HAZARDOUS WASTE: Answers to 7 Frequently Asked Questions

Generally speaking, hazardous waste is any materials no longer being used for their original purpose that may be harmful to the environment if they’re not disposed of properly. If your company generates any hazardous waste in its operations, it’s required to comply with a variety of laws and requirements designed to protect workers, the general public and the environment from such waste. Because of the number of laws involved and their interplay with each other, such compliance can be complicated. So here are answers to seven frequently

asked questions (FAQs) about compliance with hazardous waste requirements.

Defining Our Terms

There are three key groups who have to comply with hazardous waste requirements:

- Companies that generate hazardous waste;
- Companies that transport this waste; and
- Facilities that store, treat and/or dispose of the waste.

This article focuses on the requirements that apply to companies that generate hazardous waste, although we'll mention applicable requirements for the other groups when appropriate.

7 FAQs

Which Laws Apply to Hazardous Waste'

A: Hazardous waste is regulated under various laws, but mainly under these three kinds:

Environmental law. Most jurisdictions regulate hazardous waste through their primary environmental law and related regulations. For example, in Alberta, hazardous waste requirements are contained in the *Environmental Protection and Enhancement Act* and the related *Waste Control Regulation*, while the requirements for hazardous waste in BC are contained in the *Environmental Management Act* and related *Hazardous Waste Regulation*.

Transportation of dangerous goods law. The transportation of hazardous waste, such as by truck or rail, may be regulated by each jurisdiction's transportation of dangerous goods law and related regulations. For example, the federal *Interprovincial Movement of Hazardous Waste Regulations* apply to the movement

of hazardous waste within Canada, and reference and incorporate the federal *Transportation of Dangerous Goods Act* (TDGA) and related regulations.

OHS/WHMIS. The OHS laws require companies to take all reasonable steps to protect workers from health and safety hazards, such as hazardous materials. Hazardous materials are usually covered under the WHMIS requirements, which are set by federal law and largely incorporated as is into the provincial and territorial OHS laws.

You'd think that hazardous waste would be covered by WHMIS but most jurisdictions specifically exempt such waste from these requirements. However, the OHS laws *do* impose special requirements for protecting workers from the dangers posed by hazardous waste. (Note that the current WHMIS requirements will change once GHS is adopted in Canada, which is likely to be in 2015, and may impact how hazardous waste is regulated in terms of workplace safety.)

***Insider* Says:** Certain kinds of hazardous waste may be regulated under other, more specialized laws. For example, in Alberta, oilfield waste is specifically excluded from the definition of hazardous waste under the main environmental law and is instead regulated by the Energy Resources Conservation Board. In addition, some types of hazardous waste, such as PCBs, have their own laws and regulations.

What Is Hazardous Waste'

A: The applicable laws may define 'hazardous waste' or similar terms such as 'waste dangerous goods' or 'special waste' a little differently but there are similarities. For example, the environmental laws often include very detailed definitions and lists of designated hazardous waste, but generally classify waste as hazardous if it poses a greater danger to the environment and human health than other waste material because of its specific chemical, physical and/or biological

properties. And in terms of worker safety, the OHS laws typically define ‘hazardous waste’ as a controlled product that’s intended for disposal or is sold for recycling or recovery.

So in the most basic sense, hazardous waste is material:

- That’s leftover or no longer being used for its original purpose and is intended to be discarded or recycled; and
- Could pose a serious danger to the environment or human health if not handled or disposed of properly.

Examples of hazardous waste include waste oil and oil filters, spent lead acid batteries and sludge containing heavy metals.

How Do You Determine if Waste Is Hazardous under the Law’

A: As a generator of hazardous waste, your key duty is to properly classify and characterize hazardous waste when appropriate. To comply with this duty, you must first determine whether waste generated by your company is considered hazardous under the applicable laws.

If your waste fits our basic definition above, it’s likely to be considered hazardous waste under the relevant laws. So you should next look at each law’s specific definition of hazardous waste. You may be able to determine whether waste fits that definition based on information your company already has about its processes, the materials and chemicals it uses, and their properties. For example, you can consult any relevant MSDSs. But in some cases, you may need to have waste tested to determine if the hazardous waste requirements apply to it. In addition, some requirements may apply only if you generate such waste in excess of designated amounts. So you’ll also need to determine how much hazardous waste of a specific type the company generates.

What's Required to Protect Workers from Dangers of Hazardous Waste'

A: As noted above, hazardous waste is generally excluded from the WHMIS requirements under OHS law. But OHS regulations do still require you to protect workers from the dangers posed by handling and storing such waste in the workplace by:

Identifying hazardous waste. You should identify materials that qualify as hazardous waste to alert workers. If the waste is in a container, use a label that should include all the information that a WHMIS workplace label for controlled products must include:

- Identification of the controlled product in the hazardous waste;
- Safe use and handling information; and
- An indication of whether an MSDS is available.

If the waste is in something other than a container, such as a tailings pond, use a placard instead. The placard should generally:

- Contain the same information as a WHMIS workplace label;
- Be posted conspicuously near the hazardous waste; and
- Be clearly legible.

In addition, it's also a good idea to use MSDSs or waste profile sheets to provide more information for workers than labels or placards. A hazardous waste profile sheet should generally contain the following:

- Company information;
- Hazard classification, including the WHMIS class and class under the transportation of dangerous goods laws;
- Chemical composition of the waste;
- Physical characteristics of the waste, such as whether it's a liquid, solid, gas, etc.;
- Any fire, explosive or radioactivity hazards it poses;

- Health hazards and toxicological properties, such as whether the waste is an irritant or carcinogen;
- Preventive measures, including recommended PPE; and
- First aid measures.

Make sure that MSDSs or waste profile sheets are readily available to workers who work with, near or handle the hazardous waste.

Training workers. You should also train workers on hazardous waste. This training should generally include providing workers with all the information which you're aware of'or ought to be aware of'concerning the waste, including, at a minimum:

- Hazards posed by the waste; and
- Procedures for the safe use and handling of hazardous waste, including use of PPE.

***Insider* Says:** For more information on complying with the hazardous waste requirements under OHS law, see 'WHMIS & Hazardous Waste: How to Protect Workers.'

Are There Special Requirements for Storing Hazardous Waste'

A: Yes. It's critical that you store hazardous waste properly until it can be disposed of so that different types of hazardous waste don't interact and, say, explode and so there aren't any leaks. Jurisdictions may have general requirements for storing hazardous waste and also have special requirements for certain types of waste, such as PCBs and petroleum products. Storage requirements may apply to anyone storing hazardous waste, including waste generators, or only to hazardous waste management, treatment, recycling and/or storage facilities. (Even if storage requirements don't apply to you, it's a good idea to consider following them anyway if you have to store any hazardous waste your company generates

before it’s transported to another facility for disposal to ensure there are no environmental incidents or spills.)

This chart includes the general hazardous waste storage requirements under each jurisdiction’s environmental laws. You should obviously comply with the requirements for your jurisdiction. But the hazardous waste storage requirements typically focus on two areas:

How waste is stored. The most basic requirement is that you store hazardous waste so that it doesn’t cause an adverse effect on the environment. For example, you should store such waste only in containers made of material that’s compatible with the waste. You should also keep incompatible waste separate and should label containers of waste to identify their contents.

Where waste is stored. The laws also often restrict where you can store hazardous waste. For example, you may be barred from storing it near human food or animal feed. You may also have to ensure that it’s stored in a secure location, which you inspect regularly.

How Do You Safely Dispose of Hazardous Waste’

A: Because hazardous waste is, well, waste, regulation of it mainly focuses on its proper disposal. Carelessly disposing of any kind of waste can negatively impact the environment. But improperly disposing of *hazardous* waste can cause serious damage to the environment with long-term consequences.

The environmental laws that regulate hazardous waste disposal typically require you to ensure that hazardous waste is properly identified by a number indicating the company that generated it and a manifest that describes the waste and any special handling requirements. You must also ensure that hazardous waste is transported by authorized shippers (more on

this step below) to hazardous waste treatment facilities, which are usually required to have permits or certificates of approval.

What Are the Requirements for Transporting Hazardous Waste'

A: Most companies only need to worry about transporting hazardous waste when they're disposing of it. For such waste to be disposed of properly, it must be transported by an authorized shipper to an authorized facility. So you'll likely need to comply with both the waste disposal requirements in your jurisdiction's environmental law as well as requirements under the applicable transportation of dangerous goods laws if the hazardous waste qualifies as a 'dangerous good' under those laws, which is often does. *The good news*: In most cases, the transportation of dangerous goods and hazardous waste disposal requirements are similar or identical as to transporting hazardous waste. In fact, the transportation of dangerous goods requirements are often incorporated word for word into the hazardous waste disposal requirements.

So what *are* the requirements for transporting hazardous waste' Generators of hazardous waste must:

- Complete their section of the required shipping manifest and file it appropriately;
- Use only shippers that are authorized to transport hazardous waste and that meet their own environmental requirements. For example, make sure that the person transporting the hazardous waste has the necessary license; and
- Send the hazardous waste only to a place that's authorized to handle such waste, such as one that has a permit or approval permitting it to store, process, dispose of or otherwise handle hazardous waste.

BOTTOM LINE

Environmental compliance is challenging and only made harder when several different laws apply to a particular substance or material, as is the case with hazardous waste. This article clarifies the interaction of these laws and is intended to help EHS professionals navigate this complex area.