

**WAC 173-303-250 Dangerous waste acceptance, transport, and delivery.** (1)(a) A transporter may not accept dangerous waste from a generator unless the transporter is also provided with a manifest signed in accordance with WAC 173-303-180(3) (Manifest procedures) or is provided with an electronic manifest that is obtained, completed, and transmitted in accordance with WAC 173-303-180(9) and signed with a valid and enforceable electronic signature as described in WAC 173-303-180(11).

(b) Exports. For exports of dangerous waste subject to 40 C.F.R. 262 Subpart H (which is incorporated by reference at WAC 173-303-230(1)), a transporter may not accept such waste without a manifest signed by the generator in accordance with this section, as appropriate, and for exports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by 40 C.F.R. Part 262.83(d).

(2) Before transporting a dangerous waste shipment, the transporter must sign and date the manifest, acknowledging acceptance of the dangerous waste. The transporter must return a signed copy to the generator before commencing transport.

(3) The transporter must insure that the manifest accompanies the dangerous waste shipment. In the case of exports occurring under the terms of a consent issued by EPA to the exporter on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 40 C.F.R. Part 262.83(d) also accompanies the dangerous waste. In the case of imports occurring under the terms of a consent issued by EPA to the country of export or the importer on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 40 C.F.R. Part 262.84(d) also accompanies the dangerous waste.

(4) A transporter who delivers a dangerous waste to another transporter, or to the designated facility must:

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

(b) Retain one copy of the manifest in accordance with WAC 173-303-260, Transporter recordkeeping; and

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

(5) Except as provided in subsection (6) of this section, the transporter must deliver the entire quantity of dangerous waste which they have accepted from a generator or a transporter to:

(a) The designated facility listed on the manifest; or

(b) The alternate designated facility, if the dangerous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(c) The next designated transporter; or

(d) The place outside the United States designated by the generator.

(6)(a) Emergency condition. If the dangerous waste cannot be delivered in accordance with subsection (5)(a), (b) and (d) of this section because of an emergency condition other than rejection of the waste by the designated facility, or alternate designated facility, then the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

(b) Transporters without generator authority. If the dangerous waste is not delivered to the next designated transporter in accord-

ance with subsection (5)(c) of this section, and the current transporter is without contractual authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter must contact the generator for further instructions prior to making any revisions to the transporter designations on the manifest. The current transporter may thereafter make such revisions if:

(i) The dangerous waste is not delivered in accordance with subsection (5)(c) of this section because of an emergency condition; or

(ii) The current transporter proposes to change the transporter(s) designated on the manifest by the generator, or to add a new transporter during transportation, to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety; and

(iii) The generator authorizes the revision.

(c) Transporters with generator authorization. If the dangerous waste is not delivered to the next designated transporter in accordance with subsection (5)(c) of this section, and the current transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporters(s) designated on the manifest, or add a new transporter, during transportation without the generator's prior, explicit approval, provided that:

(i) The current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;

(ii) The transporter enters in Item 14 of each manifest for which such a change is made, the following statement of its agency authority: "Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator's behalf"; and

(iii) The change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.

(d) Generator liability. The grant by the generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under (c) of this subsection does not affect the generator's liability or responsibility for complying with any applicable requirement under this chapter, or grant any additional authority to the transporter to act on behalf of the generator.

(e) Rejected loads. If dangerous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter must obtain the following:

(i) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature, and the manifest tracking number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with WAC 173-303-260, and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in WAC 173-303-370 (5)(e)(i) through (vi) or 173-303-370 (5)(f)(i) through (vi).

(ii) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and identification number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with WAC 173-303-260, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with WAC 173-303-370 (5)(e)(i) through (vi).

(7) The requirements of subsections (3), (4), and (8) of this section do not apply to water (bulk shipment) transporters if:

(a) The dangerous waste is delivered by water (bulk shipment) to the designated facility; and

(b) A shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by 40 C.F.R. part 262.83(d) or 262.84(d) accompanies the dangerous waste; and

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

(d) The person delivering the dangerous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(e) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with WAC 173-303-260(2).

(8) For shipments involving rail transportation, the requirements of subsections (3), (4), and (7) of this section do not apply and the following requirements do apply.

(a) When accepting dangerous waste from a nonrail transporter, the initial rail transporter must:

(i) Sign and date the manifest acknowledging acceptance of the dangerous waste;

(ii) Return a signed copy of the manifest to the nonrail transporter;

(iii) Forward at least three copies of the manifest to:

(A) The next nonrail transporter, if any; or

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States;

(iv) Retain one copy of the manifest and rail shipping paper in accordance with WAC 173-303-260(2).

(b) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by 40 C.F.R. Part 262.83(d) or 262.84(d) accompanies the dangerous waste at all times. (Note: Inter-

mediate rail transporters are not required to sign the manifest, movement document, or shipping paper.)

(c) When delivering dangerous waste to the designated facility, a rail transporter must:

(i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

(ii) Retain a copy of the manifest or signed shipping paper in accordance with WAC 173-303-260(2).

(d) When delivering dangerous waste to a nonrail transporter a rail transporter must:

(i) Obtain the date of delivery and the handwritten signature of the next nonrail transporter on the manifest; and

(ii) Retain a copy of the manifest in accordance with WAC 173-303-260(2).

(e) Before accepting dangerous waste from a rail transporter, a nonrail transporter must sign and date the manifest and provide a copy to the rail transporter.

(9) Transporters who transport dangerous waste out of the United States must:

(a) Sign and date the manifest in the international shipments block to indicate the date that the shipment left the United States;

(b) Retain one copy in accordance with WAC 173-303-260(3), Transporter recordkeeping;

(c) Return a signed copy of the manifest to the generator; and

(d) For paper manifest only:

(i) Send a copy of the manifest to the e-Manifest system in accordance with the allowable methods specified in WAC 173-303-370(2)(e); and

(ii) For shipments initiated prior to the automated export system (AES) filing compliance date, when instructed by the exporter to do so, give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

(10) Use of electronic manifest.

(a) Legal equivalence to paper forms for participating transporters. Electronic manifests that are obtained, completed, and transmitted in accordance with WAC 173-303-180(9) and used in accordance with this section are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in this section to obtain, complete, sign, provide, give, use or retain a manifest.

(i) Any requirement in this section to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of WAC 173-303-180(11).

(ii) Any requirement in this section to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the e-Manifest system.

(iii) Any requirement in this section for a manifest to accompany a dangerous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that to the extent that the hazardous materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to com-

ply with 40 C.F.R. Part 177.817, a dangerous waste transporter must carry one printed copy of the electronic manifest on the transport vehicle. In addition, the one printed copy of the electronic manifest must provide the information required in WAC 173-303-180(6) for state-only dangerous waste that designates only by the criteria under WAC 173-303-100.

(iv) Any requirement in this section for a transporter to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the transporter's account on the national e-Manifest system, provided that such copies are readily available for viewing and production upon request.

(v) A transporter may not be held liable for the inability to produce an electronic manifest for inspection under this section if the transporter can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the EPA's electronic manifest system for which the transporter bears no responsibility.

(b) A transporter may participate in the electronic manifest system either by accessing the electronic manifest system from the transporter's own electronic equipment, or by accessing the electronic manifest system from the equipment provided by a participating generator, by another transporter, or by a designated facility.

(c) Special procedures when electronic manifest is not available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the electronic manifest system should become unavailable for any reason, then:

(i) The transporter in possession of the dangerous waste when the electronic manifest becomes unavailable shall reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to (a)(iii) of this subsection, or obtain and complete another paper manifest for this purpose. The transporter shall reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the dangerous waste.

(ii) On each printed copy, the transporter shall include a notation in the special handling and additional description space (Item 14) that the paper manifest is a replacement manifest for the manifest originated in the electronic manifest system, shall include (if not preprinted on the replacement manifest) the manifest tracking number of the electronic manifest that is replaced by the paper manifest, and shall also include a brief explanation why the electronic manifest was not available for completing the tracking of the shipment electronically.

(iii) A transporter signing a replacement manifest to acknowledge receipt of the dangerous waste must ensure that each paper copy is individually signed and that a legible handwritten ink signature appears on each copy.

(iv) From the point at which the electronic manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies shall be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.

(d) Special procedures for electronic signature methods undergoing tests. If a transporter using an electronic manifest signs this manifest electronically using an electronic signature method which is

undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of this signature method, then the transporter shall sign the electronic manifest electronically and also sign with an ink signature the transporter acknowledgment of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with (a)(iii) of this subsection. This printed copy bearing the generator's and transporter's ink signatures shall also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner/operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy shall be delivered to the designated facility with the waste materials.

(e) Imposition of user fee. A transporter who is a user of the electronic manifest may be assessed a user fee by EPA for the origination or processing of each electronic manifest. EPA shall maintain and update from time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees will be published as an appendix to 40 C.F.R. Part 262, by EPA.

(f) Post-receipt manifest data corrections. After facilities have certified to the receipt of dangerous waste by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. Transporters may participate electronically in the post-receipt data corrections process by following the process described in WAC 173-303-370 (10)(g), which applies to corrections made to either paper or electronic manifest records.

[Statutory Authority: Chapter 70.105, 70.105D RCW and Subtitle C of RCRA. WSR 20-20-045 (Order 19-07), § 173-303-250, filed 9/30/20, effective 10/31/20. Statutory Authority: Chapters 70.105, 70.105D RCW and RCRA. WSR 19-04-038 (Order 16-03), § 173-303-250, filed 1/28/19, effective 4/28/19. Statutory Authority: Chapters 70.105 and 70.105D RCW. WSR 09-14-105 (Order 07-12), § 173-303-250, filed 6/30/09, effective 7/31/09. Statutory Authority: Chapters 70.105, 70.105D, and 15.54 RCW and RCW 70.105.007. WSR 04-24-065 (Order 03-10), § 173-303-250, filed 11/30/04, effective 1/1/05. Statutory Authority: Chapters 70.105 and 70.105D RCW. WSR 95-22-008 (Order 94-30), § 173-303-250, filed 10/19/95, effective 11/19/95. Statutory Authority: Chapter 70.105 RCW. WSR 84-09-088 (Order DE 83-36), § 173-303-250, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. WSR 82-05-023 (Order DE 81-33), § 173-303-250, filed 2/10/82. Formerly WAC 173-302-220 and 173-302-230.]