

9 VAC 20-170. Transportation of Solid and Medical Wastes on State Waters (adding 9 VAC 20-170-70 and 9 VAC 20-170-195).

PART II. STANDARDS FOR CONTAINERS.

9 VAC 20-170-70. Design, operation and maintenance of containers.

A. All transportation of solid waste or regulated medical waste on state waters shall be in containers meeting the specifications and standards specified in this section.

B. Each container must meet the following:

1. Each container shall be watertight and shall be designed, constructed, loaded, operated, secured and maintained so as to prevent the escape of wastes, liquids, and odors and to prevent the loss or spillage of wastes in the event of an accident.

2. Each container shall be stacked no higher on barges than allowable under federal law, and shall be secured to the barges to prevent accidents during transportation, loading and unloading.

3. Each container shall be completely enclosed, rigid, and constructed of nonpermeable material.

4. Each container shall meet all applicable U.S. Department of Transportation specifications.

5. [~~Construction and demolition debris waste~~ Waste that is rocks, brick, cement block, uncontaminated dirt, broken concrete or road pavement and contains no paper, vegetative waste, wallboard or wood waste] may be contained in covered barges without other containerization and the barge itself shall be considered the container if the following requirements are met:

a. The barge shall fully comply with all other requirements of this section, 9 VAC 20-170-70, except subdivisions [~~C 1, C 2, and D 3-a~~ D 1, D 2 and D 3 a,] and subsection [~~D E~~] of this section.

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b. The waste shall be [~~only construction demolition debris waste and~~] free of municipal waste, sludge, hazardous waste, regulated medical waste, radiological waste, putrescible waste, ash, waste that gives off gases or objectionable odors, petroleum products, industrial chemicals, industrial waste, or any waste that causes a nuisance.

C. Each container shall be identified on a manifest in accordance with 9 VAC 20-170-100 and be accompanied by a current certificate from the owner of the container that it has been tested and found to be watertight in accordance with the requirements of this part.

D. Each container shall be tested and certified by [~~the American Bureau of Shipping (ABS) a Delegated Approval Authority~~] to be in compliance with the requirements of this subsection. [~~A Delegated Approval Authority shall be an "approval authority" delegated by the U. S. Coast Guard Commandant in accordance with 49 CFR 450-453 (defined in 49 CFR 450.3). The ABS Delegated Approval Authority~~] certification shall include, at least, the following items.

1. Each container shall be certified and bear a plate (CSC plate) showing certification of compliance with the International Convention for Safe Containers standards for ocean shipping containers (December 2, 1972; amended November 4, 1993).

2. Each container shall be certified as meeting the [~~American Bureau of Shipping's ABS's~~] general specifications (see Section 6 of the Rules for Certification of Cargo Containers, 1987, American Bureau of Shipping), including weathertightness for general service. Each container shall have affixed to it in a visible and accessible location a decal including the ABS general service emblem, a notice and date of certification, and the names, addresses and telephone numbers of the person performing the test and the owner of the container.

3. [~~Once each six months, each~~] Each container shall be certified as having passed the following test [~~when it is placed in service and, at least, once every six months thereafter while it remains in service~~]:

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a. Each container shall have a minimum [internal] head [of 24 inches of water ~~of water of~~ 24 inches] applied for at least fifteen minutes during which the container shall remain free from the penetration of water. All wastewater and contaminated water resulting from this test procedure shall be disposed of in compliance with the applicable regulations of the State Water Control Board.

b. Each container shall be visually inspected for damage on all sides, plus the top and bottom, and must have no visible holes, gaps or structural damage [affecting its integrity or performance].

E. Each container shall have affixed to it in a visible and accessible location: (i) a decal including the ABS general service emblem, a notice and date of certification, and the name and address and telephone numbers of the person performing the test and the owner of the container, (ii) a CSC plate showing compliance with the International Convention for Safe Container Standards as prescribed in this section, (iii) [ABS the Delegated Approval Authority] certification for compliance with the provisions set forth in subsection D, including a notice and date of certification and the names, addresses and telephone numbers of the persons performing the task and the owner of the container.

F. Owners of all containers shall keep a record of testing of each container for, at least, the preceding three years and provide copies of [the log and certification to persons those records to persons] who lease or handle the container. Such records shall be available to the department for inspection at the receiving facility.

G. Notwithstanding the foregoing, during [normal transportation, holding and storage operations operation] or in the event of an accident, the (i) entry of liquids into a container; (ii) escape, loss or spillage of wastes or liquids from a container; or (iii) escape of odors from a container shall be a violation of this chapter.

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PART V. [OFF-LOADING MONTHLY] FEES COLLECTED BY RECEIVING FACILITIES.

9 VAC 20-175-195. [off-loading monthly] fee requirements.

A. Purpose and application.

1. The purpose of this section is to establish schedules and procedures pertaining to the payment and collection of waste [off-loading monthly] fees from any owner or operator of any ship, barge or other vessel by the receiving facility.

2. The fees shall be based on the accurate weight of waste received at the receiving facility. If scales are unavailable, the maximum volumetric capacity of the container multiplied by 0.50 tons per cubic yard may be used as an alternative to accurate weighing of the waste. If the volumetric alternative is used, accurate and complete records of the volume of each container of such waste must be maintained in addition to the calculated weight records describe in this part.

3. If a ship, barge or other vessel that off-loads no more than 50 tons of waste per month in total at all facilities, then the owner or operator of the ship, barge, or other vessel is exempt from the assessment and payment of operating fees and related requirements set out in this section, except for the maintenance of records.

B. Payment, deposit and use of fees.

1. Due date. The owner or operator of the ship, barge, or other vessel shall pay, and the receiving facility shall collect, the correct fees for all waste off-loading at the facility at or before the time it is off-loaded. The owner or operator of the receiving facility shall be the responsible steward for the funds collected and shall forward to the department the total amounts due from all ships, barges or other vessels off-loading at the facility on a monthly basis. All payments for

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waste received at a facility during the month shall be received by the department no later than the fifteenth of the succeeding month.

2. Method of payment.

a. The owner or operator of the receiving facility shall send a payment transmittal letter to the Department of Environmental Quality regional office for the area in which the receiving facility is located. The letter shall contain the name of the facility, the period that the payment covers, and a summary of weights of wastes received at the facility for the period, including those calculated in accordance with subdivision A 2 of this section. Attached to the letter shall be a log of the waste received showing the date; time of weighing or measurement; weight or volume and calculated weight of each container received; the name, address, and telephone number of the owner or operator of the ship, barge, or other vessel off-loading the container; the name, address and telephone number of the person actually weighing the waste container or verifying the volume; a certification of the accuracy of the scales based on a calibration, including the name, address and telephone number of the person certifying the accuracy of the scale. A facsimile of the check, draft, or money order submitted under subdivision B 2 b of this section shall also be attached. The owner or operator of the receiving facilities shall keep accurate accounts of all payments of [~~off-loading~~ monthly] fees by ship, barge or vessel owners and make them available to the department for audit; however, he need not send this information with the aforementioned payment unless requested to do so by the department.

b. Fees shall be paid by check, draft or postal money order made payable to "Treasurer of Virginia/DEQ", and shall be sent to the Department of Environmental Quality, Receipts Control, P. O. Box 10150, Richmond, VA 23240. A copy of the transmittal letter required in

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subdivision B 2 a of this section, not to include the attachments, shall be included with the check.

c. Scales shall be accurate to measurements of plus or minus [40 40] pounds and shall be calibrated at least every [30 180] days. Scales for weighing containers must be located at the receiving facility, unless the [off-loading monthly] fee is determined by the maximum volumetric capacity of the container. Any failure to provide immediate access by Department of Environmental Quality personnel or agents to records or scale equipment during business hours shall be a violation of these regulations.

3. Late payment and incomplete payments. A late fee of 18.0% per annum, compounded daily, shall accrue immediately after a payment is due but not received by VDEQ. A facility shall be in arrears when a payment has not been received by the Department of Environmental Quality by the date it is due. [A facility in arrears shall cease receiving waste immediately and shall not receive waste until notified by the Department of Environmental Quality that waste receiving operations may resume. All incomplete payments will be deemed nonpayments. In the event that a facility fails to submit the required monthly fee, the owner or operator of the facility will be considered to be operating an unpermitted facility and shall be required to either obtain a new permit by rule in accordance with 9 VAC 20-170-180 A or close the facility in accordance with Article 2 of this chapter.]

4. Fee schedules. The fee for each ton or partial ton of waste [(the weight of the waste subject to the fee does not include the weight of the empty container itself)] off-loaded at the facility shall be \$1.00.

[5. The fees collected shall be deposited into a separate account within the Virginia Waste Management Board Permit Program Fund and shall be treated as are other moneys in that fund except that they shall only be used for the purposes of Article 7.1 of Chapter 1400 in Title

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10.1 of the Code of Virginia, and for funding purposes authorized by that article. Authorized funding purposes under the article include the administrative and enforcement costs associated with such operations including, but not limited to, the inspection and monitoring of such ships, barges or other vessels to ensure compliance with the article, and activities authorized by § 10.1-1454.1 to abate pollution caused by barging of waste, to improve water quality, or for other waste-related purposes.]

C. Right of entry, inspection and audit.

Upon presentation of appropriate credentials and upon the consent of the owner or custodian, the director of the Department of Environmental Quality or his designee, in addition to the routine inspection of the facility, shall have the right to enter, inspect and audit the records of the receiving facility. The owner or operator of the facility shall provide complete and timely access, during business hours, to all associated equipment, records and facility.

CERTIFIED TRUE AND ACCURATE: _____
Robert G. Burnley, Director, DEQ by
Rick F. Weeks, Jr., Deputy Director, DEQ

Date: _____