

Ms. Karen Huffman  
Logistics Manager  
Criterion Catalysts & Technologies  
16825 Northchase Drive, Suite 1000  
Houston, TX 77060

Dear Ms. Huffman:

Thank you for your letter of June 7, 2001 which poses the following four questions regarding import and export of hazardous wastes by ocean carrier. Does the U.S. Environmental Protection Agency (EPA) require an international ocean carrier to provide an EPA ID number for shipment of hazardous waste? Does this apply to both U.S. and foreign flag vessels? Does this apply to both imports and exports of hazardous waste? If a mini-land-bridge service is utilized, is it then the steamship line's responsibility to provide EPA ID numbers for any drayage service or intermodal rail service for inland transport, or is it the shipper's responsibility?

Part 263 of Title 40 of the Code of Federal Regulations (CFR) sets forth the U.S. Resource Conservation and Recovery Act (RCRA) regulations governing transporters of hazardous waste. These requirements apply to transporters of hazardous waste and include the U.S. EPA RCRA transporter identification number, the manifest tracking system, and related requirements. §263.10 of 40 CFR specifies the applicability of the hazardous waste transporter requirements as follows:

(a) These regulations establish standards which apply to persons transporting hazardous waste within the United States if the transportation requires a manifest under 40 CFR part 262.

An EPA ID number is not typically required if the transporter is not required to have a RCRA manifest accompanying the hazardous waste. For international exports from the U.S., 40 CFR § 263.20(g)(4) requires transporters who transport hazardous waste out of the U.S. to give a copy of the RCRA manifest to the U.S. Customs Service officials "at the point of departure from the United States." Thus, for purposes of manifesting of exports, EPA regulations adopt the view

that the point of departure from the United States, and therefore the termination of the manifest obligation, occurs at the port of exit. Thus, in situations involving ocean carriers exiting the U.S. through territorial seas, EPA would consider the port as the “grave” under the RCRA “cradle-to-grave” manifest tracking system, and would not require a manifest at the time the ocean carrier leaves the port.

Although there is currently no parallel import requirement to provide a copy of a RCRA manifest with U.S. Customs Service offices at the port of entry (although EPA has recently published a proposed rule, Modification of the Hazardous Waste Manifest System (66 FR 28240) with such a requirement), EPA believes that the concept of the port as the critical point for ocean transport is the same for both export and import situations. Thus, in situations involving ocean carriers entering U.S. territorial seas to unload hazardous waste cargo at coastal ports, it is EPA’s position that the manifest is not required before a hazardous waste shipment is off-loaded at a port; EPA would consider the port as the “cradle” under the RCRA tracking system. Since EPA would not require the RCRA manifest in U.S. territorial seas for ocean carriers when they are importing or exporting hazardous waste, as explained above, it also would not require an EPA transporter identification number for ocean carriers in those waters. It is important to note that EPA’s position that the port is the cradle or the grave in connection with RCRA manifests and EPA ID numbers is limited to situations involving ocean carriers that export hazardous waste from the U.S. to a foreign country, or import hazardous waste from a foreign country to the U.S., through the U.S. territorial seas.

Therefore, to answer your first three questions, EPA would not require an ocean carrier in territorial seas to have an EPA transporter identification number when it is importing or exporting hazardous waste cargo. This is true whether the carrier is a U.S. flagged vessel or a foreign flagged vessel. Note, however, that the ocean carrier may be subject to other requirements, such as U.S. Department of Transportation (DOT) requirements for transporting hazardous materials.

Regarding your fourth question, “If a mini-land-bridge service is utilized, is it then the steamship line’s responsibility to provide EPA IDs for any drayage service or intermodal rail service for inland transport, or is it the shipper’s responsibility?” Under §263.11 of 40 CFR, the transporter must obtain an EPA ID number when transporting hazardous waste over land or through inland waters within the United States. For intermodal service, the responsibility for obtaining EPA ID numbers is the same. Each railroad firm and trucking company is responsible for obtaining the necessary EPA ID numbers.

If the ocean carrier is not arranging the inland transport of hazardous waste, then the carrier is not directly responsible for ensuring that any inland transporters have EPA ID numbers. However, it would be prudent for the carrier to verify with the company arranging the inland transport of hazardous waste that the company is using only transporters that meet the RCRA and DOT transporter requirements. If the steamship line company owns an inland transporter of hazardous waste, the steamship line could be responsible for obtaining the EPA ID number.

However, the trucking subsidiary most likely would obtain the EPA ID number in lieu of its parent

company. In cases where the steamship line is simply arranging the waste transport, it would be prudent for the steamship line to verify that each transporter of hazardous waste it uses has an EPA ID number.

If you have any questions, please contact Marie Boucher of my staff at 703-308-8754.

Sincerely,

Elizabeth A. Cotsworth, Director  
Office of Solid Waste