# 06-096

**Department of Environmental Protection**

**Maine Solid Waste Management Rules**

**CHAPTER 411**

**NON-HAZARDOUS WASTE TRANSPORTER LICENSES**

Last Revised:

**March 13, 1991**

Chapter 411: NON-HAZARDOUS WASTE TRANSPORTER LICENSES

SUMMARY: This rule establishes the requirements and procedures for obtaining a license to transport solid waste, special waste or septage in the State of Maine.

**1. Definitions.** The terms used in this Chapter shall have the same meanings as those described in 38 M.R.S.A. Section 1303-C et seq. and Chapter 400, Section 1 of these rules unless the context indicates otherwise. In addition, the following terms, as used in this Chapter, shall have the following meanings, unless the context indicates otherwise.

**A. Containerized.** "Containerized" is defined as placing waste in a U.S. Department of Transportation approved 55-gallon drum with an attachable cover. The drum should contain at least a six-inch layer of an approved absorbant material at the bottom. Other measures necessary to prevent the generation of free liquids could be used upon Department approval. The attachable drum cover shall be secured prior to and during transport or storage.

**B. Conveyance.** "Conveyance" as that term is defined in 38 M.R.S.A. Section 1303-C(10) means any aircraft, watercraft, vehicle or other machine used for transportation on land, water or in the air. For the purposes of this rule, either the power unit, trailer, semi-trailer, or the container being transported shall be licensed.

**C. Non-hazardous Waste.** "Non-hazardous Waste" means any solid waste, special waste or septage that is not a hazardous waste, biomedical waste, or low-level radioactive waste.

**D. Septage.** "Septage" as that term is defined in 38 M.R.S.A. Section 1303-C(27) means waste, refuse, effluent, sludge and any other materials from septic tanks, cesspools or any other similar facilities. For the purposes of this rule this shall include non-industrial holding tank waste.

**E. Site.** "Site" as that term is defined in 38 M.R.S.A. Section 1303-C(28) means the same or geographically contiguous property which may be divided by a public or private right-of-way, provided that the entrance and exit between the properties is at a crossroads intersection and access is by crossing, as opposed to going along, the right of way. Noncontiguous properties owned by the same person but connected by a right of way which he controls and to which the public does not have access is also considered site property.

**F. Transport.** "Transport" means the movement of non-hazardous waste from the point of generation to any intermediate points and finally to the point of ultimate disposition. Movement of non-hazardous waste on the site where it is generated or on the site of a licensed (or exempted) non-hazardous waste facility is not transport.

**G. Transporter.** "Transporter" means any person who transports non-hazardous waste in this state other than anyone who transports municipal solid waste on behalf of five or fewer households or any commercial establishment which transports only its own municipal solid waste to a licensed waste disposal facility using three or fewer trips with one conveyance per week. The term includes, without limitation, individuals who own, lease or otherwise control conveyances in which non-hazardous waste is transported, operators of such conveyances, and businesses, regardless of size and form of business organization, which engage in transportation of non-hazardous waste.

**2. Non-hazardous Waste Transporter License**

**A. Prohibition.** No transporter shall transport non-hazardous waste into, out of, or within the State of Maine without the conveyance having a valid non-hazardous waste transporter license issued by the Department, unless the transporter or conveyance is exempted under Section 2(D) of this rule.

**B. License required.** Except as otherwise specified in this paragraph, after April 1, 1991, the owner of any conveyance used for transporting non-hazardous waste shall obtain from the Department a non-hazardous waste transporter license for each conveyance used for transporting non-hazardous waste. After April 1, 1991, any railroad transporting non-hazardous waste shall obtain from the Department a single non-hazardous waste transporter license for its transportation of non-hazardous waste into, out of, or within the State of Maine.

**C. Categories.** For the requirements of this Chapter, conveyances requiring non-hazardous waste transporter licenses shall be divided into the following categories:

(1) Category A: Special Waste, Scrap Tires, and Construction/Demolition Debris.

(2) Category B: Municipal Solid Waste other than Category A waste.

(3) Category C: Septage.

 A combination license may be obtained for any single conveyance hauling more than one of the above categories of non-hazardous waste.

**D. Exemptions.** This Chapter shall not apply to:

(1) A transporter who handles only one or more of the following:

(a) inert fill or land-clearing debris;

(b) snow which is hauled to licensed snow dumps; or

(c) materials that have been separated from solid waste and that are being transported for recycling, provided that these materials are not special waste or hazardous waste.

(2) A generator-owned or leased conveyance that transports non-hazardous waste to a generator-owned disposal site, provided the disposal of the waste is authorized pursuant to 38 M.R.S.A. Section 1306.

(3) Conveyances which transport wastewater treatment plant sludge to licensed disposal facilities; and conveyances which transport non-hazardous waste residuals to licensed utilization or composting sites.

(4) Conveyances with septage holding tanks used solely for passenger and crew lavatories.

(5) Conveyances with a Gross Vehicle Weight (GVW) of less than 10,001 pounds transporting municipal solid waste; and conveyances with a GVW less than 26,001 pounds transporting construction/demolition debris to licensed disposal facilities.

(6) Conveyances contracted by municipalities to haul Category A and Category B waste which do not transport these wastes for more than 10 days per calendar year.

(7) A generator-owned or leased conveyance transporting containerized non-hazardous wastes generated in the field to a generator-owned storage or transfer facility provided that such wastes are ultimately disposed in a licensed disposal facility.

**E. Fees.** A biennial fee shall be assessed for each conveyance licensed with the Department. Fees are non-refundable.

(1) Biennial fees shall be based upon the following table:

 First and second conveyance $100.00 each

 Third through tenth conveyance $70.00 each

 Eleventh conveyance and more $50.00 each

 The maximum biennial fee for any applicant shall be $2000.00.

(2) In the case of conveyances operated in other states or countries, the license fee shall be reduced by the percentage of the non-hazardous waste hauling activity, estimated by weight or volume, which occurs outside of the State of Maine. However, in no case will the license fee be less than half the normal fee.

(3) Any conveyance owned, leased, or operated by the federal government, state government, or any political subdivision of the state, including any city, town, plantation, county, special purpose district, quasi-municipal corporation or any instrumentality association or combination of the foregoing governmental entities shall be exempt from fees.

(4) In the case of licenses for transport of non-hazardous waste by rail, the fee structure set forth in subparagraph 1, above, shall apply, except that the fee shall be based on the number of locomotives used in trains transporting non-hazardous waste or, at the choice of the railroad, the number of containers used to transport non-hazardous waste during the period of the license.

**F. License Period.** Non-hazardous waste transporter licenses are valid for two years from date of issue.

**G. Transfer of license.** Applications for the transfer of a non-hazardous waste transporter license shall be made upon forms prescribed and furnished by the Department. A fee of $15 shall be assessed for each transfer application.

**3. License Application Procedures**

**A.** Each applicant for a non-hazardous waste transporter license shall obtain the appropriate forms from the Department. The applicant shall furnish the following information to the extent applicable:

(1) the type or category of waste to be transported;

(2) a photocopy of the current vehicle registration, or serial number if the conveyance is a trailer, semi-trailer, or container;

(3) the name, address and phone number of the applicant's liability insurance carrier and the maximum dollar amount of coverage; and

(4) a disclosure statement of the applicant's history of compliance with state and federal laws and regulations relating to the handling of non-hazardous waste or any other waste type within the five years immediately preceding the application, including the following information:

(a) a listing of any civil or criminal violations, convictions, or on-going court proceedings; and

(b) a listing of administrative consent agreements or consent decrees entered into by the applicant.

 Government agencies listed in Section 2(E)(3) shall not be required to submit a disclosure statement.

**B.** The application shall be signed by the applicant, or, if the applicant is a business, signature of an authorized officer or agent.

**C.** An application for a license renewal shall be submitted to the Department, at least 30 days prior to the date of expiration of the licensing period, on a form obtained from the Department.

**D.** Expedited licenses. In the event the Department determines that there exists an emergency which poses an immediate and significant threat to the environment, public health or safety, the Department may grant an expedited license or transfer of license in response to a written or telephonic request. All terms of this expedited license shall be specific to the emergency. The expedited license shall expire as soon as the Department determines that the emergency no longer exists.

(1) Before issuing an expedited license, the Department shall require, at a minimum, the following information to the extent applicable:

(a) the applicant's name and address;

(b) the serial and registration numbers, make and year of the conveyance to be used;

(c) the type and quantity of the waste;

(d) the nature and location of the emergency; and

(e) the location of the disposal facility to be used.

(2) In the event of an emergency requiring an expedited license occurring at a time when the Department cannot issue immediate approval, the transporter may take such actions as necessary to remedy the emergency, provided that the transporter notifies the Department and requests an expedited license as soon as possible after the event.

**E. Fleet license.** For transporters who operate three or more conveyances for the transport of the same category of non-hazardous waste, the Department shall provide an application which will allow for licensing of a fleet of conveyances.

**4. License Criteria**

**A.** If an application is complete the Department may issue a license with or without special conditions. An application will not be considered complete if evidence of financial capacity pursuant to Section 7 of this Chapter is not provided.

**B.** An application for a non-hazardous waste transporter license or license renewal may be denied if the Department finds that the transport of non-hazardous waste in the applicant's conveyance(s) will, due to a lack of appropriate vehicle or conveyance safeguards or containment equipment, cause an unreasonable threat to public health, safety or the environment.

**C.** Except in the case of governmental agencies listed in Section 2(E)(3), an application for a non-hazardous waste transporter license or license renewal may be denied if the Department finds that the applicant, or in the case of a corporation, partnership, or association, an officer, director, manager, or shareholder having 10 percent or more interest in said organization:

(1) has intentionally misrepresented or concealed any material fact in the application submitted to the Department;

(2) has obtained or attempted to obtain the license by misrepresentation or concealment;

(3) has been convicted by final judgement, and all appeals have been exhausted, of any violation of state and federal laws and regulations relating to the handling of non-hazardous waste or other waste types within the five years immediately preceding the application for a license; or

(4) has a record of repeated violations of state and federal laws and regulations relating to the handling of non-hazardous waste or other waste types, or failure to comply with administrative orders mandating corrective actions within the five years immediately preceding the application for a license.

**D.** An applicant denied a license shall be informed of the reasons for denial in writing. The applicant may appeal the decision by requesting, in writing, a hearing before the Board of Environmental Protection within 30 days of receipt of the notice of the denial. Nothing in this regulation shall deny the applicant the right of judicial appeal according to Maine statutes.

**E.** The Department may require an inspection of a conveyance by Department staff for the purpose of determining its suitability for transport of non-hazardous waste as a prerequisite for a license approval or a license renewal. Department staff may inspect a conveyance at any reasonable time and place to determine its compliance with this rule.

**5. Standard Conditions**

**A.** All conveyances, except those which are transported by rail or used by exempt transporters as provided under Section 2 above, must display a Maine licensed non-hazardous waste transporter decal. The decal shall be prominently affixed on the driver's side of the licensed conveyance.

**B.** The non-hazardous waste transporter license must be kept with the conveyance during all operations, except for those conveyances transporting non-hazardous waste by rail. In all cases the transporter shall be responsible for ensuring that the license is readily accessible for inspection.

**C.** All waste must be properly contained during transportation to prevent any leaking, spilling, blowing or any other type of discharge to the environment. No conveyance shall be loaded beyond its legal capacities.

**D.** Waste must be transported to facilities within the State of Maine which are licensed by the Department or Board or exempt from licensing by the Department or Board or to facilities in other states or provinces which are licensed or determined to be exempt from licensing by the appropriate authority in the receiving state or country.

**E.** Upon the request of any public safety or law enforcement officer or an authorized representative of the Department, the operator of a licensed conveyance must present all license and manifest documents which the transporter is required to keep with the conveyance.

**F.** If a spill or other type of discharge of non-hazardous waste occurs during transportation, the operator of the conveyance must immediately endeavor to return all of the discharged materials to the conveyance and clean up the spill area. Spills involving special wastes in excess of one-half cubic yard, or septage in excess of twenty gallons, must be reported to the Department. Within five working days of when the spill occurred the transporter shall notify the Department, in writing, of the spill and the manner in which the spill was cleaned up .

**G.** No person shall transport asbestos-containing waste materials or asbestos-contaminated waste unless it is properly packaged in accordance with Chapter 405, Section 4 of these rules. Properly packaged asbestos-contaminated waste or asbestos-containing waste must be transported directly to a licensed disposal facility, or stored in accordance with the provisions of Chapter 405, Section 4 of these rules.

**H.** It is the responsibility of the transporter to ensure that all license activity is carried out safely and without creating or threatening danger to public health, safety, or the environment.

**I.** The transporter must hold all other local, state, or federal permits, licenses, or certifications as may be necessary for the activity licensed hereunder and must comply with all state and federal laws and rules applicable to license activity.

**6. Manifest Requirements**

**A. Non-hazardous waste manifest forms shall be obtained from the Department.**

(1) Alternative Manifests. Alternative forms for manifests may be substituted, subject to Department approval, provided that the information required below is clearly provided.

**B.** On these forms, in the spaces provided, the transporter shall provide the dates of loading and unloading and the following information:

(1) Category A - Special Waste, Scrap Tires, and Demolition/Construction Debris:

(a) the name and location of the waste generator;

(b) the type and quantity of the waste; and

(c) the name and location of the waste facility to which the waste is being transported.

(2) Category B - Municipal Solid Waste other than Category A waste:

(a) no manifest required.

(3) Category C - Septage:

(a) the name and location of the waste generator, except in the case of portable toilets;

(b) the quantity of waste; and

(c) the name and location of the waste facility to which the waste is being transported.

**C.** A manifest form is not completed until it has been certified as containing accurate and sufficient information by the transporter. A transporter shall submit copies of all completed non-hazardous waste manifest forms to the Department on a quarterly basis.

**D.** A transporter shall be exempt from manifest requirements for a specific job, specific conveyance, or a specific waste disposal facility if:

(1) the transporter submits proof to the Department that the waste disposal facility to which the applicant proposes to transport non-hazardous waste is required by rule or license to keep records and report to the Department the source and quantity of non-hazardous waste; and

(2) the transporter submits to the Department a letter or certificate from the owner or operator of the waste disposal facility that such facility is in compliance with the record-keeping and reporting requirements referred to in paragraph 1.

 The exemption from the manifest requirements shall take effect on the 14th calendar day following Department receipt of the evidence referred to above, unless the Department contacts the transporter in writing within that period requesting clarification about the transporter's eligibility for the exemption. The term of a manifest exemption shall be concurrent with the term of an applicant's non-hazardous waste transporter license. The manifest exemption shall not be transferable.

**7. Evidence Of Financial Capacity**

**A.** Any transporter using a motor vehicle, except those exempt under Section 2(D) of this Chapter, shall provide to the Department, at the time of application or renewal, proof of motor vehicle insurance which provides minimum liability coverage for bodily injury or property damage as required in the Motor Vehicle Laws, Title 29.

**B.** Any transporter not required to show proof of motor vehicle insurance, including but not limited to conveyances operated on rails, on water, or in the air, shall provide to the Department, at the time of application or renewal, proof of liability insurance coverage for bodily injury or property damage in the amount of at least $40,000.00 for any one accident.

**C.** Proof of insurance may be in the form of an insurance policy or bond signed by an authorized representative of a company licensed to sell insurance in the State of Maine, certifying that coverage is provided pursuant to Section 7(A) and Section 7(B) above. Any transporter that is self-insured shall submit proof of self-insurance in the form of a statement, signed by an officer of a financial institution, certifying sufficient deposits to provide coverage pursuant to Section 7(A) and Section 7(B) above.

**D.** Policies of insurance or bonds required under this Section shall remain in effect continuously throughout the term of license except during periods when a conveyance is removed from service. Cancellation of a policy or bond, by the insured or the insurer, shall not take effect until after thirty (30) days notice in writing to the Department. Said 30 days notice shall commence from the date notice is actually received by the Department. In the event that the licensee has obtained a policy or bond from another insurance company, the policy shall state that the liability of the retiring insurer or surety bond shall terminate on the effective date of the replacement policy of insurance or surety bond or at the end of the 30 day cancellation period, whichever is less.

**8. Severability.** The provisions of this Chapter are severable. If any portion of this Chapter is held to be invalid or unconstitutional by any court, such decision shall not affect the validity or enforceability of other portions of this Chapter.

AUTHORITY: 38 M.R.S.A. Sections 1304(1) and 1304(1-A)

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