

CHAPTER 49

TRANSPORTATION OF HAZARDOUS MATERIALS

Authority

N.J.S.A. 27:1A-5, 27:1A-6 and 39:5B-26 and 31.

Source and Effective Date

R.2005 d.163, effective April 22, 2005.
See: 37 N.J.R. 32(a), 37 N.J.R. 1784(a).

Chapter Expiration Date

Chapter 49, Transportation of Hazardous Materials, expires on April 22, 2010.

Chapter Historical Note

Chapter 49, Transportation of Hazardous Materials, was adopted as R.1985 d.123, effective March 18, 1985. See: 16 N.J.R. 2979(a), 17 N.J.R. 712(a).

Pursuant to Executive Order No. 66(1978), Chapter 49, Transportation of Hazardous Materials, was readopted as R.1990 d.156, effective February 8, 1990. See: 22 N.J.R. 21(a), 22 N.J.R. 837(c).

Pursuant to Executive Order No. 66(1978), Chapter 49, Transportation of Hazardous Materials, was readopted as R.1995 d.74, effective January 12, 1995. See: 26 N.J.R. 4488(b), 27 N.J.R. 509(a).

Pursuant to Executive Order No. 66(1978), Chapter 49, Transportation of Hazardous Materials, was readopted as R.2000 d.7, effective December 7, 1999. See: 31 N.J.R. 2692(a), 32 N.J.R. 102(a).

Subchapter 3, Hazardous Materials Restrictions in the Route 29 Tunnel Facility was adopted as R.2002 d.4, effective January 7, 2002. See: 33 N.J.R. 3627(b), 34 N.J.R. 284(a).

Chapter 49, Transportation of Hazardous Materials, was readopted as R.2005 d.163, effective April 22, 2005. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL REQUIREMENTS

16:49-1.1 Purpose and definitions

(a) This chapter governs the transportation of hazardous materials in the State of New Jersey, regulates the shipping, packaging, marking, labeling, placarding, handling, and transportation of hazardous materials, and, to the maximum extent practicable, conforms to the requirements of the regulations issued by the United States Department of Transportation. The purpose of this chapter is to protect public safety, health, and welfare from unreasonable risks of the transportation of hazardous materials in New Jersey.

(b) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Commissioner” means the Commissioner of the New Jersey Department of Transportation.

“Department” means the New Jersey Department of Transportation.

“Person(s),” pursuant to 49 C.F.R. Ch.1, § 171.8 citing 1 U.S.C. § 1 and 49 U.S.C. § 5102(9), means an individual, corporation, company, association, firm, partnership, society, joint stock company; or a government, Indian tribe, or authority of a government or tribe offering a hazardous material for transportation in commerce or transporting a hazardous material to support a commercial enterprise. This term does not include the United States Postal Service or, for purposes of 49 U.S.C. §§ 5123 and 5124, a Department, agency, or instrumentality of the government.

Amended by R.1990 d.550, effective November 19, 1990.
See: 22 N.J.R. 2676(a), 22 N.J.R. 3500(c).

Stylistic changes.

Amended by R.2005 d.163, effective May 16, 2005.
See: 37 N.J.R. 32(a), 37 N.J.R. 1784(a).

Rewrote the section.

16:49-1.2 Application

(a) This chapter shall apply to:

1. Every person(s) involved or in any manner related to the transportation of interstate and/or intrastate commerce, shall comply with and be bound by these regulations or any future amendments, and shall take such measures as are necessary to insure compliance therewith.

2. All person(s) involved or concerned with the management, maintenance, operation or driving of vehicles,

shall be conversant and knowledgeable with the rules and regulations set forth in this chapter.

Amended by R.2005 d.163, effective May 16, 2005.

See: 37 N.J.R. 32(a), 37 N.J.R. 1784(a).

In (a), substituted "person(s)" for "shipper and motor carrier and its officers, drivers, agents, employees, and representatives" following "Every" in 1, substituted "person(s)" for "officers, agents, representatives, drivers, and employees of shippers and carriers" preceding "involved or concerned" in 2.

Case Notes

State law governing transportation of hazardous materials preempted enforcement of city resolution. Consolidated Rail Corp. v. City of Bayonne, D.N.J.1989, 724 F.Supp. 320.

16:49-1.3 General requirements

(a) Person(s) that do not comply with the requirements of this chapter shall not transport hazardous materials, offer hazardous materials for transport, or accept hazardous materials for transport.

(b) Vehicles, railroad cars, containers, shipping records, carrier records, and places of origin in the State involved in the transportation of hazardous materials, substances, or wastes are subject to inspection by duly authorized representatives of the Division of State Police as may be necessary to carry out the provisions of N.J.S.A. 39:5B-25 et seq., and the regulations adopted supplementary thereto. Inspections shall be conducted as follows:

1. The Division of State Police, or personnel duly authorized by the Superintendent of the State Police, may break cargo seals on vehicles during the course of an inspection of the carrier's equipment under this chapter. Under no circumstances will U.S. Postal Service or Department of Defense seals or locks be broken for the purpose of inspecting cargo within any vehicle. If cargo is protected with a seal from any other U.S. Government agency, prior permission shall be obtained from such agency before removal of the seal.

2. Self-locking cargo seals inscribed with the appropriate New Jersey State agency designation and sequential number shall be affixed by the enforcement personnel to replace any cargo seal removed for inspection. In the event that the contents of a vehicle having no cargo seal, or a broken cargo seal, are inspected, the inspecting agency's cargo seal shall not be applied upon completion of the inspection.

3. Seals on tank vehicles shall not be broken except in an emergency situation which poses an immediate hazard to the public, as determined by the State Police, or personnel authorized by the Superintendent of State Police.

4. In the event that a cargo seal is to be broken for the purpose of inspecting the vehicle contents, the owner, operator, driver or yardmaster shall be requested to observe the inspection and sign the inspection report. The signature of a witness, preferably a New Jersey State Police Officer, will also be obtained.

5. Procedures to be used in conducting such inspections shall be as specified by the New Jersey State Police.

(c) No person shall, by marking or otherwise, represent that a container or package for the transportation of hazardous materials is safe, certified, or in compliance with the requirements of the New Jersey Department of Transportation unless such container or package meets the requirements of this chapter.

(d) The New Jersey Department of Transportation will recognize an exemption or renewal thereof issued by the United States Department of Transportation under Section 107, Subpart B of Title 49 subject to review by the New Jersey Department of Transportation. Any person operating under a current, valid exemption or renewal thereof under Section 107 subject to review by the New Jersey Department of Transportation will be deemed to be in compliance with those portions of these regulations to which the exemption applies, provided that the person is complying with the terms of the exemption.

(e) Intrastate carriers and shippers desiring exemptions shall be subject to the same rules and procedures required of interstate carriers and shippers. See Title 49, Code of Federal Regulations, Part 107, Subpart B. Also see N.J.A.C. 16:49-1.3(k) herein.

(f) Whenever the term "interstate" is used in the Federal regulations adopted and incorporated by reference herein it shall, for the purpose of these regulations, mean and include both "interstate" and "intrastate" transportation in commerce, except where stated otherwise.

(g) The modes of transportation by air, water, or pipeline are governed by other agencies and other Federal regulations and are not under the jurisdiction of the Department. Thus, any portion of the Federal regulations governing transportation of hazardous materials by air, water, or pipeline within Parts 107, 171, 172, 173, 174, 177, 178, 179 and 180 are hereby excluded and not adopted and incorporated by reference by the Department.

(h) This chapter establishes minimum standards which must be complied with in conjunction with the transportation of hazardous materials. Therefore, in the event of a conflict between this chapter and any other State regulation, the stricter, more stringent standard shall apply and govern. This chapter is intended to complement, and not to limit, those related statutory and regulatory provisions of the New Jersey Department of Environmental Protection regarding hazardous wastes, radioactive materials, spill compensation and control.

(i) This chapter may be amended from time to time by the New Jersey Department of Transportation.