

**RCRA LIABILITY
WHEN DOES IT START,
WHEN DOES IT END OR
DOES IT?**

**Iowa Strategic Goals Program Workshop
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RCRA LIABILITY

When Does It Start, When Does It End Or Does It?

- RCRA liability – as a party that generates, transports, or subjects a waste to RCRA regulation and falls into the definition of a “generator” 40 CFR § 260.10, may be held jointly and severally liable for compliance with the RCRA regulations. Generally, EPA will ordinarily look to the owner operator of the facility to perform generator duties. See Fed. Reg. 72026-7. [RO 11013]

RCRA LIABILITY

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- Once your waste arrives at the designated facility, the manifest is signed and returned to the generator. If the generator, the transporter, and the TSDf each use the uniform hazardous waste manifest during the handling of the waste, completing the required signatures (generator, transporter and TSDf before a copy is returned to the generator in accordance with 40 CFR 262 Subpart B) and maintaining the required records, then the generator would appear to be in compliance with the Federal regulations.

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- If your waste is subsequently shipped to another TSD facility for subsequent final treatment and disposal and the first TSD facility is named as the generator. As the original generator, should you obtain a copy of the second manifest? Yes it could be a prudent practice to obtain a copy of the second manifest because all generator(s) remains potentially liability under Superfund for future mismanagement even after it has left his site and is out of his possession. [RO 11589]

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Caustic
Flakes

NH_4OH

Nickel
Chloride

Sodium
Cyanide

Nickel
Strip

Nitric
Acid

uriatic
acid

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F007

**Caustic
Flakes
Nickel
Strip
Muriatic
Acid**

NH₄OH

**Sodium
Cyanide**

**F006 Nickel
Chloride**

**Nitric
Acid**



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- Importing/exporting hazardous waste –
 - “Any person” who “imports” hazardous waste must comply with the generator requirements. This includes the “transporter” and the U.S. facility arranging for the importation would be the persons who “import” hazardous waste. If more than one company/person falls within the scope of this language, all of the parties, as contributors to the importation of hazardous waste, should be held jointly and severally liable for compliance with the generator requirements.

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- Through mutual agreement, however, one of the parties may assume and perform the generator requirements of Part 262. [RO 11085]
- Exporting hazardous waste is prohibited unless the requirements on the export of hazardous waste is in compliance with the Agency's final rule (51 FR 28664, August 8, 1986). Legal liability does not end when the waste exits the United States and must be manifested and handled in accordance with the terms of the receiving country [RO 12945]

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- Recycling – When does generator liability end?
- RCRA liability for the generator and transporter ends when the hazardous waste is processed for reclamation. Any wastes generated from the reclamation process is considered a newly generated waste and the recycler is responsible for compliance with Part 262 and any permit conditions, if applicable. [RO 12287]

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- Transporter liability – Transporters must comply with 40 CFR Part 263.
- For generators and transporters, if you are in compliance with all the generator and/or transporter requirements you are not liable for an enforcement action.
- For TSDF's, if you are in compliance with the generator and permit requirements you are not liable for an enforcement action.

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- RCRA vs CERCLA – You may lose RCRA liability but CERCLA liability is independent of any previous hazardous waste determination. Waste that passes TCLP and is disposed of in a Subtitle D landfill, and then subsequently causes environmental damage will subject the responsible parties to CERCLA liability. [63 FR 28568, RO 11624, 14069]

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- CERCLA establishes three classes of people responsible for cleanup costs, damages to natural resources, and related expenses: (1) all owners and operators of facilities or vessels, including persons who own or operated facilities at the time of disposal; (2) persons who contracted for the disposal or treatment of hazardous substances (i.e., generators), and (3) persons who accepted the hazardous substances for transport and selected the treatment or disposal facility (i.e., transporters).
[RO 12547, 12592]

THANK YOU!

Additional questions, specific concerns, or comments?

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RCRA

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