

DEPARTMENT OF THE ARMY
Corps of Engineers, Portland District
P.O. Box 2946
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CENWP-OP-SR
Regulation
No.200-1-1

1 May 2000

Environmental Quality
SIGNING HAZARDOUS WASTE MANIFESTS

History. This NWPR printing publishes a revision to this Portland District regulation.

Summary. The Resource Conservation and Recovery Act (RCRA) addresses the "cradle to grave" management of hazardous waste. This includes the generation, storage, treatment, transportation and disposal of hazardous wastes. Implementing regulation (Title 40, Code of Federal Regulations, Part 262) requires a generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal to prepare and sign a Uniform Hazardous Waste Manifest (referred to as "manifest") which describes the hazardous waste in detail. The manifest is the most crucial document in the waste tracking process and demands special care and consideration (See Appendix B for an example manifest). In accordance with Department of Transportation (DOT) regulations, 49 CFR 172.702, a "hazmat employee" (see Definitions below) "**may not**" perform the functions of a hazmat employee, including signing manifests, without proper training.

1. PURPOSE. This regulation prescribes policy, procedures, and responsibilities for Portland District personnel involved in signing hazardous waste manifests in conjunction with the preparation, transportation and disposal of hazardous waste.
2. APPLICABILITY. This regulation is applicable to all offices/divisions within the Portland District.
3. REFERENCES.
 - a. Required Publications.
 - (1) 40 CFR 261.2. Cited in paragraph 4c.
 - (2) 49 CFR 172.704 (Subpart H - Training). Cited in paragraph 5 and 7a.
 - (3) 49 CFR 171.8, Subchapter C. Cited in paragraphs 4a and b, 7b(1) and (2).

*This regulation supersedes NPPR 200-1-1, 18 January 1995.

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b. Related Publications.

(1) USACE Construction Bulletin No. 91-13, 3 Jul 91; Subject: Preparation and Signature of Hazardous Waste Manifests and Land Ban Certifications on EPA Superfund Projects.

(2) USACE Construction Bulletin No. 91-21, 27 Nov 91, Subject: Signature of Hazardous Waste Manifests for EPA Superfund Projects.

(3) USACE CEMP-RT Memorandum dated 30 Apr 93, Subject: Signatory Responsibility for Hazardous Waste Manifests and Related Documents - Policy Guidance.

(4) USACE Construction Bulletin No 96-9, 13 Mar 96, Subject: Hazardous Waste Manifest Signature Policy and Procedures which is a reissue of USACE Construction Bulletin No 93-6, 4 May 93, Subject: Hazardous Waste Manifest Signature Policy and Procedures.

(5) Memorandum For Record, signed by Brigadier General Pat M. Stevens IV, 30 Apr 93, SUBJECT: Signatory Responsibility For Hazardous Waste Manifests And Related Documents - Policy Guidance.

4. DEFINITIONS

a. **Hazmat employee** is defined by DOT in 49 CFR 171.8 as a person who is employed by a hazmat employer and who in the course of employment directly affects hazardous materials/wastes transportation safety. This term includes an owner-operator of a motor vehicle that transports hazardous material in commerce. This term describes an individual, including a self-employed individual employed by a hazmat employer who, during the course of employment: (1) Loads, unloads, or handles hazardous materials/wastes; (2) Manufactures, tests, reconditions, repairs, modifies, marks, or otherwise represents containers, drums, or packaging as qualified for use in the transportation of hazardous materials/wastes; (3) Prepares hazardous materials for transportation; (4) Is responsible for safety of transporting hazardous materials; or (5) Operates a vehicle used to transport hazardous materials/wastes.

b. **Hazmat employer** is defined and regulated by DOT in 49 CFR 171.8 as a person who uses one or more of its employees in connection with: transporting hazardous materials in commerce; causing hazardous material to be transported or shipped in commerce; or representing, marking, certifying, selling, offering, reconditioning, testing, repairing, or modifying containers, drums, packaging as qualified for use in the transportation of hazardous materials. This term includes an owner-operator of a motor vehicle which transports hazardous materials in commerce. This term also includes any department, agency or instrumentality of the United States, a State, a political subdivision of a state, or an Indian tribe engaged in an activity described in the first sentence of this definition.

c. **Generator** is defined by RCRA as any person, by site, whose act or process produces hazardous waste identified or listed in 40 CFR 262.10 or whose act first causes a hazardous waste to become subject to regulation.

d. **Transportation** is defined by RCRA to mean the movement of hazardous waste by air, rail, highway, or water.

5. RESPONSIBILITIES. The following paragraphs describe the responsibilities of the Portland District as the "hazmat employer" and its personnel as "hazmat employees."

a. **Portland District Responsibility.** The Portland District will ensure each of its employees that sign hazardous waste manifests (whether they be operating projects or on behalf of other government organizations) are trained in accordance with the requirements prescribed in Subpart H-Training, 49 CFR 172.704. This responsibility pertains to Chiefs of Operations Division and Engineering-Construction Division. The required training can be obtained from within or outside the District. Only Portland District employees formally designated and authorized by the Portland District Commander/Deputy Commander will be allowed to execute manifests and related documents. The format designation must be IN WRITING and state that the employee is within his/her scope of employment when executing such documents. A copy of the proper format for this authorization is at Appendix A.

b. **Employee Responsibility.** A Portland District employee may not sign hazardous waste manifests unless properly trained in the following areas:

(1) **General awareness/familiarization training.** General awareness/familiarization training is designed to provide familiarity with the requirements of RCRA and DOT and enable the employee to recognize and identify hazardous materials/wastes consistent with the hazard communication standards of 49 CFR, Subchapter C.

(2) **Function-specific training.** Function-specific training concerning requirements of 49 CFR, Subchapter C which are specifically applicable to the functions the employee performs. Examples of such function-specific training are: shipping paper requirements; marking requirements; labeling requirements; and, placarding requirements.

(3) **Safety training.** Each Portland District employee must receive safety training. Training conducted by employers to comply with the hazard communications programs required by the Occupational Safety and Health Administration (OSHA) of the Department of Labor (29 CFR 1910.120) or the Environmental Protection Agency (EPA) (40 CFR 311.1) to the extent that training addresses the safety training specified in 49 CFR 172.700 may be used to satisfy the training requirements.

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6. POLICY. This regulation implements Portland District policy for ensuring that hazardous waste manifests are accurate and signed only by trained and authorized District personnel.

7. GENERAL. For the purpose of executing manifests, Portland District is considered the owner of hazardous waste generated at Corps project facilities and at its construction sites, with the exception of hazardous waste generated by contractors from materials that they bring onto the project site. This waste is considered the property of the contractor and proper disposal, including manifesting, is the responsibility of the contractor. When the Corps is performing work for a customer agency, the customer agency is the generator for purposes of executing manifests. However, the customer agency may delegate to the Corps the responsibility of managing and executing manifests, to include signing "on behalf" of the generator. When the Portland District (hazmat employer) utilizes its personnel (hazmat employees) to sign manifests, the personnel must have the training set forth in 49 CFR 172.704 (Subpart H-Training).

8. INITIAL AND RECURRENT TRAINING.

a. Initial training. The District must train each employee who has hazmat responsibility within 90 days from start of employment or assumption of duties as a hazmat employee.

b. Recurrent Training. A District hazmat employee must receive refresher training at least once every two (2) years.

9. PROCEDURES. The following procedures were extracted from Construction Bulletin No. 96-9 which is a reissue of Construction Bulletin No. 93-6. Where USACE personnel execute Uniform Hazardous Waste Manifest forms and related documents, procedures will be adopted by the Portland District as follows:

NOTE: In those instances where the additional cost of sending a qualified USACE representative to a remote location for a small project is unwarranted, the option of requiring the Contractor to sign the manifests is permitted and should be considered. This option can only be exercised on a project specific basis after written authorization of the customer and approval of the Chief, Engineering-Construction Division at the executing district. For FUDS projects, only the approval of the Chief, Engineering-Construction Division at the executing district is necessary. In all cases, this requirement (of having the Contractor sign the manifest) must be incorporated in the contract solicitation prior to contract award.

a. Corps Owned Facilities (**OPERATIONS DIVISION**). Where the Corps is the "Generator" of hazardous waste, Portland District personnel shall enter in Block #3 on the manifest "U.S. Army Corps of Engineers," followed by the name and address of the Portland District Office that manages the returned manifests. In the generator's certification box (Block #16), the Portland District authorized employee would type or print the phrase "On behalf of the U.S. Army Corps of Engineers" followed by his or her signature.

b. Non-Corps Facilities. In the Generator's Name and Mailing Address box (Block #3) on the manifest, Portland District authorized personnel will enter the Customer's Name (i.e. "Environmental Protection Agency/Superfund Program", "Farmers Home Administration." "DOD (DERP/FUDS)" as appropriate followed by "c/o" and then the name and address of the Portland District office that manages the returned manifests. In the Generator's certification box (Block #16), the Portland District employee will write or print the phrase "On behalf of the (name of the customer)" followed by his or her signature, followed by USACE. On FUDS (Formerly Used Defense Sites) sites, Portland District personnel should follow the same procedures except type or print, "On behalf of the Department of Defense."

c. Assure that Portland District is authorized by its customers to execute manifests and related documents on their behalf before such documents are executed. This authorization is affected through an explicit provision in a Memorandum of Agreement/Understanding, Inter-Agency Agreement, or correspondence signed by an appropriate agency official requesting and authorizing Portland District to sign on their behalf. HQUACE Office of Counsel advised EPA's letter of 19 October 1990 requesting and authorizing USACE to execute and certify manifests and related documents on their behalf is legally sufficient and that no further documentation or individual project authorization is necessary. The customer request and authorization must acknowledge that the customer retains all responsibilities for the hazardous waste as a generator. This shall extend to the execution of the manifests, Land Disposal Restriction Notification and Certifications, Waste Profile Sheets, and other forms necessary for the completion of manifests for transportation and disposal of hazardous waste. Approval to undertake the delegated responsibility of signing manifest forms and related documents rests with the Chief, Engineering-Construction Division at the executing district. If state statutes or regulations do not permit USACE to sign such documents on behalf of the Generator, the Resident Engineer or other designated USACE representative should contact the Generator for further guidance.

FOR THE COMMANDER:



NORA L. DONOHUE
Executive Assistant

2 Appendices

APP A - Example Memorandum of Formal Authorization to Execute
Hazardous Waste Manifests

APP B - URL for Example Uniform Hazardous Waste Manifest Form

DISTRIBUTION:

Chiefs Divisions, Staff Offices, Branches and Field

APPENDIX A
SAMPLE MEMORANDUM OF FORMAL AUTHORIZATION TO
EXECUTE HAZARDOUS WASTE MANIFEST

CENWP-OP-SR

MEMORANDUM FOR RECORD

SUBJECT: Formal Designation and Authorization to Execute Hazardous Waste Manifests and Related Documents

1. References:

- a. 49 CFR 172.700, Hazardous Materials Transportation Uniform Safety Act Training Requirements, 1 Oct 98.
- b. 40 CFR 262.20, Resource Conservation and Recovery Act Manifesting Requirements, 1 Jul 98.

2. This memorandum serves as formal designation and authorization of the below individual, as an employee of the Portland District Army Corps of Engineers, to sign Uniform Hazardous Waste manifests and related documents on behalf of the United States Army Corps of Engineers or any other federal customer organization whose authorization is effected through an explicit provision in a Memorandum of Agreement, Inter-Agency Agreement, or correspondence:

Name:
Title:
Office:

3. It has been verified that the above named individual has received satisfactory training in the following areas IAW 49 CFR 172.700 (Subpart H-Training) under the Hazardous Transportation Uniform Safety Act (DOT) and 40 CFR 262.20 (Subpart B – The Manifest) under the Resource Conservation and Recovery Act (RCRA):

General Awareness Training
Function-Specific Training
Safety Training
Driver Training-Not Applicable

4. Signing manifests and related documents is within the above named employee's scope of employment.

RANDALL J. BUTLER
Colonel, EN
Commanding

CF:
CENPP-OP-SR

APPENDIX B

Below is the URL to access a copy of EPA Form 8700-22, Uniform Hazardous Waste Manifest.

<http://www.epa.gov/epaoswer/hazwaste/gener/manifest/pdf/form.pdf>