

This is an amendment to 20.3.4.466 NMAC, Subsection A, effective XX/XX/XXXX

20.3.4.466 APPENDIX G - REQUIREMENTS FOR TRANSFERS OF LOW-LEVEL RADIOACTIVE WASTE INTENDED FOR DISPOSAL AT LICENSED LAND DISPOSAL FACILITIES AND

MANIFESTS: LLW means low-level radioactive waste as defined in the Low-Level Radioactive Waste Policy Act.

A. Manifest.

(1) A waste generator, collector or processor who transports, or offers for transportation LLW intended for ultimate disposal at a licensed low-level radioactive waste land disposal facility must prepare a manifest [NRC OMB Control Numbers 3150-0164, -0165 and -0166] reflecting information requested on applicable NRC forms 540 (*uniform low-level radioactive waste manifest* (shipping paper) and 541 (*uniform low-level radioactive waste manifest* (container and waste description)) and, if necessary, on an applicable NRC form 542 (*uniform low-level radioactive waste manifest* (manifest index and regional compact tabulation)). NRC forms 540 and 540A must be completed and must physically accompany the pertinent low-level waste shipment. Upon agreement between shipper and consignee, NRC forms 541, 541A, 542 and 542A may be completed, transmitted and stored in electronic media with the capability for producing legible, accurate and complete records on the respective forms. Licensees are not required by NRC to comply with the manifesting requirements of this part when they ship the following:

- (a) LLW for processing and expect its return (i.e., for storage under their license) prior to disposal at a licensed land disposal facility;
- (b) LLW that is being returned to the licensee who is the “waste generator” or “generator”, as defined in this part; or
- (c) radioactively contaminated material to a “waste processor” that becomes the processor's “residual waste” unless regulated by other applicable federal or state regulations;
- (d) these exclusions from manifesting requirements do not, however, exempt the licensee from complying with applicable DOT requirements for shipments referencing 49 CFR, including the preparation of shipping papers.

(2) For guidance in completing these forms, refer to the instructions that accompany the forms. Copies of manifests required by this section may be legible carbon copies, photocopies or computer printouts that reproduce the data in the format of the uniform manifest.

(3) NRC forms 540, 540A, 541, 541A, 542 and 542A, and the accompanying instructions, in hard copy, may be obtained by writing or calling the [ø]Office of the [e]Chief information [ø]Officer, United States Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-5877, or by visiting the NRC's web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

(4) This section includes information requirements of the DOT, as codified in 49 CFR Part 172. Additional 49 CFR requirements may be applicable. Information on hazardous, medical or other waste, required to meet EPA regulations, as codified in 40 CFR Parts 259, 261 or elsewhere, is not addressed in this section, and must be provided on the required EPA forms. However, any required EPA forms must accompany the *uniform low-level radioactive waste manifest* required by this chapter.

(5) As used in this section, the following definitions apply:

- (a) “chelating agent” has the same meaning as that given in 20.3.13.7 NMAC;
- (b) “chemical description” means a description of the principal chemical characteristics of a low-level radioactive waste;
- (c) “computer-readable medium” means that the department's computer can transfer the information from the medium into its memory;
- (d) “consignee” means the designated receiver of the shipment of low-level radioactive waste;
- (e) “decontamination facility” means a facility operating under a department, NRC or agreement state license whose principal purpose is decontamination of equipment or materials to accomplish recycle, reuse or other waste management objectives, and, for purposes of this part, is not considered to be a consignee for LLW shipments;
- (f) “disposal container” means a container principally used to confine low-level radioactive waste during disposal operations at a land disposal facility (also see “high integrity container”); note that for some shipments, the disposal container may be the transport package;
- (g) “EPA identification number” means the number received by a transporter following application to the administrator of EPA as required by 40 CFR Part 263;

(h) “generator” means a licensee operating under a department, NRC or agreement state license who (1) is a waste generator as defined in this part, or (2) is the licensee to whom waste can be attributed within the context of the Low-Level Radioactive Waste Policy Amendments Act (e.g., waste generated as a result of decontamination or recycle activities);

(i) “high integrity container” (HIC) means a container commonly designed to meet the structural stability requirements of 20.3.13.1325 NMAC, and to meet DOT requirements for a type A package;

(j) “land disposal facility” has the same meaning as that given in 20.3.13.7 NMAC;

(k) “NRC forms 540, 540A, 541, 541A, 542 and 542A” are official NRC forms referenced in this section; licensees need not use originals of these NRC forms as long as any substitute forms are equivalent to the original documentation in respect to content, clarity, size and location of information; upon agreement between the shipper and consignee, NRC forms 541 (and 541A) and NRC forms 542 (and 542A) may be completed, transmitted and stored in electronic media; the electronic media must have the capability for producing legible, accurate and complete records in the format of the uniform manifest;

(l) “package” means the assembly of components necessary to ensure compliance with the packaging requirements of DOT regulations, together with its radioactive contents, as presented for transport;

(m) “physical description” means the items called for on NRC form 541 to describe a LLW;

(n) “residual waste” means LLW resulting from processing or decontamination activities that cannot be easily separated into distinct batches attributable to specific waste generators; this waste is attributable to the processor or decontamination facility, provided that other federal laws or regulations, such as those of Resource Conservation and Recovery Act (RCRA), are not applicable;

(o) “shipper” means the licensed entity (i.e., the waste generator, waste collector or waste processor) who offers low-level radioactive waste for transportation, typically consigning this type of waste to a licensed waste collector, waste processor or land disposal facility operator;

(p) “shipping paper” means NRC form 540 and, if required, NRC form 540A which includes the information required by DOT in 49 CFR part 172;

(q) “source material” has the same meaning as that given in 20.3.3.7 NMAC;

(r) “special nuclear material” has the same meaning as that given in 20.3.3.7 NMAC;

(s) “*uniform low-level radioactive waste manifest*” or “uniform manifest” means the combination of NRC forms 540, 541 and, if necessary, 542, and their respective continuation sheets as needed, or equivalent;

(t) “waste collector,” including “waste broker,” means an entity, operating under a department, NRC or agreement state license, whose principal purpose is to collect and consolidate waste generated by others, and to transfer this waste, without processing or repackaging the collected waste, to another licensed waste collector, licensed waste processor or licensed land disposal facility;

(u) “waste description” means the physical, chemical and radiological description of a low-level radioactive waste as called for on NRC form 541;

(v) “waste generator” means an entity, operating under a department, NRC or agreement state license, who (1) possesses any material or component that contains radioactivity or is radioactively contaminated for which the licensee foresees no further use, and (2) transfers this material or component to a licensed land disposal facility or to a licensed waste collector or processor for handling or treatment prior to disposal; a licensee performing processing or decontamination services may be a “waste generator” if the transfer of low-level radioactive waste from its facility is defined as “residual waste”;

(w) “waste processor” means an entity, operating under a department, NRC or agreement state license, whose principal purpose is to process, repackage or otherwise treat low-level radioactive material or waste generated by others prior to eventual transfer of waste to a licensed low-level radioactive waste land disposal facility; and

(x) “waste type” means a waste within a disposal container having a unique physical description (i.e., a specific waste descriptor code or description; or a waste sorbed on or solidified in a specifically defined media).

(6) Information requirements.

(a) **General information.** The shipper of the radioactive waste shall provide the following information on the uniform manifest:

shipping the waste;

- (i) the name, facility address and telephone number of the licensee
- (ii) an explicit declaration indicating whether the shipper is acting as a waste generator, collector, processor or a combination of these identifiers for purposes of the manifested shipment; and

- (iii) the name, address and telephone number, or the name and EPA identification number for the carrier transporting the waste.

(b) **Shipment information.** The shipper of the radioactive waste shall provide the following information regarding the waste shipment on the uniform manifest:

- (i) the date of the waste shipment;
- (ii) the total number of packages or disposal containers;
- (iii) the total disposal volume and disposal weight in the shipment;
- (iv) the total radionuclide activity in the shipment;
- (v) the activity of each of the radionuclides H-3, C-14, Tc-99 and I-129 contained in the shipment; and
- (vi) the total masses of U-233, U-235 and plutonium in special nuclear material, and the total mass of uranium and thorium in source material.

(c) **Disposal container and waste information.** The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding the waste and each disposal container of waste in the shipment:

- (i) an alphabetic or numeric identification that uniquely identifies each disposal container in the shipment;
- (ii) a physical description of the disposal container, including the manufacturer and model of any high integrity container;
- (iii) the volume displaced by the disposal container;
- (iv) the gross weight of the disposal container, including the waste;
- (v) for waste consigned to a disposal facility, the maximum radiation level at the surface of each disposal container;
- (vi) a physical and chemical description of the waste;
- (vii) the total weight percentage of chelating agent for any waste containing more than 0.1% chelating agent by weight, plus the identity of the principal chelating agent;
- (viii) the approximate volume of waste within a container;
- (ix) the sorbing or solidification media, if any, and the identity of the solidification media vendor and brand name;
- (x) the identities and activities of individual radionuclides contained in each container, the masses of U-233, U-235 and plutonium in special nuclear material, and the masses of uranium and thorium in source material, including fissile category classification; for discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices and wastes in solidification/stabilization media), the identities and activities of individual radionuclides associated with or contained on these waste types within a disposal container shall be reported;
- (xi) the total radioactivity within each container;
- (xii) for wastes consigned to a disposal facility, the classification of the waste pursuant to 20.3.13.1324 NMAC; waste not meeting the structural stability requirements of Subsection B of 20.3.13.1325 NMAC; and
- (xiii) any other information required on a manifest or shipping paper by the DOT, the NRC or other regulatory agencies.

(d) **Uncontainerized waste information.** The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding a waste shipment delivered without a disposal container:

- (i) the approximate volume and weight of the waste;
- (ii) a physical and chemical description of the waste;
- (iii) the total weight percentage of chelating agent if the chelating agent exceeds 0.1% by weight, plus the identity of the principal chelating agent;
- (iv) for waste consigned to a disposal facility, the classification of the waste pursuant to 20.3.13.1324 NMAC; waste not meeting the structural stability requirements of Subsection B of 20.3.13.1325 NMAC must be identified;

(v) the identities and activities of individual radionuclides contained in the waste, the masses of U-233, U-235 and plutonium in special nuclear material, and the masses of uranium and thorium in source material; and

(vi) for wastes consigned to a disposal facility, the maximum radiation levels at the surface of the waste.

(e) **Multi-generator disposal container information.** This section applies to disposal containers enclosing mixtures of waste originating from different generators. (Note: The origin of the LLW resulting from a processor's activities may be attributable to one or more "generators," including "waste generators," as defined in this section). It also applies to mixtures of wastes shipped in an uncontainerized form, for which portions of the mixture within the shipment originate from different generators.

(i) For homogeneous mixtures of waste, such as incinerator ash, provide the waste description applicable to the mixture and the volume of the waste attributed to each generator.

(ii) For heterogeneous mixtures of waste, such as the combined products from a large compactor, identify each generator contributing waste to the disposal container, and, for discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices and wastes in solidification/stabilization media), the identities and activities of individual radionuclides contained on these waste types within the disposal container. For each generator, provide the following: (1) the volume of waste within the disposal container; (2) a physical and chemical description of the waste, including the solidification agent, if any; (3) the total weight percentage of chelating agents for any disposal container containing more than 0.1% chelating agent by weight, plus the identity of the principal chelating agent; (4) the sorbing or solidification media, if any, and the identity of the solidification media vendor and brand name if the media is claimed to meet stability requirements in Subsection B of 20.3.13.1325 NMAC; and (5) radionuclide identities and activities contained in the waste, the masses of U-233, U-235 and plutonium in special nuclear material, and the masses of uranium and thorium in source material if contained in the waste.

B. Certification. An authorized representative of the waste generator, processor or collector shall certify by signing and dating the shipment manifest that the transported materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the department, the DOT and the NRC. A collector in signing the certification is certifying that nothing has been done to the collected waste which would invalidate the waste generator's certification.

C. Control and Tracking.

(1) Any licensee who transfers radioactive waste to a land disposal facility or a licensed waste collector shall comply with the requirements in Subparagraphs (a) through (i) of this paragraph. Any licensee who transfers waste to a licensed waste processor for waste treatment or repackaging shall comply with the requirements of Subparagraphs (d) through (i) of this paragraph. A licensee shall:

(a) prepare all wastes so that the waste is classified according to 20.3.13.1324 NMAC, and meets the waste characteristics requirements in 20.3.13.1325 NMAC;

(b) label each disposal container (or transport package if potential radiation hazards preclude labeling of the individual disposal container) of waste to identify whether it is class A waste, class B waste, class C waste or greater than class C waste, in accordance with 20.3.13.1324 NMAC;

(c) conduct a quality assurance program to assure compliance with 20.3.13.1324 NMAC and 20.3.13.1325 NMAC (the program must include management evaluation of audits);

(d) prepare the NRC *uniform low-level radioactive waste manifest* as required by Subsection A of this section;

(e) forward a copy or electronically transfer the *uniform low-level radioactive waste manifest* to the intended consignee so that either (1) receipt of the manifest precedes the LLW shipment or (2) the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both delivery methods (1) and (2) is also acceptable;

(f) include NRC form 540 (and NRC form 540A, if required) with the shipment regardless of the option chosen in Subparagraph (e) of this paragraph;

(g) receive acknowledgment of the receipt of the shipment in the form of a signed copy of NRC form 540;

(h) retain a copy of or electronically store the *uniform low-level radioactive waste manifest* and documentation of acknowledgment of receipt as the record of transfer of licensed material as required by 20.3.3 NMAC; and

(i) for any shipments or any part of a shipment for which acknowledgment of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with Paragraph (5) of this subsection.

(2) Any waste collector licensee who handles only prepackaged waste shall:

(a) acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of NRC form 540;

(b) prepare a new manifest to reflect consolidated shipments that meet the requirements of this section; the waste collector shall ensure that, for each container of waste in the shipment, the manifest identifies the generator of that container of waste;

(c) forward a copy or electronically transfer the *uniform low-level radioactive waste manifest* to the intended consignee so that either (1) receipt of the manifest precedes the LLW shipment or (2) the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee; using both delivery methods (1) and (2) is also acceptable;

(d) include NRC form 540 (and NRC form 540A, if required) with the shipment regardless of the option chosen in Subparagraph (c) of this paragraph;

(e) receive acknowledgment of the receipt of the shipment in the form of a signed copy of NRC form 540;

(f) retain a copy of or electronically store the *uniform low-level radioactive waste manifest* and documentation of acknowledgment of receipt as the record of transfer of licensed material as required by 20.3.3 NMAC;

(g) for any shipments or any part of a shipment for which acknowledgment of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with Paragraph (5) of this subsection; and

(h) notify the shipper and the department when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been cancelled.

(3) Any licensed waste processor who treats or repackages waste shall:

(a) acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of NRC form 540;

(b) prepare a new manifest that meets the requirements of this section; preparation of the new manifest reflects that the processor is responsible for meeting these requirements; for each container of waste in the shipment, the manifest shall identify the waste generators, the preprocessed waste volume and the other information as required in Subparagraph (e) of Paragraph (6) of Subsection A of this section;

(c) prepare all wastes so that the waste is classified according to 20.3.13.1324 NMAC, and meets the waste characteristics requirements in 20.3.13.1325 NMAC;

(d) label each package of waste to identify whether it is class A waste, class B waste or class C waste, in accordance with 20.3.13.1324 NMAC and 20.3.13.1326 NMAC;

(e) conduct a quality assurance program to assure compliance with 20.3.13.1324 NMAC and 20.3.13.325 NMAC (the program shall include management evaluation of audits);

(f) forward a copy or electronically transfer the *uniform low-level radioactive waste manifest* to the intended consignee so that either (1) receipt of the manifest precedes the LLW shipment or (2) the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee; using both delivery methods (1) and (2) is also acceptable;

(g) include NRC form 540 (and NRC form 540A, if required) with the shipment regardless of the option chosen in paragraph Subparagraph (f) of this paragraph;

(h) receive acknowledgment of the receipt of the shipment in the form of a signed copy of NRC form 540;

(i) retain a copy of or electronically store the *uniform low-level radioactive waste manifest* and documentation of acknowledgment of receipt as the record of transfer of licensed material as required by 20.3.3 NMAC;

(j) for any shipment or any part of a shipment for which acknowledgment of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with Paragraph (5) of this subsection; and

(k) notify the shipper and the department when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

(4) The land disposal facility operator shall:

(a) acknowledge receipt of the waste within one week of receipt by returning, as a minimum, a signed copy of NRC form 540 to the shipper; the shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator; if any discrepancy exists between materials listed on the *uniform low-level radioactive waste manifest* and materials received, copies or electronic transfer of the affected forms must be returned indicating the discrepancy;

(b) maintain copies of all completed manifests and electronically store the information required by 20.3.13.1334 NMAC until the department terminates the license; and

(c) notify the shipper and the department when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

(5) Any shipment or part of a shipment for which acknowledgment is not received within the times set forth in this section must:

(a) be investigated by the shipper if the shipper has not received notification or receipt within 20 days after transfer; and

(b) be traced and reported; the investigation shall include tracing the shipment and filing a report with the department; each licensee who conducts a trace investigation shall file a written report with the department within 2 weeks of completion of the investigation.

[20.3.4.466 NMAC - Rp, 20.3.4.466 NMAC, A,XX/XX/XXXX]