

# Rules for Transportation of Hazardous Materials

## ~~Action 1~~ ACTION 1

An existing rule entitled "Rules ~~F~~for Transportation of Hazardous Materials" is amended which consists of the regulations promulgated by the U.S. Department of Transportation contained in Parts 100-199, revised October 01, 1992; Parts 390-397 and 399 revised October 01, 1992, of the Code of Federal Regulations Title 49; and Parts 71 and 73 of Title 10 revised January 01, 1992; and any amendments thereto, with the following modifications:

(a) All of the regulations adopted shall be construed so that whenever ~~the~~ Department of Transportation, Secretary of Transportation, and other Federal Agencies and Titles are referred to, they shall be construed to mean and be in effect as State of Vermont Agency of Transportation and the Secretary of Transportation serving as the administrative head thereof.

(b) Whenever the word Interstate appears in the text of Title 10 and Title 49 of the Code of Federal Regulations, it shall be construed to mean both Interstate and Intrastate motor carrier transportation.

(c) In those instances where the context requires otherwise, appropriate interpretation shall be made; i.e. where there is no comparable State Agency, such as Coast Guard, then such shall be the Secretary of Transportation or his/her designee. Subsidiary offices of the Federal Department of Transportation shall be construed to be the Commercial Vehicle Enforcement Unit of the Agency of Transportation, Department of Motor Vehicles.

(d) The following sections of 49 CFR Part 176, Carriage by Vessel, are omitted: 176.15; 176.18; 176.415; 176.900; 176.901; 176.902; 176.903; 176.904; 176.905.

(e) 49 CFR, Part 391.11, Qualifications of Drivers, is modified by deletion of (b)(1) and substituting the following.

(b) A person is qualified to drive a Motor Vehicle if he/she:

1) is at least 18 years old provided he/she has a valid Vermont license and is engaged in the transportation of hazardous materials and/or other cargos in Intrastate Commerce; or

2) Must be at least 21 years old if he/she is engaged in the transportation of hazardous materials and/or other cargos in Interstate Commerce.

(f) The adoption of Title 10 CFR Parts 71 and 73 shall apply only to those portions pertaining to the transportation of radioactive materials and shall exclude any requirements pertaining to fixed sites or plants.

~~(g) Parts 391.81 through 391.123 regarding Federal Controlled Substance Testing Regulations are deleted in their entirety for Intrastate Carriers (Interstate Carriers are already subject to the Federal Rule). Intrastate Carriers wishing to establish an alternate controlled substance testing program for drivers are encouraged to do so provided they utilize current statutory guidelines as specified in Title 21, Vermont Statutes Annotated, Chapter 5, Subchapter 11, entitled "Drug Testing".~~

## ACTION 2

### A. BASIC ENFORCEMENT PROVISIONS

Any law enforcement officer of the state of Vermont and its municipalities including but not limited to Motor Vehicle Inspectors, State Police Officers, Sheriffs, Chiefs of Police, and Municipal Police Officers, shall have the authority to enforce the rules and regulations pertaining to the Transportation of Hazardous Materials adopted by the Secretary of the Agency of Transportation.

In order to enforce the rules and regulations as adopted, the Law Enforcement Officer must satisfactorily complete a Certification Course as prescribed by the U.S. Department of Transportation's Federal Highway Administration in the Federal Motor Carrier Safety Regulations, Safety Inspection Procedures, and Out-Of-Service Criteria, with at least annual in-service training covering the prescribed instruction.

Any law enforcement officer in the course of enforcing these rules and regulations is authorized to enter upon, to inspect, and to examine any and all vehicles and loads carried, lands, buildings, and equipment of any person subject to these rules and regulations, and to inspect and copy any and all accounts, books, records, memoranda, correspondence and other documents.

Every person subject to these regulations shall submit their accounts, books, records, memoranda, correspondence and other documents for inspection and copying and they shall submit their vehicle and loads, land, buildings, and equipment for examination and inspection to any member of the Agency of Transportation upon demand after being furnished with appropriate identification by that person, and likewise to any law enforcement officer acting within the scope of his/her duties and authority with respect to these rules and regulations.

Each Motor Carrier who transports hazardous materials and is required to return notices, reports, and information on a periodic or incident basis under the regulations, shall likewise notify the Agency of Transportation in the same manner as is required for Federal Agencies. A copy of written reports furnished to any Federal Agency will be accepted. Reports shall be made to the Agency of Transportation, Department of Motor Vehicles, Commercial Vehicle Enforcement Unit, 120 State Street, Montpelier, Vermont 05603-0001. Contact by telephone may be made to the Department at (802) 828-2078. (See 49 CFR Section 171.15; 171.16; 174.45; 175.31; 176.45; 177.807; 390.9; 392.40 and Part 394).

Penalties for violations of these rules shall be as provided in 5 VSA § 2001 and as adopted in "Schedule of Penalties" as prescribed in 23 VSA § 2302.

### B. NON COMPLIANCE ENFORCEMENT PROCEDURES FOR MOTOR CARRIERS

#### I. Purpose:

To ~~insure~~ ensure Driver/Vehicle Examination Reports are returned in a timely manner (within 15 days from date of issue) and that all violations noted have been corrected by the Carrier.

#### II. Instrument:

A Driver/Vehicle Examination Report form approved by the Secretary of the Agency of Transportation for the Vermont Motor Carrier Safety Assistance Program.

### III. Compliance Notification:

Whenever an Inspection Report is not received by the Agency of Transportation, Commercial Vehicle Enforcement Unit within 15 days from the date of inspection as required, a letter will be sent to the Motor Carrier/Operator along with a copy of the original inspection ~~report~~ violation(s). The letter will advise the Carrier/Operator that the report, with its signed certification of compliance, has not been received. It will give the Carrier/Operator an additional 10 days to return the report certifying compliance.

### ~~IV. Compliance Enforcement: (Vermont Registered Vehicles):~~

~~If the Motor Carrier/Operator does not respond to the written notification as outlined above within 30 days from the date of the original inspection, the Agency's Commercial Vehicle Enforcement Unit will submit a request to the Commissioner of Motor vehicles asking that the Motor Carriers Registration(s) be suspended indefinitely until compliance is manifested. The Secretary, or his/her authorized representative, may demand the carrier or operator provide documentation of repair in such form as may be prescribed by the Department and an officer may also then re-inspect the vehicle(s) to determine if:~~

~~(1) Actual compliance has/has not been made: and~~

~~(2) Whether or not a Uniform Traffic Ticket/Traffic Complaint should be issued for non-compliance.~~

### IV. Compliance Enforcement (~~Foreign Registered Vehicles~~):

If the Motor Carrier/Operator does not respond to the written notification as outlined in paragraph III within 30 days from the date of the original inspection, the Agency's Commercial Vehicle Enforcement Unit will submit a request to the Commissioner of Motor Vehicles asking that the Motor Carrier's or operator's privilege to operate in Vermont be suspended indefinitely until compliance is manifested. The Secretary, or his/her authorized representative, may also demand the carrier or operator provide documentation of repair in such form as may be prescribed by the Department ~~and an officer may also then re-inspect the vehicle(s)~~ to determine if:

(1) Actual compliance has/has not been made: and

(2) Whether or not a Uniform Traffic Ticket and/or Vermont Traffic Complaint should be issued for noncompliance.

~~V. Reinspection Report (Vermont): After completing the reinspection, the Inspector will submit a new Driver/Vehicle Examination Report noting whether or not the original violation(s) still exist. This follow up report will be attached to the original in a closed file if the original violations have been corrected, and a written report will be forwarded to the Commissioner to reinstate the vehicle registration. Should the follow up report reveal non-compliance, the original and follow up reports will be placed in a pending file for further action.~~

### ~~VI. V. Suspension Authority:~~

The authority to make such suspension by the Commissioner is contained in Title 23 VSA 308(a)(2), (3).

### ACTION 3.

#### HAZARDOUS WASTE TRANSPORTATION VEHICLE PERMIT

1. Transporters of hazardous waste by highway, ~~railroad, or waterway~~ shall apply for and obtain a vehicle permit from the Agency of ~~Transportation~~ **Natural Resources**, Department of ~~Motor Vehicles~~ **Environmental Conservation**. Hazardous waste means any waste or combination of wastes as defined by ~~49 CFR 171.8~~ **the Vermont Hazardous Waste Management Regulations**.

2. A permit is required for each unit used in hazardous waste transportation and is not transferable between units. A unit is defined as a truck-tractor, a trailer or a straight truck, ~~railroad car, or barge~~.

3. Transporters shall apply for the permit on the form prescribed by the Commissioner of ~~Motor Vehicles~~ **Environmental Conservation** for that purpose. The application shall be accompanied by the permit fee.

~~4. The permit will be issued annually to expire on May 1 following the date of issue.~~

~~5.~~ 4. The annual permit fee shall be set by statute.

~~6.~~ 5. A validated copy of the permit shall be carried with the unit at all times when transporting hazardous wastes. The Commissioner of ~~Motor Vehicles~~ **Environmental Conservation** may issue a decal or other suitable identification which shall be affixed to the unit as directed.

~~7. The Commissioner of Motor Vehicles may revoke the permit during the effective period if the transporter is found to be in violation of the Agency of Transportation rules for transportation of hazardous waste.~~

~~8~~ 6. Penalties for violations shall be as provided in 5 VSA 2001 or 23 VSA § 2302 as is appropriate.

### ACTION 4.

#### TRANSPORTATION OF RADIOACTIVE MATERIALS: PREFERRED ROUTES

No Motor Carrier may transport Fissile Radioactive Materials [49 CFR 173.403 ~~(F)~~] or Highway Route Radioactive Materials [49 CFR 173.403 ~~(F)~~] as defined by the United States Department of Transportation except on designated preferred routes and in the manner prescribed by those regulations and parts 172, 173 and 177 of 49 CFR.

A "preferred route" shall consist of routes as defined in 49 CFR Section ~~177.825~~ **171.8**, and Title 5, Vermont Statutes Annotated, Section 2003.