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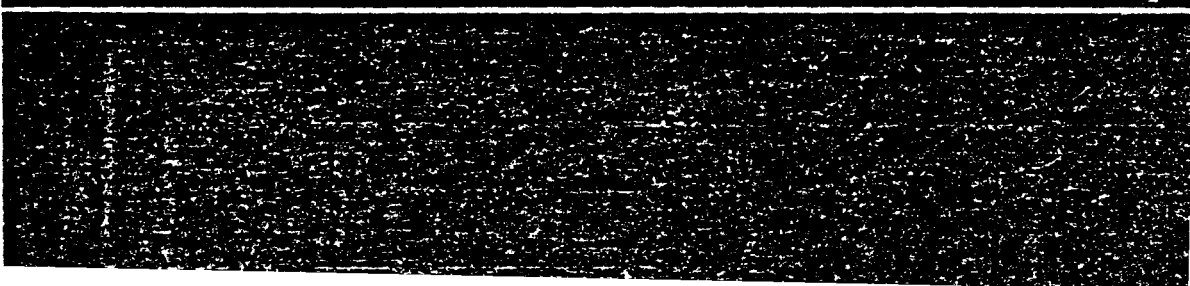
Solid Waste

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HAZARDOUS WASTE REGULATIONS UNDER RCRA

A Summary

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HAZARDOUS WASTE REGULATIONS UNDER RCRA

A Summary

This document (SW-939) summarizes EPA's hazardous waste regulations promulgated through September 1981.

It was prepared by Angela Wilkes of the
Office of Management, Information and Analysis,
Office of Solid Waste

U.S. Environmental Protection Agency

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The U.S. Environmental Protection Agency (EPA) was required under Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), Public Law 94-580, as amended, to issue regulations setting up a national system to control hazardous waste from "cradle to grave." The system, which became effective November 19, 1980, consists of six regulations:

- o identification and listing of hazardous wastes that are to be regulated;
- o standards for generators of hazardous waste;
- o standards for transporters of hazardous waste;
- o standards for owners and operators of hazardous waste treatment, storage, and disposal facilities;
- o requirements for the issuance of permits to hazardous waste facilities;
- o guidelines for authorizing State hazardous waste programs to be operated in lieu of the Federal program.

A provision of RCRA, though not a part of the regulations, is a requirement that all persons who handle hazardous waste must notify EPA of their activities within 90 days of promulgation or revision of the regulation identifying hazardous waste. Notification data include the handler's name and address, type of activity, and hazardous waste being handled.

Since mid-1980, over 60,000 generators, transporters, and owners and operators of hazardous waste facilities have notified EPA and have been assigned identification numbers. This EPA identification number is used in the manifest shipping form to track hazardous waste and on administrative reports required under the system. The data provided are also a principal source of information on the extent of hazardous waste activities nationwide.

The hazardous waste regulations were first proposed in the Federal Register on December 18, 1978. The main body of the final regulations was published on May 19, 1980. Additional proposals, repropoals, and amendments to the regulations have been published since that time.

EPA chose to issue the final regulations in two phases because of the enormous size and complexity of this major new national program, which EPA believes will take several years to implement. Phase I, promulgated in May 1980, included the major elements of the Federal system. These rules set the system in place and established standards that will ensure continuity in the cradle-to-grave system for controlling hazardous waste. The rules promulgated in this phase were written to be broad in scope so that they would apply to large numbers of facilities and vast amounts of hazardous waste. They require, among other things, that generators identify hazardous waste they produce and comply with specific requirements, particularly when shipping their waste offsite for treatment, storage, or disposal; that transporters comply with the waste manifest requirements; and that owners and operators of existing facilities that treat, store, or dispose of hazardous waste comply with certain administrative and operating requirements for "interim status," pending issuance of a final hazardous waste facility permit.

The Phase II regulations are essentially the technical requirements for permitting hazardous waste facilities. These requirements are included in the second phase of the State authorization program. The Phase II rules set specific standards for particular types of facilities to ensure the safe treatment, storage, and disposal of hazardous waste on a permanent basis by methods that will protect human health and the environment. These standards

will also allow EPA or authorized States to issue final permits to environmentally acceptable facilities on a case-by-case basis. This approach to evaluating facilities for permitting purposes takes into consideration both site-specific factors and the nature of the waste handled at a particular facility. The Phase II standards enable facilities to move from interim status to a final facility permit.

On the effective date of the regulations in Phase I, EPA also began the process of authorizing States to implement their own hazardous waste management programs to be operated in lieu of the Federal program. The intent of Congress, and EPA's objective, is to encourage and assist States in developing and implementing their own hazardous waste programs as soon as is feasible. The system for approving State programs parallels the two-phased approach to permitting facilities in that States may apply for and receive interim authorization for Phase I and later expand their programs by incorporating standards that are "substantially equivalent" to EPA's Phase II facility standards. The system also provides for final authorization of State programs that are fully equivalent to and consistent with the Federal program.

The remainder of this document describes, in general terms, the Federal hazardous waste regulations and amendments to those regulations that currently comprise the RCRA hazardous waste program.

IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

The identification regulation is the cornerstone of the hazardous waste management program. It enables generators and handlers of waste to determine if their waste falls within the definition of hazardous waste and is thus subject to the controls spelled out in the regulations.

The statutory definition of hazardous waste is, in general, a solid waste that may cause increased mortality or serious illness or may pose a substantial hazard to health or the environment when improperly managed. This definition is expanded in Part 261 of Title 40 of the Code of Federal Regulations. The regulation also includes a number of wastes specifically excluded from the control system as well as criteria for determining if a generator is exempt by reason of being classed as a "small-quantity generator."

Identifying a Hazardous Waste

In analyzing a waste to determine if it is hazardous, it is important to keep in mind that RCRA regulates only hazardous solid waste. "Solid waste" is broadly defined in RCRA to include garbage, refuse, sludge, or any other waste material that is not specifically excluded. "Any other waste material" includes solids, semisolids, liquids, and contained gaseous materials from industrial, commercial, mining, and other activities.

If a solid waste is involved, the generator or handler is provided with two methods for determining if the waste is hazardous:

1. Hazardous waste characteristics. Hazardous waste can be identified on the basis of measurable characteristics for which standardized tests are available. The identification regulation in Sections 261.20 through 261.24 provides detailed technical specifications for four characteristics adopted by EPA:

- o ignitability—posing a fire hazard during routine management;

- o corrosivity—ability to corrode standard containers or to dissolve toxic components of other wastes;
- o reactivity—tendency to explode under normal management conditions, to react violently when mixed with water, or to generate toxic gases;
- o EP toxicity (as determined by a specific extraction procedure)—presence of certain toxic materials at levels greater than those specified in the regulation.

2. Hazardous waste lists. The identification regulation contains lists of solid wastes that EPA has identified as hazardous. The lists are found in Sections 261.31, 261.32, and 261.33 of the identification regulation. These lists may be modified from time to time by adding or deleting wastes through the rulemaking process (that is, proposed and promulgated in the Federal Register).

Included in the lists are wastes that possess any of the four hazardous waste characteristics, wastes from certain manufacturing processes, commercial products that are hazardous wastes if discarded, as well as wastes meeting the criteria for acute hazardousness or toxicity. A waste is acutely hazardous if it has been found to be fatal to humans in small amounts or has been shown to be acutely toxic in certain studies of animals.

A waste is listed because of toxicity if it contains one or more of the constituents that have been found to have toxic effects on humans or other life forms unless, after considering certain factors, EPA determines that the waste may not cause or potentially cause "substantial" hazard to human health or the environment.

Exempting or Delisting a Waste

It is possible for generators to get an exemption from regulation even if their wastes are listed in the regulation. Generators must show that

the waste from their particular facility is fundamentally different from the waste listed. The delisting procedure involves demonstrating, or referencing test data that demonstrate, that the specific waste does not meet the criteria that caused the Agency to list it. This provision reflects recognition that individual waste streams vary, depending upon raw materials, industrial processes, and other factors.

Small Quantities of Hazardous Waste

In general, facilities producing or accumulating less than a total of 1,000 kilograms (2,200 pounds) per month of an identified hazardous waste are conditionally exempted from the regulatory system. EPA has, however, specified that certain acutely hazardous wastes generated or stored in amounts greater than 1 kilogram per month are subject to full regulation, even when produced by small-quantity generators.

The quantity determination does not include hazardous waste that is used, reused, recycled, or reclaimed.

To qualify for an exemption from regulation, small-quantity generators must dispose of their hazardous waste in EPA- or State-approved hazardous waste management facilities or in facilities approved by a State to manage municipal or industrial solid waste, or send their waste to a recycling facility.

Hazardous Wastes Excluded from the System

Certain wastes are not subject to RCRA hazardous waste controls (but may be controlled under other laws). These include:

- o domestic sewage;
- o industrial wastewater discharges regulated under the Clean Water Act;
- o nuclear wastes regulated under the Atomic Energy Act;
- o irrigation return flows;

- o household waste;
- o mining extraction, beneficiation, and processing wastes;
- o coal combustion wastes (fly ash, bottom ash, slag, and flue gas emission control wastes);
- o oil, gas, and geothermal drilling muds and brines;
- o soil fertilizers that come from the growing and harvesting of agricultural crops and the raising of animals (including animal manures);
- o cement kiln dust.

GENERATOR STANDARDS

EPA's regulations cover about 60,000 generators. Not included in this number are approximately 700,000 establishments that qualify as "small-quantity generators"—those who generate hazardous waste in sufficiently small amounts that they are conditionally excluded from regulation.

The standards for generators, found in Part 262, Title 40, of the Code of Federal Regulations, require generators of hazardous waste to:

- o determine if their waste is hazardous by consulting the list of hazardous wastes contained in the regulation or, if the waste is not listed, by determining if it possesses any one of four characteristics specified in the regulation (ignitability, corrosivity, reactivity, or EP toxicity); or, the generator may declare the waste to be hazardous based upon knowledge of the materials or processes used in producing the waste;
- o obtain an EPA identification number;
- o obtain a treatment, storage, or disposal facility permit if waste is accumulated on the generator's property more than 90 days;
- o use appropriate containers and label them properly for shipment;
- o prepare a manifest for tracking the waste;
- o assure, through the manifest system, that the waste arrives at the facility designated by the generator.

Notification and EPA Identification System

Generators of hazardous waste were required by RCRA to notify EPA of their activities. Following notification, they received an EPA identification number. Requests for an identification number are submitted to the appropriate EPA Regional Office.

Waste Leaving the Generator's Property

For waste leaving the site where it was generated, the generator must: use only transporters with identification numbers; prepare a manifest for

all regulated hazardous waste sent to offsite treatment, storage, or disposal facilities; keep records of these shipments; and report shipments that do not reach the facility designated on the manifest.

The Manifest

A generator of hazardous waste is responsible for preparation of a manifest for tracking hazardous waste from the time it is generated to its disposal. The manifest contains: name, address, and telephone number of the generator; names of all transporters; name and address of an acceptable hazardous waste facility (under interim status or having a facility permit) designated to receive the waste (an alternate facility may be designated if an emergency prevents use of the first facility); EPA identification numbers of all who handle the waste; U.S. Department of Transportation (DOT) proper shipping description of the waste; quantity of waste and type and number of containers; and the generator's signature certifying that the waste has been properly labeled, marked, and packaged according to DOT and EPA regulations.

The generator signs the certification on the manifest, including one copy for each person handling the waste. The transporter then signs and dates the manifest and returns one copy to the generator, who retains it until a copy is received from the designated facility following delivery of the waste by the transporter.

Waste Accumulated on the Generator's Property

Generators who accumulate waste on their property for more than 90 days are considered to be "storing" waste and must comply with the interim status

standards under Part 265 and are subject to the permit requirements under Part 122 of EPA's consolidated environmental permit regulations. The date accumulation began must be clearly marked on the containers of waste.

Exemption for Small-Quantity Generators

In order for generators to qualify for the small-quantity generator exclusion, they must determine:

- o if they generate a total of less than 1,000 kilograms (2,200 pounds) of hazardous waste in any one calendar month or
- o if the waste is beneficially used or reused or legitimately recycled or reclaimed.

It is important to note that acutely hazardous waste (listed in Section 261.33(e)) in excess of 1 kilogram a month is fully regulated even when it is produced by a small-quantity generator.

If producers of hazardous waste qualify as small-quantity generators, they may treat or dispose of the waste in an onsite facility or ensure that it is delivered to an offsite facility any of which—either onsite or offsite—must be one of the following:

- o permitted to manage hazardous waste by EPA or by a State with a hazardous waste management program authorized by EPA;
- o in interim status under the Federal hazardous waste program;
- o permitted, licensed, or registered by a State to manage municipal or industrial solid waste;
- o a facility that uses, reuses, recycles, or reclaims the waste.

Although the standards for generators who are in the system are in one part of the regulations (Part 262), the qualifying factors for the small-quantity generator exclusion are in another (Part 261.5—the regulation that identifies hazardous waste). For additional information concerning small-quantity generators, see Small-Quantity Generators of Hazardous Waste, SW-940.

TRANSPORTER STANDARDS

The regulation for the approximately 14,000 transporters of hazardous waste who are covered by the hazardous waste management system was developed jointly by EPA and the U.S. Department of Transportation (DOT). EPA's regulation is found in Part 263 of Title 40 of the Code of Federal Regulations; it incorporates by reference pertinent parts of DOT's rules on labeling, marking, packaging, placarding, and reporting hazardous waste discharges. DOT, in turn, amended its regulations on the transportation of hazardous materials (49 Code of Federal Regulations, Parts 171-177) to include EPA's manifest requirements. EPA believes that this joint EPA/DOT effort will make it easier for transporters to comply with all requirements of under the regulations.

EPA Notification and Identification System

Transporters of hazardous waste are required to notify EPA of their activities in order that EPA can assign an identification number. Without this EPA identification number, generators of hazardous waste are prohibited from using the transporter's services. New transporters of hazardous waste may submit requests for an identification number to the appropriate EPA Regional Office.

Operation of the Manifest System

The generator initiates the manifest, filling in the data concerning the waste and indicating the name and address of the hazardous waste facility that is to receive it. After signing the certification, the generator gives the appropriate number of copies of the manifest to the transporter. The transporter then signs and dates the manifest and returns one copy to the generator, who retains it until a copy is received

from the designated facility following delivery of the waste.

The transporter must ensure that the manifest accompanies the shipment at all times and that it is delivered to the designated hazardous waste facility. An agent for the facility signs and dates each copy and retains one. One copy is given to the transporter, who retains it for 3 years, and another copy is returned to the generator by the facility agent.

If more than one transporter is involved, the initial transporter must obtain the subsequent transporter's dated signature on the manifest. The remaining copies accompany the waste until it reaches the designated facility.

Rail Shipment and Bulk Shipment by Water

For shipments within the United States solely by rail or water (bulk shipment), the manifest need not accompany the waste. In these instances, the generator must forward three copies of the manifest to the designated facility, and the rail or water transporter must carry with the shipment a shipping paper that contains all the information required on the manifest except the EPA identification numbers, generator certification, and signatures.

The initial rail or water transporter signs the manifest (or shipping paper) acknowledging receipt of the waste; signatures of intermediate rail or water transporters are not required. The final rail or water transporter obtains the signature of the agent for the designated facility on either the shipping paper or the manifest acknowledging delivery of the waste.

If the shipment is not solely by rail, the initial rail transporter signs and dates the manifest and returns a copy to the previous nonrail

transporter and forwards at least three copies to the next nonrail transporter, the designated facility, or the last rail transporter.

If the shipment is not solely by water, the manifest must accompany the waste, and signatures of all transporters are required.

Hazardous Waste Discharge

A "discharge" is defined as the accidental or intentional spilling, leaking, pumping, emptying, or dumping of hazardous waste onto or into the land or water.

If a discharge occurs during transportation, the transporter is required to take immediate action to protect human health and the environment. Transporters are also responsible for cleaning up any discharge of hazardous waste that occurs during transportation or for taking other action that may be required or approved by Federal, State, or local officials so that the discharge no longer presents a hazard to health or the environment. When a government official on the scene determines that immediate removal of the waste is necessary, the official may authorize such removal by transporters who do not have EPA identification numbers or a manifest.

Under certain conditions, DOT requires that the transporter telephone the National Response Center to report a discharge. A written report on all discharges must, however, be submitted to DOT. DOT will then forward a copy of the written report to EPA.

If a person should become a hazardous waste transporter as the result of a spill, and the identification number and manifest waiver provision do not apply, the transporter must telephone the appropriate Regional

Office to obtain a provisional identification number before transporting the waste away from the site.

Storage Requirements

A transporter may hold shipments of hazardous waste for up to 10 days without complying with all of the regulations for treatment, storage, and disposal facilities and without having a RCRA permit. These shipments must be accompanied by a manifest and must remain in containers that meet DOT requirements for packaging.

Should the waste be held for more than 10 days, the transporter must comply with the applicable regulations for the storage of hazardous waste and for obtaining a RCRA facility permit.

FACILITY STANDARDS

EPA's records indicate that there are some 15,000 hazardous waste treatment, storage, and disposal facilities. Owners and operators of these facilities must comply with administrative and operating standards specified in Parts 264, 265, and 267 of Title 40 of the Code of Federal Regulations. These standards serve a threefold purpose:

- o to establish proper treatment, storage, and disposal practices that will protect human health and the environment;
- o to provide States with minimum standards for their hazardous waste programs;
- o to provide the technical basis for EPA-issued facility permits in States that fail to seek or do not qualify for authorization of their program.

Interim Status Standards and General (Permitting) Standards

Hazardous waste facilities are covered by two types of standards: Interim Status Standards (Part 265), which must be complied with by all facilities in "interim status" (those facilities that are in existence, have notified EPA, and have submitted Part A of their permit application); and General (permitting) Standards (Part 264), which will be the basis for the issuance of permits over time to both existing and new facilities. For reasons to be explained later, EPA has also promulgated a temporary regulation (Part 267) specifically for the issuance of temporary permits to new land disposal facilities.

Interim status gives hazardous waste facilities temporary authority to continue operations, as long as they comply with requirements specified in the Interim Status Standards. Without interim status, facilities are not allowed to operate.

EPA is promulgating the General (permitting) Standards for hazardous waste facilities in two phases. The Phase I regulations, most of which

were issued on May 19, 1980, include largely administrative and general requirements, many of which are also part of the Interim Status Standards and which facilities in interim status must comply with pending final administrative action on formal permit applications. The technical operating, design, and construction standards necessary to issue final permits to new or existing facilities are being issued in Phase II.

Phase I Requirements

Major areas covered by Interim Status and General Standards in Phase I are:

- o waste analyses to identify the waste to be handled and the method to be used for handling it;
- o security precautions to prevent unauthorized entry;
- o inspections of parts of the facility to identify or prevent environmental or health hazards;
- o plans to deal with emergency situations;
- o personnel training for regular duties and emergency situations;
- o special precautions to prevent accidents owing to ignitable, reactive, or incompatible wastes;
- o restrictions on locations of new facilities near faults or flood plains (in the General Standards only);
- o preparedness and prevention mechanisms to minimize the possibility of fires, explosions, or unplanned releases of hazardous waste.

The Interim Status Standards also contain a few provisions that apply to selected types of facilities. These generally ensure good operating practices and such requirements as diverting run-on and runoff at landfills and preheating of incinerators to normal operating conditions before introducing wastes into the incinerator.

Recordkeeping and Reporting. Facility owners and operators must also maintain operating records and reports that include, among other

things, the type and quantity of wastes received and how they are managed, results of inspections, and descriptions of emergencies. They are, in addition, responsible for certain aspects of the manifest system for tracking hazardous waste, namely, signing and dating the manifest for waste received and for reporting any discrepancies between the data on the form and the waste received.

Closure and Postclosure. Owners and operators of hazardous waste management facilities must comply with closure and postclosure requirements. All hazardous waste management facilities must have a written closure plan, an estimate of costs for closing, and financial assurance for closing the facility. They must also have and maintain liability insurance for sudden occurrences. All hazardous waste disposal (but not treatment or storage) facilities must have, in addition, a written postclosure plan and an estimate of costs and financial assurance for postclosure care.

Phase II Requirements

Besides the general requirements, facility owners and operators must comply with requirements for specific types of hazardous waste facilities. These standards are being developed and finalized as Phase II of Part 264 of the facility standards. Because of the complexities in developing the standards for specific facilities, EPA is promulgating the Phase II standards in components, as the standards for each type of facility are completed. This system enables States with approved programs and EPA to begin processing permits for these facilities at the earliest possible date.

A series of Phase II regulations, which includes most of the technical facility standards, was issued in January 1981. Promulgated at that time were permitting standards for facilities or portions of facilities that store hazardous waste in containers; that treat or store hazardous waste in tanks,

surface impoundments, or piles; and that treat hazardous waste in incinerators. These regulations are now in effect and may be used to permit facilities. EPA has decided to defer their use, however, for existing surface impoundments and incinerators pending completion of regulatory impact analyses currently under way.

Standards for Land Disposal Facilities. General permitting standards for land disposal facilities—surface impoundments and waste piles that dispose of the waste (rather than store or treat it), land treatment facilities, landfills, underground injection wells, and underground seepage facilities—have not yet been finalized. (These facilities must, of course, comply with the Interim Status Standards pending completion of the General Standards.) Standards for land disposal facilities were originally proposed on December 18, 1978. As a result of public comments and further analysis of these complex standards, considerable revisions were made. To give the public an opportunity to comment on the revisions, EPA decided to repropose these standards (46 Federal Register 11126, February 5, 1981). The repropose standards are substantially different from those proposed in December 1978.

The delay in finalizing the land disposal regulation, in effect, imposes a moratorium on the construction of new land disposal facilities, since the facility permit regulations require obtaining a permit prior to construction of new hazardous waste facilities. Such a situation is likely to aggravate shortages of environmentally safe land disposal facilities in certain parts of the country. For this reason, EPA issued temporary permitting standards (Part 267) for new land disposal facilities (40 Federal Register 12414, February 13, 1981). These standards will be in effect no longer than 18 months. The temporary standards are designed to allow new land disposal facilities to be permitted while EPA sets appropriate final standards for inclusion in Part 264.

The temporary standards apply to four major classes of land disposal facilities--landfills, surface impoundments, land treatment facilities, and Class I underground injection wells.* The final standards are expected late in 1982.

* Class I injection wells are defined in EPA's regulations as "(1) Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to inject hazardous waste, other than Class IV wells. (2) Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing, within one quarter mile of the well bore, an underground source of drinking water."

FACILITY PERMITS

Owners and operators of the roughly 15,000 facilities that treat, store, or dispose of hazardous waste are required to obtain a permit for their operations (unless they fall within an exemption) either from EPA or from a State that has received EPA approval to operate its own hazardous waste permit program. Data required on the application for a permit (promulgated in Phase II) are set forth in Part 122, Title 40, of the Code of Federal Regulations. The general and technical standards for facilities established under Parts 264 and 267 form the basis upon which permits are issued.

Consolidated Permit Programs

EPA issues permits for controlling environmental problems under a number of laws. To simplify the process of obtaining different types of permits, the Agency consolidated its permit programs. These consolidated regulations should result in less paperwork and processing time for EPA, States, and industry. Although the regulations do not require States to consolidate their various permit programs nor individuals to combine their permit applications, they are encouraged to do so.

The EPA permit programs covered by the consolidated permit regulations include:

- o the Hazardous Waste Management Program under the Resource Conservation and Recovery Act;
- o the Underground Injection Control Program under the Safe Drinking Water Act;
- o the National Pollutant Discharge Elimination System under the Clean Water Act;
- o the Dredge or Fill (Section 404) Program under the Clean Water Act; and
- o the Prevention of Significant Deterioration Program under the Clean Air Act, where this program is operated by EPA.

Permits by Rule. Under the consolidated permit regulations, certain facilities that have been issued permits under one of these programs may be issued a permit by rule for their hazardous waste operations. These include barges or vessels that dispose of hazardous waste in the ocean, underground injection wells that manage hazardous waste, and publicly owned treatment works. To be eligible for a permit by rule, certain conditions (such as compliance with the manifest system and recordkeeping requirements), specified in the regulations, must be met. Upon meeting these conditions, the facility will be considered to have a RCRA permit. If, for example, an owner or operator of an ocean disposal vessel has a permit under the Marine Protection, Research and Sanctuaries Act and complies with the appropriate conditions under RCRA, he will be considered to have a RCRA permit.

Interim Status and Final Permits

When Congress enacted RCRA, it recognized that all hazardous waste facilities could not be permitted simultaneously. Consequently, the Act provides that any facility that applies for a permit may continue to operate under "interim status." Interim status allows facilities to continue operations while administrative action on the final permit is under way. Part 265 of the regulations sets forth requirements for interim status (Phase I) to be met until issuance of a final permit. Part 264 establishes requirements for a final permit (Phase II), which include technical standards for specific types of facilities. (Also included in the facility standards is a temporary special section [Part 267] that concerns the issuance of permits for new land disposal facilities. This part will be in effect no longer than 18 months, until final standards can be issued for such facilities.) The general standards of Part 264 apply when facilities receive a permit; included are facilities and those that have converted from interim status to

general status by receiving permits from EPA or their State, where the State is authorized to issue permits under Phase II.

Applying for a Permit

Owners and operators of hazardous waste facilities apply for their permit in two parts: Part A, which provides EPA such data as design capacities, types and quantities of hazardous wastes handled, and proximity to drinking water wells; and Part B, which includes more detailed technical information. The purpose of Part A is to qualify facilities to continue operations under interim status pending development of specific facility requirements, while at the same time providing EPA with information that would be useful in moving to the final stage of the permitting process (submission of Part B).

Certain facilities that handle hazardous waste are not required to obtain a RCRA permit because they are explicitly excluded from the system. Among these are generators that accumulate hazardous waste onsite for less than 90 days, farmers who dispose of hazardous waste from pesticides on their own property, facilities in which hazardous waste is being beneficially used or reused or legitimately recycled or reclaimed (a permit is required for storage of hazardous waste at these facilities), and totally enclosed treatment facilities.*

To qualify for interim status, facilities must have been in existence on November 19, 1980, have notified EPA of their activities, and have submitted Part A of the permit application to EPA by November 19. Facility

* As defined in the regulations, a "totally enclosed treatment facility" is a "facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of hazardous waste or any constituent thereof into the environment."

owners and operators who have taken these actions may operate as long as they continue to meet the requirements for interim status.

With the promulgation of technical standards for several types of storage and treatment facilities in January 1981 and their taking effect in July 1981, it became possible for Part B of the permit application to be completed. Existing facilities (those in interim status) need not submit Part B, however, until it is requested by EPA. The information submitted in Part B is intended to demonstrate compliance with the general facility standards of Part 264. It should be noted that not all States will employ the two-part permitting approach of the Federal system. State agencies operating approved hazardous waste permit programs will require their own type of permit applications.

EPA will call for Part B applications when it is ready to process them. The Agency has decided, however, not to call for Part B applications for existing surface impoundments used for treatment or storage and for existing incinerators pending completion of regulatory impact analyses.

In States where EPA is operating the RCRA hazardous waste permit program, the EPA Regional Administrator reviews an application for completeness. If the Regional Administrator decides to issue a permit, a draft permit is prepared. It is subject to public notice, public comment, and, when warranted, public hearings. After the comment period, EPA issues a final decision on the permit, along with a response to all significant comments. This response to comments, plus any additional supporting material, becomes part of the administrative record for the final permit decision. Appeals to the final decision of the Regional Administrator may be made within 30 days.

In the event of an immediate hazard to health or the environment, the permit regulation provides for the issuance of an emergency permit. Temporary

authorization may be issued for a period up to 90 days, and the public must be notified of the emergency authorization.

Most RCRA permits are effective for a fixed term not to exceed 10 years. The Regional Administrator may review a permit at any time to determine whether it should be modified, revoked and reissued, or terminated.

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