provided by the Arkansas Motor Carrier Act, 1955, Arkansas Code § 23-13-201 et seq.

Authority. Arkansas Code § 8-7-224.