

Introduction to
**Treatment, Storage and
Disposal Facilities**
(40 CFR Parts 264/265,
Subpart A-E)

RCRA TREATMENT, STORAGE, AND DISPOSAL FACILITIES

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1. INTRODUCTION

The final link in RCRA's cradle-to-grave concept is the treatment, storage, and disposal facility (TSDF) that follows the generator and transporter in the chain of waste management activities. The regulations pertaining to TSDFs are more stringent than those that apply to generators or transporters. They include general facility standards as well as unit-specific design and operating criteria. The general facility standards consist of good housekeeping provisions for any facility that handles hazardous waste. The unit-specific technical requirements are designed to prevent the release of hazardous waste into the environment. The regulations also address the different types of hazardous waste units available to treatment, storage, and disposal facilities. This training module presents an overview of the general TSDF standards found in 40 CFR Part 264/265, Subparts A through E. The unit-specific standards will be addressed in other training sessions.

When you have completed this module you will be able to discuss the general requirements for TSDFs and discern the differences between the applicability of Part 264 versus Part 265.

Specifically, you will be able to:

- identify and explain each exclusion from Part 264/265, and find definitions of excluded units, such as "wastewater treatment unit" and "elementary neutralization unit"
- locate and describe the requirements for waste analysis and personnel training
- describe the purpose of a contingency plan and list the emergency notification procedures
- describe manifest procedures and responsibilities, and list the unmanifested waste reporting requirements.

Use this list of objectives to check your knowledge of this topic after you complete the training session.

2. REGULATORY SUMMARY

RCRA §3004 requires that EPA develop standards for both existing TSDFs that were immediately subject to regulation at the time the statute was enacted and for facilities that would be built after regulations were established. Congress also mandated that the standards for both types of facilities should only be different where absolutely necessary. To make allowances for existing facilities that would not be able to comply with the full regulatory program immediately, EPA promulgated interim status standards in Part 265. New facilities, on the other hand, would be constructed after the regulations were promulgated, thus enabling these facilities to be designed and built to meet the standards EPA deemed necessary to protect human health and the environment. The standards for new facilities are found in Part 264. While the standards in Part 264 are more stringent than those in Part 265, the standards are nearly identical except in the limited circumstances where the standards for new facilities would be impracticable for existing facilities to implement immediately.

Other aspects of the RCRA regulatory program may also affect TSDFs. For example, Part 266 outlines specialized standards for recyclable materials and Part 268 addresses the land disposal restrictions. These requirements are discussed separately in the modules entitled Definition of Solid Waste and Hazardous Waste Recycling and Land Disposal Restrictions.

Congress directed EPA to establish a system for issuing TSDFs permits (RCRA §3005). A TSDF not only must comply with the standards of Part 264/265, but an owner or operator also needs to obtain a permit in Part 270 (or operate under interim status) to engage in hazardous waste management. A permit is an authorization, license, or equivalent control document issued by EPA or an authorized state to implement the TSDF requirements. TSDF permits are facility-specific and are issued after a documentation and review process. Generators and transporters are not required to obtain permits for several reasons: they generally handle smaller amounts of waste for shorter periods of time and their operations are more changeable, which is not conducive to the long and detailed process of permitting. A TSDF, on the other hand, is a permanent facility in operation for the purpose of making a profit from waste management. The module entitled Permits and Interim Status provides more detail about applying for and receiving a permit.

The standards found in Part 264/265, Subparts A through E, pertain to general facility operating requirements. The purpose of these five subparts is to define which units are subject to regulation and establish general specifications, set reporting and recordkeeping requirements, and specify procedures for daily operation and emergencies.

Due to the similarities between the respective Part 264 and Part 265 standards, they are addressed simultaneously in this module, with any significant difference highlighted.

2.1 APPLICABILITY: SUBPART A

With some exceptions, the Part 264/265 regulations apply to facilities that treat, store, and dispose of hazardous wastes. The terms "facility," "treat," "store," and "dispose" all have specific definitions found in §260.10. A facility includes all contiguous land, structures, and appurtenances on or in the land used for treating, storing, or disposing of hazardous waste. A single facility may consist of several types or combinations of operational units. Treatment is defined as any method, technique, or process designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. Storage is defined as holding hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere. Disposal is the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste on or in the land or water. A disposal facility is any site where hazardous waste is intentionally placed and at which the waste will remain after closure. If an area meeting the definition of a facility is engaged in treatment, storage, and/or disposal, it must be in compliance with the standards under Part 264/265.

TSDF is a term of convenience, grouping all such facilities together for the purpose of discussing the regulations. In practice, there are storage facilities, treatment and disposal facilities, and every other combination possible. A facility becomes subject to Part 264/265 if it chooses to perform any of these three regulated activities.

EXEMPTIONS

All hazardous waste TSDFs are subject to Part 264/265 unless they are specifically excluded. Because Part 264/265 and Part 270 work in tandem to regulate TSDFs, the same exemptions can be found at the beginning of each of these sections — under Part 264/265, Subpart A, and §270.1. The following exemptions to the TSDF standards apply to both Part 264 and Part 265, unless stated otherwise.

Permits-by-Rule

Certain facilities that have permits under other environmental laws may qualify for a special form of a RCRA permit, known as a permit-by-rule. Essentially, a facility with a permit under another environmental law that meets the conditions in §270.60 is exempt from the substantive requirements of Part 264/265. The Part 264 standards apply to permit-by-rule facilities (i.e., ocean disposal, underground injection, publicly owned treatment works (POTWs)) only to the extent that they are included in a RCRA permit-by-rule granted under Part 270 (§264.1(c), (d), and (e)). Part 265 is different in that only ocean disposal and POTWs are exempt from regulation (§265.1(c)(1) and (3)). Hazardous waste injection facilities are subject to interim status regulation under Part 265, Subpart R. Any treatment or storage at a TSDF prior to placement in facilities exempt under permit-by-rule is subject to Part 264/265 requirements. In addition, sludge generated at a POTW is a solid waste and may be characteristically hazardous, making the owner and operator a hazardous waste generator (45 FR 76076, 76080; November 17, 1980).

Conditionally Exempt Small Quantity Generator Waste

Facilities that only treat (including recycling), store, or dispose of waste generated by conditionally exempt small quantity generators (CESQGs) regulated pursuant to §261.5 are excluded from Part 264/265 (§§264.1(g)(1)/265.1(c)(5)). According to §261.5(g)(3), such facilities must be either permitted, licensed, or registered by the state for handling nonhazardous non-municipal or municipal solid waste, qualify as a recycling facility, or be subject to the universal waste handler or destination facility regulations under Part 273. For more details about CESQGs, see the module entitled Introduction to Generators.

Recyclable Materials

According to §§264.1(g)(2) and 265.1(c)(6), owners and operators managing the following recyclable materials are subject to the facility standards of Part 264/265 only to the extent that the Part 266 or Part 279 recycling regulations refer back to them:

- materials used in a manner constituting disposal
- hazardous waste burned in boilers and industrial furnaces
- precious metals that are recycled
- spent lead-acid batteries that are reclaimed
- used oil that is recycled.

Owners or operators managing the following recyclable materials are not subject to Part 264/265 (§§264.1(g)(2)/265.1(c)(6)):

- industrial ethyl alcohol
- scrap metal
- fuels produced from the refining of oil-bearing hazardous wastes
- oil reclaimed from oil-bearing hazardous waste.

For more details about hazardous waste recycling exemptions, see the module entitled Definition of Solid Waste and Hazardous Waste Recycling.

Generators

According to §§264.1(g)(3)/265.1(c)(7), generators accumulating waste on site in accordance with §262.34 do not need a permit and do not have to comply with Part 264. They must comply with only those sections of Part 265 that are specified in §262.34.

Farmers

According to §§264.1(g)(4)/265.1(c)(8), a farmer disposing of pesticide wastes on their own property in compliance with §262.70 is not subject to the standards in Part 264/265. Congress did not want dual-regulation of farmers under RCRA and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Therefore, farmers meeting the conditions outlined in §262.70 are exempt from both generator and TSDf regulations (43 FR 58969; December 18, 1978).

Totally Enclosed Treatment

Totally enclosed treatment facilities are excluded from Part 264/265 (§§264.1(g)(5)/265.1(c)(9)). A totally enclosed treatment facility means a facility which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment (§260.10). The exemption for totally enclosed treatment facilities applies only to the enclosed unit. Effluent from the facility is regulated when the waste entering the totally enclosed treatment facility is derived from listed waste or when the effluent is characteristically hazardous.

Elementary Neutralization

Pursuant to §§264.1(g)(6)/265.1(c)(10), elementary neutralization units (ENUs) are excluded from Part 264/265. In order to qualify as an ENU, the unit must be a container, tank, tank system, transport vehicle, or vessel, and only neutralize wastes that are hazardous solely for the characteristic of corrosivity (§260.10). Neutralization in a surface impoundment or any other land-based unit is subject to regulation.

Wastewater Treatment Unit

Wastewater treatment units are also excluded under Part 264/265 (§§264.1(g)(6)/265.1(c)(10)). To meet the exclusion, these units must meet all three parts of the definition of a wastewater treatment unit in §260.10. A wastewater treatment unit must meet all of the following requirements:

- have a discharge subject to Clean Water Act (CWA) pretreatment standards or permitting requirements under CWA §§402 or 307(b)
- manage hazardous wastewater or hazardous wastewater treatment sludge
- meet the definition of a tank or tank system.

Since only the unit is exempt from regulation, any hazardous sludge generated in the wastewater treatment unit is subject to regulation when it is removed from the tank.

Emergency Response

Sections 264.1(g)(8) and 265.1(c)(11) exclude emergency response actions to immediately contain or treat a spill of hazardous waste or a material that becomes a hazardous waste when spilled. EPA has not formally defined the term "immediately." Of course, any hazardous waste generated must be managed in accordance with Part 262, and any treatment or storage after the emergency situation has passed is subject to full Subtitle C regulation. If the activity does not fall within the scope of this exclusion, an emergency permit of 90 days or less may be required (§270.61).

Transfer Facilities

Manifested wastes that are in transit and stored in containers by a transporter for less than 10 days at a transfer facility in accordance with §263.12 are not subject to generator or TSDF standards (§§264.1(g)(9)/265.1(c)(12)). A transfer facility is any transportation-related facility, including loading docks and parking and storage areas, where shipments of hazardous waste are held during the normal course of transportation (§260.10).

Adding Absorbent

Adding absorbent to waste can constitute hazardous waste treatment, requiring compliance with Part 264/265. According to §§264.1(g)(10)/265.1(c)(13), however, adding absorbent to waste when the waste is first put into the container is excluded from the requirements in Part 264/265. Adding absorbent after the waste has accumulated does not qualify for this exemption. If a waste is transferred to a new container, more absorbent may be added if the absorbent is being added when the waste is first placed in the new container. Since generators can treat hazardous waste in accumulation tanks and containers without obtaining a permit, this additional exemption from permitting may be used infrequently.

Universal Waste Handlers

Sections 264.1(g)(11)/265.1(c)(14) exclude handlers and transporters of materials defined as universal wastes under Part 273. At present, four different materials are defined as universal wastes: hazardous waste batteries, pesticides, thermostats, and hazardous waste lamps. For more details about universal wastes, see the module entitled Introduction to Universal Waste.

OTHER APPLICABILITY ISSUES

Although Part 264/265, Subpart A, primarily addresses the applicability of TSDF standards, it also places some restrictions or conditions on operating facilities.

Imminent Hazard Action

Pursuant to §§264/265.4, imminent hazard enforcement actions may be brought against TSDFs pursuant to RCRA §7003, notwithstanding any other provisions of Part 264/265.

Dioxin-Containing Waste

Interim status facilities may not manage dioxin-containing wastes (F020-F023, F026, and F027) unless the requirements in §265.1(d) are met.

2.2 GENERAL FACILITY STANDARDS: SUBPART B

If a TSDF is not exempt, the owner and operator must comply with the requirements in Part 264/265. The general facility standards cover a variety of good housekeeping requirements that are required for any non-exempt TSDF. These provisions include recordkeeping requirements, personnel training requirements, and other safety requirements. Most of the standards are the same for permitted and interim status facilities, but notations are made where they are different.

IDENTIFICATION NUMBER

All TSDF owners and operators must obtain site-specific EPA identification numbers (§264/265.11).

WASTE ANALYSIS

TSDFs need to verify the composition (i.e., hazardous constituents and characteristics) of incoming waste in order to treat, store, or dispose of the waste properly. A waste analysis plan (WAP) outlines the verification procedures, including specific sampling methods, necessary to ensure proper treatment, storage, or disposal (§264/265.13). The WAP must be written and kept on site.

Before an owner or operator treats, stores, or disposes of any hazardous waste, he or she must obtain a detailed chemical and physical analysis of a representative sample of the waste. This information may be supplied either through sampling and laboratory analysis or through acceptable knowledge. Acceptable knowledge is defined broadly to include process knowledge (obtaining data from existing published or documented waste analysis or studies), waste analysis data (obtained from the generator), or through the facility's records of analyses performed before the effective date of the RCRA regulations.

Waste Analysis Plan

The WAP must, at a minimum, contain the following basic elements:

- the parameters to be analyzed
- testing and analytical methods
- sampling methods used to obtain representative samples
- frequency of waste re-evaluation
- for off-site TSDFs, the waste analyses that generators have agreed to supply
- procedures to ensure that the waste received at the off-site TSDF matches the identity of the waste designated on the accompanying manifest.

Frequency of Analysis

The waste analysis must be repeated periodically to ensure that the information on a given waste is accurate and up to date. At a minimum, the waste analysis must be repeated (1) when the TSDF is notified or has reason to believe that the process or operation generating the hazardous wastes has changed; and (2) when inspection indicates that the hazardous waste received does not match the information on the accompanying manifest. Off-site combustion facilities should characterize all wastes prior to burning to verify that permit conditions will be met.

SECURITY

Security provisions are intended to prevent accidental entry and minimize the possibility of unauthorized entry of people or livestock onto the active portion of the facility (§264/265.14). Unless the owner or operator of a facility demonstrates to the Regional Administrator that livestock or unauthorized persons who enter the facility will not be harmed or cause any portion of the regulations to be violated, the facility must install the following security measures (§§264/265.14(a)(1) and (2)):

- a 24-hour surveillance system which continuously monitors and controls entry onto the active portion of the facility (e.g., television monitoring, guards)

or

- an artificial or natural barrier which completely surrounds the active portion of the facility (e.g., fence), and a means to control entry to the active portion at all times via gates or entrances (if the active portion is located at a larger facility that has barriers and a means to control entry that meet the above standards, the active portion does not need its own system)

and

- a sign reading: "Danger — Unauthorized Personnel Keep Out" at each entrance to the active portion. The sign must be written in English and any other language that is predominant in the area surrounding the facility. It must be legible from a distance of 25 feet. Alternate language conveying the same message may be used (45 FR 33181; May 19, 1980).

INSPECTION REQUIREMENTS

The owner or operator must visually inspect the facility for malfunction, deterioration, operator errors, and discharges (§264/265.15). The inspection provisions are carried out according to a written inspection schedule that is developed and followed by the owner or operator and kept at the facility. The schedule must identify the types of problems to be looked for, and set the frequency of inspection, which may vary. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. Unit-specific inspections or requirements also must be included in the schedule (e.g., §265.226 for surface impoundments). The owner or operator must record inspections in a log or summary, and must remedy any problems identified during

inspections. The records must include the date and time of inspection, the name of the inspector, notation of observations, and the date and nature of any necessary repairs or other remedial actions, and must be kept at the facility for three years.

PERSONNEL TRAINING

Personnel at TSDFs must successfully complete a program of classroom instruction or on-the-job training (§264/265.16). At a minimum, the training should focus on effective response to emergencies.

The training program must be completed six months from the date the facility is subject to Part 264/265 or Part 266 regulation, or six months after the date a worker is newly employed. New employees are required to work under supervision until their training is complete. Facility personnel must take part in an annual review of their initial training.

Training-related documents and records must be kept at the facility. These must include a job title for each person and the name of the employee filling that position. Also, a written job description is needed for each position and records documenting that the employee holding that position has completed the training or job experience satisfactorily. Finally, the files must contain the training records on current personnel and past employees for three years.

REQUIREMENTS FOR IGNITABLE, REACTIVE, OR INCOMPATIBLE WASTE

Special care must be taken in handling ignitable, reactive, or incompatible wastes (§264/265.17). Ignitable and reactive wastes must be protected from ignition sources. "No Smoking" signs must be placed where ignitable and reactive wastes are stored and separate smoking areas must be designated (§264/265.17(a)). Owners and operators must also take precautions to prevent waste reactions (§264/265.17(b)). Owners and operators for whom §264.17(a) and (b) are applicable must document their compliance with those sections (§264.17(c)).

LOCATION STANDARDS

As mentioned earlier, the location standards differ between new and existing facilities. The location standards for new facilities provided in §264.18 place restrictions on siting new facilities, including restrictions on locating TSDFs in floodplains or earthquake-sensitive areas. Existing facilities are not subject to the floodplains and seismic considerations because the facilities are already in operation.

Both interim status and permitted TSDFs may not place noncontainerized or bulk liquid hazardous waste in a salt dome, salt bed formation, or underground mine or cave. Congress has granted one exception to this rule: the Department of Energy's Waste Isolation Pilot Project (WIPP) in New Mexico (§§264.18(c)/265.18).

CONSTRUCTION QUALITY ASSURANCE

Interim status and permitted landfills, waste piles, and surface impoundments are required to implement a construction quality assurance (CQA) program pursuant to §264/265.19. The CQA program ensures that all design criteria are met during the construction of a unit. A written CQA plan is required, and the CQA officer (i.e., a registered professional engineer) must certify that the unit meets all design criteria and permit specifications before waste can be received in the unit.

2.3 PREPAREDNESS AND PREVENTION: SUBPART C

The preparedness and prevention standards are intended to minimize and prevent emergency situations at TSDFs. Facilities must be operated and maintained in a manner that minimizes the possibility of a fire, explosion, or any unplanned sudden or nonsudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. The regulations require maintenance of equipment, alarms, minimum aisle space, and provisions for contacting local authorities. Specifically, §264/265.32 mandates that a facility must have an internal communication or alarm system, a phone or radio capable of summoning emergency assistance, fire-fighting equipment, and adequate water supply. Sections 264/265.33 and 264/265.34 require that this equipment be maintained and tested regularly, and that all personnel have access to an alarm system or emergency communication device. In addition, the facility must have aisle space that is sufficient to ensure easy movement of personnel and equipment unless the owner/operator demonstrates that it is unnecessary (§264/265.35).

Facilities must also have provisions for contacting local authorities that might be involved in emergency responses at the facility. The local authorities must be familiar with the facility and properties of the hazardous waste(s) handled at the facility (§264/265.37). Local authorities include police, fire department, hospitals, and emergency response teams. Where more than one local authority is involved, a lead authority must be designated. Where state or local authorities decline to enter into such arrangements, the owner and operator must document the refusal in the operating record (§264/265.37(b)).

2.4 CONTINGENCY PLAN AND EMERGENCY PROCEDURES: SUBPART D

Because even strict adherence to the Part 264/265 preparedness and prevention standards will not eliminate the possibility of an emergency situation, the Part 264/265, Subpart D regulations are designed to limit the extent of damage resulting from an emergency. These provisions help facilities respond to a fire, explosion, or any unplanned release of hazardous waste or hazardous constituents into the environment. Owners and operators must maintain contingency plans on site at all times and carry out these plans in the event of an actual emergency.

CONTINGENCY PLAN

The plan describes arrangements with local authorities and lists names, addresses, and telephone numbers of all people qualified to act as emergency coordinators. If more than one emergency coordinator is listed, a primary contact must be designated. The plan must include a list of all emergency equipment and evacuation plans, where applicable. If the owner and operator have already prepared an emergency or contingency plan in accordance with other regulations (e.g., Spill Prevention, Control, and Countermeasures (SPCC) Plan), amending the existing plan to incorporate hazardous waste management provisions is sufficient to fulfill the requirements of Subpart D (§264/265.52).

A copy of the contingency plan (and any revisions) must be maintained at the facility and provided to all local authorities that may have to respond to emergencies (§264/265.53).

The contingency plan must be reviewed and amended when the applicable regulations or facility permits are revised, the plan fails in an emergency, or there are changes to the facility, the list of emergency coordinators, or the list of emergency equipment (§264/265.54).

EMERGENCY COORDINATOR

The emergency coordinator (§264/265.55) is responsible for assessing emergency situations and making decisions to respond. There must be at least one employee either on the facility premises or on call to fill this role. This person must have the authority to commit the resources needed to carry out the contingency plan.

EMERGENCY PROCEDURES

In the event of an imminent or actual emergency situation, the emergency coordinator must immediately activate internal facility alarms or communication systems and notify appropriate state and local authorities. In cases where there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and extent of any released materials. At the same time, the coordinator must assess possible hazards to human health or the environment. If the coordinator determines that the emergency threatens human health or the environment outside of the facility and finds that evacuation of local areas may be advisable, the coordinator must notify appropriate authorities and either the designated government official for the area or the National Response Center.

During an emergency, measures must be taken to ensure that fires, explosions, and releases do not occur, recur, or spread. If the facility stops operation, the coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment (§264/265.56(a)-(f)).

POST-EMERGENCY PROCEDURES

After an emergency, any residue from the release, fire, or other event must be treated, stored, or disposed of according to all applicable RCRA regulations. The facility may end up assuming generator status for management of these residues. The coordinator must ensure that all

emergency equipment is cleaned and fit for use before operation is resumed. The owner or operator must document in the facility operating record events that required the implementation of the contingency plan. Within 15 days of the accident, the owner or operator must submit a written report describing the incident to the Regional Administrator (§264/265.56(g)-(j)).

2.5 MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING: SUBPART E

The paperwork required by Part 264/265, Subpart E, is designed to track hazardous waste from cradle to grave. The manifest system tracks each shipment of hazardous waste while the operating record and Biennial Report summarize facility activity over time.

MANIFEST

TSDFs that accept waste from off site are the final signatories to the manifest. When a manifested waste shipment is received, all copies of the manifest are signed and dated by the facility owner or operator. The transporter and the TSDf keep signed copies of the manifest, and a copy is sent to the generator within 30 days to verify acceptance of the waste (§264/265.71). If the owner or operator of a TSDf sends the waste on to another TSDf for further treatment or disposal, a new manifest with a new designated facility must be initiated.

MANIFEST DISCREPANCIES

Manifest discrepancies include significant differences between the quantity or type of hazardous waste designated on the manifest and the quantity or type of hazardous waste that a facility actually receives; rejected wastes; and container residues. More specifically, significant differences are any discrepancies in weight (for bulk shipments, over 10 percent), piece count (for batch or containerized waste shipments, one container per truckload), or waste type. Upon discovering a significant difference in quantity or type, the owner or operator must try to reconcile the discrepancy with the generator or transporter. Any discrepancies not resolved within 15 days of waste receipt must be reported to the Regional Administrator with an explanatory letter and a copy of the manifest (§264/265.72).

Rejected wastes may be a full or partial shipment of hazardous waste that the TSDf cannot accept. Container residues are residues that exceed the quantity limits for empty containers in §261.7. Upon rejecting waste or identifying a container residue, the facility must contact the generator before forwarding the waste to an alternative facility that can manage the waste. If it is impossible to find an alternative facility that can receive the waste, the waste can be returned to the generator. The facility must send the waste to an alternative facility or to the generator within 60 days and must prepare a new manifest for the shipment (§264/265.72).

UNMANIFESTED WASTE

If a TSDf accepts waste from off site without a manifest, an unmanifested waste report must be prepared in accordance with §264/265.76. The report must be submitted to the Regional Administrator within 15 days of receiving the waste (§264/265.76).

OPERATING RECORD

Until closure, the owner and operator are required to keep a written operating record on site describing all waste received, methods and dates of treatment, storage, and disposal, and the wastes' location within the facility as detailed in Appendix I of Part 264/265 (§264/265.73). All information should be cross-referenced with the manifest number. The operating record also must include waste analysis results, details of emergencies requiring contingency plan implementation, inspection results (for three years), groundwater monitoring data, land treatment and incineration monitoring data, and closure and post-closure cost estimates.

BIENNIAL REPORT

Biennial Reports must be filed with the Regional Administrator by March 1 of each even-numbered year, covering the facility's activities for the previous year (§264/265.75). For example, the Biennial Report covering 2003 activities would be due March 1, 2004. The facility owner or operator must send the report (Form 8700-13A/B) to its implementing agency (i.e., state or EPA region) and maintain a copy on site for three years.

ADDITIONAL REPORTS

Other reports that must be made to the Regional Administrator include, but are not limited to, reports of releases, fires and explosions, groundwater contamination and monitoring data, and facility closure (§264/265.77). Releases may also trigger Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right-to-Know Act (EPCRA) reporting.

RECORD AVAILABILITY

Section 264/265.74 specifies that all records and plans must be available for inspection. Required record retention periods are automatically extended during enforcement actions or as requested by the Administrator. When a facility certifies closure, a copy of records of waste disposal locations and quantities must be submitted to the Regional Administrator and to the local land authority.

3. SPECIAL ISSUES

The following discussions should prepare you for some frequently asked or particularly intricate questions relating to RCRA standards for TSDFs.

3.1 TSDF AS GENERATOR

As discussed earlier, if the owner or operator of a TSDF initiates a waste shipment, a new manifest must be prepared to comply with Part 262 standards (§264/265.71(c)). To take this a step further, if a TSDF generates hazardous wastes, then the TSDF would be considered a RCRA generator. For example, if the TSDF discarded used solvents (such as solvents used to degrease equipment) that were listed in Part 261, it would be considered the generator and would have to comply with the regulatory requirements applicable to generators in Part 262. Compliance with the Part 262 regulations can include an accumulation area under §262.34 that is exempt from permitting. This exempt accumulation area would only be available to hazardous wastes that are generated by the TSDF on site.

3.2 TSDF AS TRANSFER FACILITY

TSDFs may also serve as "transfer facilities" (§260.10) and may hold the waste that is appropriately packaged in accordance with DOT regulations for up to 10 days provided the TSDF is not the final destination (i.e., designated facility) for that waste and that the facility meets the definition of "transfer facility."

3.3 OSHA REQUIREMENTS

There are several areas of RCRA's general TSDF regulations that overlap with Occupational Safety and Health Administration (OSHA) hazardous waste operations (HAZWOPER) regulations. These regulations, found in 29 CFR §1910.120, require a training program, contingency plan, and provisions for preparedness and prevention. The specific requirements are generally different than the provisions for TSDFs because OSHA regulations are designed to protect the worker rather than the environment. Some of the requirements are similar enough, however, that complying with the regulations under OSHA may at least partially satisfy the RCRA requirements for training, contingency plan, and preparedness and prevention.

4. REGULATORY DEVELOPMENTS

EPA continues to develop ways to increase the efficiency and effectiveness of general facility standards.

4.1 CHANGES TO MANIFEST SYSTEM

On March 4, 2005, EPA announced modifications to the Uniform Hazardous Waste Manifest System (70 FR 10776). The revisions establish new manifest tracking procedures for certain hazardous waste shipments and revise the manifest and continuation sheet forms (Forms 8700-22 and 22a) used to track hazardous waste from a generator's site to the site of waste disposition. The revisions announced in the final rule will:

- standardize the content and appearance of the manifest form and continuation sheet (Forms 8700-22 and 22a)
- make the manifest form available from a greater number of sources
- adopt new procedures for tracking certain types of waste shipments with the manifest, including waste that a destination facility rejects, wastes consisting of residues from non-empty hazardous waste containers, and wastes entering or leaving the United States.

There will be an 18-month transition to the new form. During this 18-month periods, handler and states will only use the old form. They will continue to acquire the old forms from the sources they use now. After September 5, 2006, only the new manifest form and requirements established under this rule will be valid and acceptable for use.

Handlers will obtain new forms from any source that has registered with EPA to print and distribute the form. EPA will not distribute forms; rather, the Agency will oversee the printing requirements and ensure that registered printers follow them. EPA will maintain a list of entities that have been approved to print/distribute the form, so that the public may acquire the forms from one of the approved printers. Some large waste firms are expected to register to print their own forms so that they can use them wherever they do business, instead of having to buy the manifests from different States, as is the current practice. States may also register to print the new form, but State rules cannot establish the state as the exclusive source of the forms. A handler may use a manifest from any registered source.

The proposed revisions to the Uniform Hazardous Waste Manifest System included an option to complete, send, and store the manifest information electronically (66 FR 28240; May 22, 2001). However, EPA decided to separate the e-manifest from the form revisions portion of the final rulemaking. As a result, the March 4, 2005, rule finalizes only the manifest form revisions. Final action on the e-manifest will be based on the results of continuing analysis and outreach on several key rulemaking issues that are fundamental to the ultimate decision regarding whether EPA will adopt the e-manifest.

4.2 STANDARDIZED PERMITS

The RCRA Standardized Permit final rule was published in the Federal Register in Fall of 2005. The rule standardizes the federal hazardous waste permitting process by simplifying certain administrative procedures, and the permit renewal and modification processes. The new streamlined system is expected to reduce paperwork and save states and industry more than \$3 million a year while maintaining stringent hazardous waste management requirements.

Facilities that are eligible to apply for a standardized permit include: RCRA treatment, storage, and disposal facilities (TSDFs) that generate and then store or non-thermally treat hazardous waste on site in tanks, containers, or containment buildings; and TSDFs that receive hazardous waste generated off site by a facility under the same ownership as the receiving facility, and then manage that waste in tanks, containers, or containment buildings.

4.3 BURDEN REDUCTION INITIATIVE

On January 17, 2002, EPA proposed to reduce the recordkeeping and reporting burden imposed by RCRA on the states, the public, and the regulated community to meet the federal government-wide goal established by the Paperwork Reduction Act (PRA) (67 FR 2518). The PRA establishes a federal government-wide goal of reducing burden 40 percent from the total burden imposed annually on September 30, 1995. If finalized, the Burden Reduction Initiative will reduce the reporting requirements for generators and TSDFs by eliminating or modifying non-essential paperwork.

EPA proposes to reduce the self-inspection frequency for hazardous waste tanks from daily to weekly and to eliminate the RCRA overlap with OSHA training requirements. Additionally, EPA proposes to change the land disposal restriction (LDR) paperwork requirements by eliminating the need for generators to conduct the waste determination required in §268.7(a)(1) and eliminating the need for treatment and recycling facilities to send notifications and certifications required in §268.7(b)(6) to EPA, provided the information is kept in facility records.