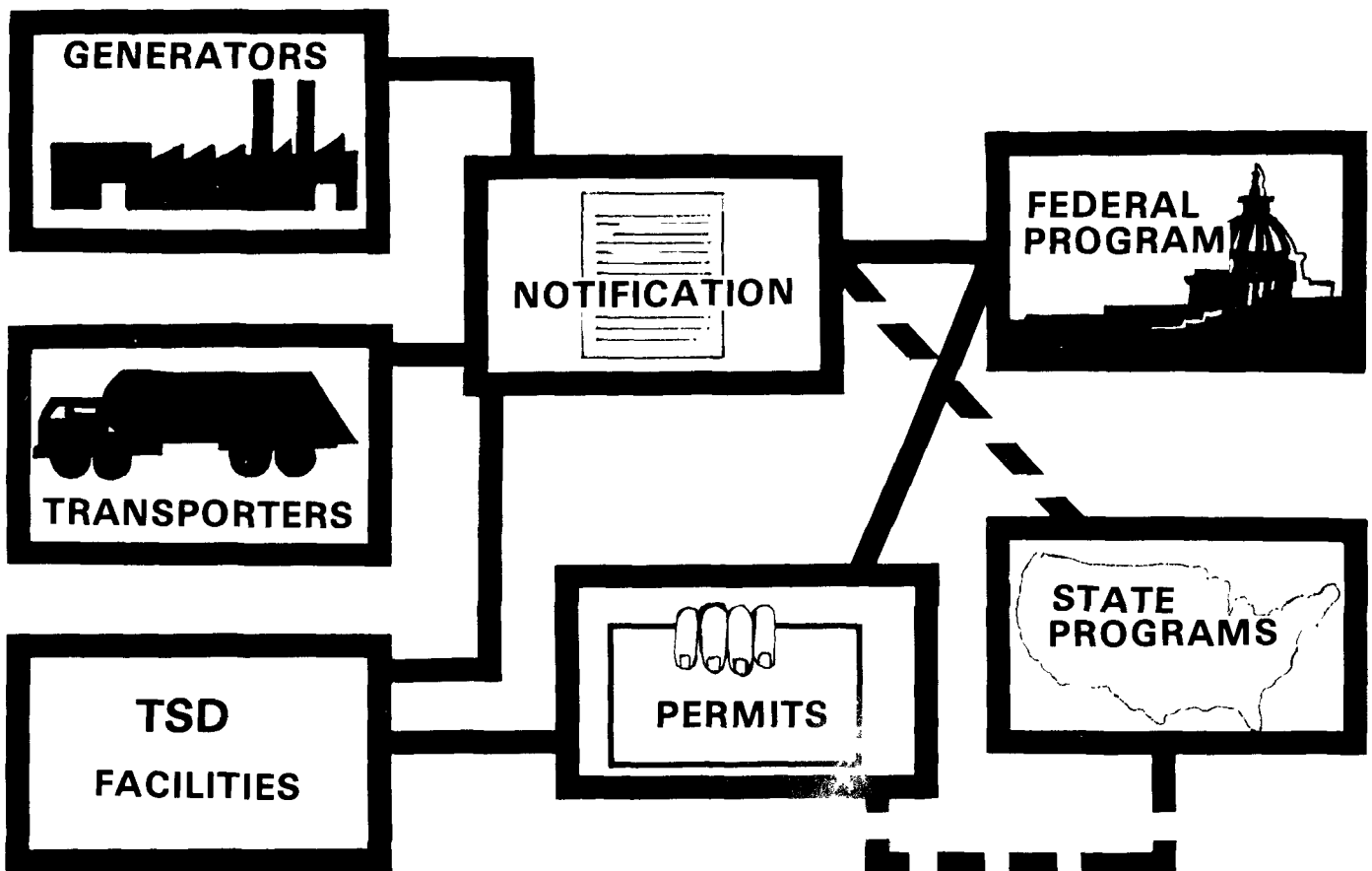




Questions and Answers on Hazardous Waste Regulations

● With Guide
to the May 19, 1980
Federal Register



Further information on the hazardous waste regulations may be obtained from the appropriate EPA Regional Offices:

Region 1	Connecticut, Maine, Massachusetts, Rhode Island, Vermont, New Hampshire 617-233-5775
Region 2	New Jersey, New York, Virgin Islands, Puerto Rico 212-264-0503
Region 3	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia 215-597-0980
Region 4	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee 404-881-3016
Region 5	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin 312-886-6148
Region 6	Arkansas, Louisiana, New Mexico, Oklahoma, Texas 214-767-2645
Region 7	Iowa, Kansas, Missouri, Nebraska 816-374-3307
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Region 10	Alaska, Idaho, Oregon, Washington 206-442-1260

C-33-

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PREFACE

EPA held three public meetings on May 30 and June 2 and 6, 1980, to acquaint the public with the hazardous waste management regulations promulgated on February 26 and May 19, 1980 under Subtitle C of the Resource Conservation and Recovery Act (RCRA). More than 1,000 questions were asked at those meetings. Many of the questions were either duplicates or were similar to other questions. We have, therefore, consolidated a number of them. The result is this volume, which consists of approximately 300 questions and answers.

Many of the questions concerned the application of the regulations to specific situations. Because the regulations are extremely complex, their applicability depends heavily upon the facts of the situation. In this volume, we have given answers based upon the facts specified in the questions and, in most cases, have avoided lengthy, complex answers that would provide interpretation of the regulations if other facts pertained. The reader should avoid, therefore, reading more into the answers than the facts of the situation warrant. Anyone who doubts the applicability of the answer to a particular situation should contact an EPA Regional Office for clarification. The telephone numbers of EPA Regional Offices are listed on the inside front cover of this volume.

EPA has instituted a formal system for responding to requests

for interpretations of the regulations. Under this system, we intend to issue Regulatory Interpretation Memoranda and amendments to the regulations, as appropriate, in order to handle complex questions. This system was announced in a notice published in 45 Federal Register 55386 on August 19, 1980.

This volume includes a guide to the hazardous waste management regulations. This guide is presented in a keyword format to enable those seeking specific information to find it readily. We have also used this keyword style in organizing the questions and answers. At the bottom of each page the appropriate sections of the regulations are given; at the top are the keywords in the specific questions.

In this volume, "hazardous waste regulations" refers to those regulations promulgated on February 26 and May 19, 1980, under Subtitle C of RCRA. In some instances, however, questions refer to regulations to be promulgated in the future. In the section on consolidated permits, unless otherwise stated, answers refer to those regulations promulgated under Subtitle C of RCRA as part of EPA's consolidated permit regulations promulgated on May 19, 1980.

--STEFFEN W. PLEHN
August 1980

CONTENTS

GUIDE TO THE FEDERAL REGISTER.ix

QUESTIONS AND ANSWERS.xx

Identification and Listing

acutely hazardous wastes
 Appendix VIII
 applicability
 threshold limits
 Appendix VII
 coal combustion wastes
 commercial chemical products
 acutely hazardous
 pesticides
 container disposal
 paint
 rationale for listing
 relation to Appendix VIII
 small-quantity limit
 storage
 containers
 empty
 corrosivity
 criteria for listing
 definition
 electroplating operations
 solid waste
 waste
 economic value
 delisting
 Appendix VIII
 EP toxicity
 concentration
 testing protocol
 hospital wastes
 large generators
 small quantities
 list
 future size
 metals
 mixture rule
 minimum concentration
 multiple numbers
 oil and gas industry wastes
 future regulation
 PCBs
 polyurethane
 primary products
 proprietary mixture
 resource recovery
 saccharin
 solvents
 spent
 State regulations
 stringency
 testing
 characteristics
 testing methods
 alternatives
 waste category
 removal from list
 waste oil

EP toxicity
 wastes regulated
 new

Generator Standards

accumulation
 commencement
 duration
 storage
 waste piles
 alternate facilities
 designation by generator
 annual report
 source of data
 unregulated wastes
 EPA assistance
 exclusions
 liability
 authorized representative
 revoked permits
 manifest
 analytical report
 generator's phone number
 identification of wastes
 ocean transportation
 original copy
 official documents
 signatures on
 pesticide containers
 small-quantity generators
 State laws and requirements
 storage
 testing
 generator laboratory
 listed wastes

Transporter Standards

definition
 transporter
 delivery of materials
 Department of Transportation
 coordination with EPA
 regulations
 applicability
 information sources
 open trucks
 shipping numbers
 notification
 new wastes
 small shipments
 spills
 responsibility
 vehicles
 placards

Facility Standards

- active/inactive sites
 - closure procedures
 - definitions
- approved facility
- baghouse
- chemical analyses
- closure
 - requirements
- contingency plan
- Department of Defense
- disposal
 - State standards versus Federal standards
- evaporation
- existing facilities
- explosive wastes
 - burning and detonation
- facilities
 - on-site list
- facility
 - definition
- financial requirements
 - assets test
 - General Status versus Interim Status
 - government facilities
 - insurance
 - Interim Status
 - reproposal
 - solvent recovery plants
- generator
 - on-site treatment facility
- ground water
 - monitoring
 - applicability
 - compliance date
 - quality
- incineration
 - energy recovery
 - Interim Status Standards
 - permits
 - thermal treatment
- Interim Status
- Interim Status Standards
 - coverage
 - multiple-facility coverage
 - organization
- land treatment
- landfills
 - active/inactive sites
 - bulk liquids
 - drums
 - ignitable wastes
 - incinerator residues
 - liquid wastes
 - municipal
- legal responsibility
- personnel
 - safety
 - training
- postclosure care
- publicly owned treatment works
- recordkeeping and reporting
- records

- recycling
 - on-site
 - solvents
 - waste oil
- reports
- sites
 - change in location
- siting
 - standards for special areas
- storage
 - commercial chemical products
 - drums
 - existing facility
 - impoundments/tanks
 - lagoons, tanks, basins
 - leaking tanks
 - length of time
- surface impoundments
 - emergency use
 - temporary storage
- surveillance system
- treatment
 - crushed containers
 - neutralization
 - sour water
 - volume reduction
- volatile wastes

Consolidated Permits: Facility Permits

- applications
 - information required
- consolidated permits
 - delays
- duration
- Federal override
- incineration
- Interim Status
 - changes during
 - existing facilities
 - termination
- issuance
 - priorities
 - timing
 - all permits
 - individual permits
 - violations during process
- land treatment
 - sludge
- landfills
- new facilities
- on-site lagoons
- permitted facilities
 - list
- phases of regulations
- sanitary landfills

Consolidated Permits: State Programs

- authorization
 - EPA review period
 - final
 - interim
 - States qualifying
 - timing
- partial

State Programs (cont.)

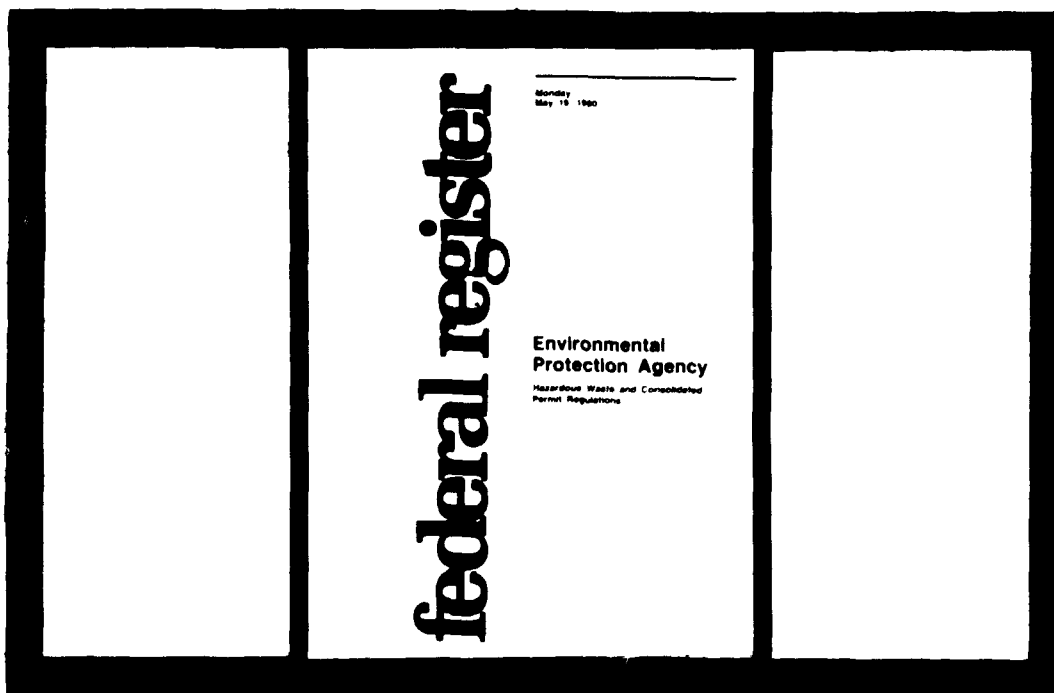
- Cooperative Arrangement
- costs
- enforcement
 - penalties
- EPA role
 - authorized programs
- Federal assistance
- Federal funding
 - adequacy
 - allocations
 - enforcement
- Federal requirements
- Federal/State requirements
- incentives
- listed wastes
- local ordinances
 - siting bans
- manifest system
 - multiple requirements
 - State forms
 - State requirements
- notification
- public participation
 - facility operation
 - permits
- State application

Enforcement

- authorized States
 - Federal intervention
- closure of facility
- compliance
 - Interim Status
 - 30-day requirement
- dumping
 - illegal
- generators
 - liability
 - monitoring
- inspections
- legal responsibilities
 - consulting firm
- penalties
- staffs
- transporters

Notification

- confidentiality
- facilities
 - multiple
- forms
 - availability
 - number per site
- generators
- identification numbers
- information to States
- timetable
- transporters
- who notifies



Guide to the Federal Register

Code of Federal Regulations(CFR) Parts

	<u>page</u>
PART 260: Definitions and General Provisions.....	xi
PART 261: Identification and Listing of Hazardous Waste.....	xii
PART 262: Generator Standards (as Amended).....	xiii
PART 263: Transporter Standards (as Amended).....	xiii
PART 264: Facility Standards.....	xiv
PART 265: Interim Status Standards.....	xv
CONSOLIDATED PERMIT REGULATIONS	
PART 122: Permit Requirements.....	xvi
PART 123: State Program Requirements.....	xvii
PART 124: Procedures for Decisionmakers.....	xviii
PART 125: NPDES Amendment.....	xix

Guide to the May 19, 1980, Federal Register^{1,2}

	Page
PART 260: DEFINITIONS AND GENERAL PROVISIONS	33065-082
PREAMBLE	33066-073
Definitions	
active portion of facility	33068
disposal/disposal facility	33068
existing facility	33068
generator	33069
on-site	33069
representative sample of waste	33069
Regulatory analysis	33070
economic analysis	33070
benefits	33070
costs and impacts	33071
limits of analysis	33072
environmental analysis	33072
industry assistance	33072
REGULATION	33073-082
	Subparts A-C, §§260.1-260.22, Appendix I
General	Subpart A, §§260.1-260.3
purpose and scope; information	33073
availability and confidentiality	33073
Definitions	Subpart B, §260.10
Petitions	
for rule changes	§260.20
for equivalent testing methods	§260.21
to revise hazardous waste	33076
lists and characteristics	§260.22
Overview and schematics of	
Subtitle C regulations	Appendix I, Figures 1-4

¹ Preambles, which precede each regulation, explain the rationale behind EPA's decisions concerning the regulations.

² For notification requirements, see "Preliminary Notification of Hazardous Waste Activity," 45 Federal Register 12746, February 26, 1980.

PART 261: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE**33083-133****PREAMBLE****33084-119**

General issues, phasing of regulations	33086
PCBs	33086
used, reused, recovered, or reclaimed waste	33086
radioactive waste	33086
infectious waste	33087
other listed wastes	33087
"Interim final" regulations	33087
Solid waste, definition	33090
used, reused, recycled, recovered waste	33091
Hazardous waste, definition	33095
Exclusions of wastes from regulation	33096
domestic sewage	33097
industrial point source discharges	33098
household waste	33098
agricultural waste	33099
mining waste	33099
sewage sludge	33101
Small-quantity generators	33102
quantity limitation considerations	33103
degree-of-hazard considerations	33103
1,000 kg/mo exclusion	33104
phasing down small quantity to 100 kg/mo	33104
environmental/resource considerations	33104
Criteria for identifying characteristics and for listing of hazardous wastes	33105
Characteristics of hazardous wastes, basis for identification	33107
Specific and nonspecific sources of hazardous waste, basis for listing	33112
waste streams	33112
ignitable, corrosive, reactive, EP toxic wastes	33114
Discarded commercial chemical products and off-specification species, containers, and spill residues thereof	33115
Delisting of wastes	33116
Environmental, economic, and regulatory impact studies, availability	33117
Appendices A and B: generic and process wastes ^{3, 4}	33117

REGULATION

Subparts A-D, §§261.1-261.33,
 Appendices I-III, VII, VIII
 (Appendices IV-VI are reserved)

33119-133

General	Subpart A, §§261.1-261.6	
exclusions: solid/hazardous wastes	§261.4	33120
special requirements		
small-quantity generator exclusion		
1,000 kg/mo	§261.5(a) and (b)	33120
acutely hazardous waste (less than 100 kg/mo)	§261.5(c)	33120
used, reused, recycled, reclaimed hazardous waste	§261.6	33120
Criteria for identifying characteristics and listing	Subpart B, §§261.10-261.11	33121
Characteristics of hazardous waste ignitability, corrosivity, reactivity, EP toxicity/Table I	Subpart C, §§261.20-261.24	33121
Lists of hazardous waste ^{3, 4}	Subpart D, §§261.30-261.33	
nonspecific sources	§261.31	33123
specific sources	§261.32	33123
discarded commercial chemical products, and off-specification species, containers, and spill residues thereof	§261.33	33124
Petitions to revise Part 261	(See Part 260), §§260.20-260.21	33076
Representative sampling methods	Appendix I	33127
EP toxicity test procedure	Appendix II	33127
Chemical analysis test methods	Appendix III	33130
Basis for listing	Appendix VII	33131
Hazardous constituents	Appendix VIII	33132

³ See also proposal to modify Part 261, Hazardous Waste Lists, pp. 33136-137.

⁴ For identification and listing modification and proposal, see 45 Federal Register 47832, July 16, 1980.

PART 262: GENERATOR STANDARDS (AS AMENDED)

33139-148

PREAMBLE

33140-142

Hazardous waste determination
Designated facility
Placarding
Accumulation time
Recordkeeping
International shipments
Triple rinsing
Annual reporting
State programs

33140
33141
33141
33141
33141
33141
33141
33141
33142

REGULATION (AS AMENDED)

Subparts A-E, §§262.10-262.51,
Appendix

33142-148

General
 hazardous waste determination
 EPA identification number
Manifest system
Pretransport packaging, labeling,
 marking, accumulation time
Recordkeeping and reporting requirements
Special conditions
 international shipments
 farmers
Annual report form and instructions

Subpart A, §§262.10-262.12
 §262.11
 §262.12
Subpart B, §§262.20-262.23

Subpart C, §§262.30-262.34
Subpart D, §§262.40-262.43
Subpart E, §§262.50-262.51
 §262.50
 §262.51
Appendix

33142
33143
33143

33143
33144

33144
33144
33145

PART 263: TRANSPORTER STANDARDS (AS AMENDED)

33149-152

PREAMBLE

33150-151

Recordkeeping
Discharge reporting
State programs

33150
33150
33150

REGULATION (AS AMENDED)

Subparts A-C, §§263.10-263.31

33151-152

EPA identification number
Manifest system and recordkeeping
Discharges of hazardous waste

Subpart A, §263.11
Subpart B, §§263.20-263.22
Subpart C, §§263.30-263.31

33151
33151
33152

PARTS 264 AND 265: FACILITY STANDARDS**33153-258****PREAMBLE (Parts 264 and 265)****33154-220**

Phasing of the regulations, organization, "interim final" provisions

33156

Interim Status Standards

authority for ISS

33158

criteria for ISS

33159

requirements added to proposed ISS

33160

compliance period

33162

notes and variances

33163

equities during ISS

33163

General issues

degree of hazard

33164

volatile waste

33166

performance vs. design and operation standards

33166

notes, variances, equivalency

33167

commercial products standards

33168

storage of recycled waste

33168

storage standards

33168

owner or operator

33169

inactive, new, existing facilities

33170

references to and integration with other acts

33171

special wastes

33173

Analysis of Phase I regulations

33175

general

purpose, scope, and applicability

33175

ocean disposal

33175

underground injection

33175

publicly owned treatment works (NPDES)

33176

State RCRA programs, authorization

33176

small quantities, recycled or reused hazardous waste, and

other exclusions

33177

generators who accumulate on-site, farmers, and totally enclosed

treatment facilities

33177

relationship to Interim Status

33177

imminent hazard actions

33178

general facility standards

EPA identification number

33179

required notices

33179

general waste analysis

33179

security, inspection, and personnel training

33180

ignitable, reactive, or incompatible wastes

33182

preparedness, prevention, contingency plans, and emergency measures

33183

manifest system, recordkeeping, and reporting

33186

ground-water monitoring: system; sampling and analysis; preparation,

evaluation, and response

33191

closure and postclosure standards

33196

financial requirements: liability, financial assurance, cost

estimates, publicly owned facilities

33198

containers: condition of; inspections; closure; ignitable, reactive,

or incompatible wastes

33199

tanks: definition; operations; waste analysis/trial tests;

inspections; closure; ignitable, reactive, or incompatible wastes

33200

surface impoundments: existing impoundments; freeboard requirements;

containment system; waste analysis; inspections; closure; ignitable,

reactive, or incompatible wastes

33202

waste piles: wind protection; waste analysis; containment; closure;

ignitable, reactive, or incompatible wastes

33204

land treatment (landfarms): surface water run-on and contaminated runoff;

waste analysis; monitoring; foodchain crops; closure; ignitable,

reactive, or incompatible wastes

33205

landfills: landfill cells; surface water run-on and contaminated runoff;

wind dispersal; closure; ignitable, reactive, or incompatible waste;

bulk and containerized liquid wastes

33209

incinerators: operations, monitoring and inspections, waste analysis,

energy recovery, closure

33215

thermal treatment

33217

chemical, physical, and biological treatment

33217

underground injection

33218

Supporting documents

background documents and guidance manuals

33219

PART 264: REGULATION, FACILITY STANDARDS	Subparts A-E, §§264.1-264.99, Appendices I, II	33221-232
General	Subpart A, §§264.1-264.4	
relationship to Interim Status	§264.3	33221
imminent hazard	§264.4	33222
General facility standards	Subpart B, §§264.10-264.29	
EPA identification number	§264.11	33222
required notices	§264.12	33222
general waste analysis	§264.13	33222
security, inspections, training	§§264.14, 264.15, 264.16	33222
Preparedness and prevention	Subpart C, §§264.30-264.49	
facility design, operation	§264.31	33224
equipment testing, maintenance	§§264.32-264.34	33224
handling of ignitable/reactive waste	§264.36	33224
arrangements with local authorities	§264.37	33224
Contingency plans, emergency procedures	Subpart D, §§264.50-264.69	33224
Manifest system, recordkeeping, and reporting	Subpart E, §§264.70-264.999	
use of manifest system	§264.71	33226
manifest discrepancies	§264.72	33226
operating records, annual report	§§264.73-264.75	33227
unmanifested waste	§264.76	33227
Recordkeeping instructions	Appendix I	33227
EPA report form and instructions	Appendix II	33228
 PART 265: REGULATION, INTERIM STATUS STANDARDS	 Subparts A-R, §§265.1-265.999, Appendices I-V	 33232-258
General facility standards	Subpart B, §§265.10-265.29	
EPA identification number	§265.11	33234
required notices	§265.12	33234
general waste analysis	§265.13	33234
security, inspections, training	§§265.14-265.16	33235
requirements for ignitable, reactive, or incompatible wastes	§265.17	33236
Preparedness and prevention	Subpart C, §§265.30-265.49	
facility maintenance and operation	§265.31	33236
equipment required	§265.32	33236
testing and maintenance of equipment	§265.33	33236
arrangements with local authorities	§265.37	33236
Contingency plans, emergency procedures	Subpart D, §§265.50-265.69	33237
Manifest system, recordkeeping, and reporting	Subpart E, §§265.70-265.89	33238
Ground-water monitoring	Subpart F, §§265.90-265.109	33239
Closure and postclosure	Subpart G, §§265.110-265.139	33242
Financial requirements ⁵	Subpart H, §§265.140-265.169	33243
Containers: use and management; condition; compatibility with waste; inspections; ignitable, reactive, or incompatible wastes	Subpart I, §§265.170-265.189	33244
Tanks: operating requirements; waste analysis; inspections; closure; ignitable, reactive, or incompatible wastes	Subpart J, §§265.190-265.219	33244
Surface impoundments: operating requirements; containment; waste analysis; inspections; closure; ignitable, reactive, or incompatible wastes	Subpart K, §§265.220-265.249	33245
Waste piles: operating requirements; containment; waste analysis; ignitable, reactive, or incompatible wastes	Subpart L, §§265.250-265.269	33246
Land treatment: operating requirements; waste analysis; foodchain crops; closure; monitoring; recordkeeping; ignitable, reactive, or incompatible wastes	Subpart M, §§265.270-265.299	33247
Landfills: operating requirements; surveying and recordkeeping; closure; ignitable, reactive, incompatible, or liquid wastes; containers	Subpart N, §§265.300-265.339	33249
Incinerators: operating requirements, waste analysis, monitoring/inspections, closure	Subpart O, §§265.340-265.369	33250
Thermal treatment: operating requirements, waste analysis, monitoring/inspections, closure, open burning	Subpart P, §§265.370-265.399	33250

⁵See also proposals to modify Subpart H, financial requirements, pp. 33260-278; Subpart R, underground injections, pp. 33280-285.

Chemical, physical, and biological treatment; operating requirements; waste analysis; inspections; closure; ignitable, reactive, or incompatible wastes	Subpart Q, §§265.400-265.429	33251
Underground injection ⁶	Subpart R, §265.999	33252
Recordkeeping instructions	Appendix I	33252
Report form and instructions	Appendix II	33253
Interim primary drinking water standards	Appendix III	33257
Tests for significant changes in concentration	Appendix IV	33257
Potentially incompatible waste	Appendix V	33257

PARTS 122, 123, 124, AND 125: CONSOLIDATED PERMIT REGULATIONS**33290-588****PART 122: PREAMBLE, PERMIT REQUIREMENTS****33290-418**

General		
summary and organization of regulations		33290
definitions		33294
Table III: types of permits and other authorization		33297
application for permit		33299
continuation of expiring permits		33300
signatories of permit applications and reports		33301
permit conditions		33302
duration of permits		33307
compliance schedules		33309
effect of permits		33311
transfer, modification, revocation and reissuance, and termination of permits		33313
noncompliance and program reporting		33317
confidentiality of information		33318
Hazardous waste program, additional requirements		
application for permit		33321
Interim Status		33323
Part A and Part B of permit application, contents		33325
permits by rule		33325
emergency permits		33326
additional conditions for RCRA permits		33327
interim RCRA permits for UIC wells		33327
UIC program, additional requirements		33328
NPDES program, additional requirements		33336
Summary of changes between proposed and final regulations (Table VII)		33343

PART 122: REGULATION, CONSOLIDATED PERMIT PROGRAMSSubparts A-D, §§122.1-122.66,
Appendices A-D**33418-455**

RCRA Hazardous Waste		
Underground Injection		
NPDES		
Dredge or Fill		
Prevention of Significant Deterioration		
General program requirements and definitions	Subpart A, §§122.1-122.19	
definitions	§122.3	33419
application for permits	§122.4	33424
signatories to applications	§122.6	33425
conditions for permits	§§122.7-122.8	33425
duration of permits	§122.9	33427
compliance schedules	§122.10	33427
recording and reporting of monitoring results	§122.11	33428
transfer of permits	§122.14	33428
modification, revocation and reissuance, termination of permits	§§122.15-122.17	33428
noncompliance and program reports	§122.18	33430
confidentiality of information	§122.19	33431
RCRA hazardous waste permits, additional requirements	Subpart B, §§122.21-122.30	
purpose and scope	§122.21	33432
application for permit	§122.22	33433
Interim Status	§122.23	33434

⁶See also proposal to modify Subpart R, underground injection, pp. 33280-285.

contents of permit application		
Part A	§122.24	33434
Part B	§122.25	33434
permits by rule	§122.26	33435
emergency permits	§122.27	33435
additional hazardous waste permit requirements and conditions	§§122.28-122.29	33435
interim permits for UIC wells	§122.30	33436
UIC wells, additional requirements	Subpart C, §§122.31-122.45	
classification of injection wells	§122.32	33437
prohibition of unauthorized injection and movement of fluids into underground drinking water sources	§§122.33-122.34	33437
identification of sources of underground drinking water and exempted aquifers	§122.35	33437
elimination of certain Class IV wells	§122.36	33438
authorization of underground injection by rule	§122.37	33438
application for permit; authorization by permit	§122.38	33439
area permits	§122.39	33439
emergency permits	§122.40	33439
additional UIC permit conditions	§§122.41-122.42	33439
requirements for wells injecting hazardous waste	§122.45	33441
NPDES programs, additional requirements	Subpart D, §§122.51-122.66, Appendices A-D	33441
PART 123: PREAMBLE, STATE PROGRAMS		33377-404
General program requirements		
program elements and description, attorney general's statement, memorandum of agreement, permitting requirements, enforcement authority		33378
sharing information with EPA		33383
withdrawal, revision of State programs		33384
Interim authorization of State hazardous waste programs		
general		33384
purpose and scope		33386
schedule: Phase I and Phase II applications, relationship between Phase I and Phase II		33387
schedule of events (table)		33389
program elements, attorney general's statement, memorandum of agreement		33390
authorization plan		33390
program requirements for interim authorization for Phase I and Phase II		33391
Final authorization		
purpose and scope		33395
consistency with Federal program		33395
requirements for identification and listing of hazardous waste and for generators, facilities, permits, approval process		33396
State UIC programs, additional requirements		33396
State NPDES programs, additional requirements		33397
State programs under Section 404, Clean Water Act, additional requirements		33397
PART 123: REGULATION, STATE PROGRAM REQUIREMENTS		33456-484
General program requirements	Subparts A-F, §§123.1-123.37	
definitions	Subpart A, §§123.1-123.15 (see Part 122 definitions)	33419
elements of program and program description	§§123.3-123.4	33457
attorney general's statement	§123.5	33458
memorandum of agreement	§123.6	33459
requirements for permitting	§123.7	33460
requirements for compliance		
evaluation of State programs	§123.8	33461
enforcement authority	§123.9	33462
sharing of information and program coordination	§§123.10-123.11	33463
approval process	§123.12	33463
revision of State programs	§123.13	33463
criteria and procedures for withdrawal of State programs	§§123.14-123.15	33464

State hazardous waste programs, additional requirements consistency with Federal program requirements for:	Subpart B, §§123.31-123.39 §123.32	33465
identification and listing of hazardous waste	§123.33	33466
generators	§123.34	33466
transporters	§123.35	33466
hazardous waste facilities	§123.36	33466
permits and permit applications	§123.37	33467
EPA review of State permits	§123.38	33467
approval process	§123.39	33467
State UIC programs, additional requirements	Subpart C, §§123.51-123.55	33468
NPDES programs, additional requirements	Subpart D, §§123.71-123.77	33469
Section 404 programs, additional requirements	Subpart E, §§123.91-123.104	33472
Interim authorization of State hazardous waste programs	Subpart F, §§123.121-123.137	
schedule	§123.122	33479
elements of program	§123.123	33479
State program description	§123.124	33480
attorney general's statement	§123.125	33480
memorandum of agreement	§123.126	33480
authorization plan	§123.127	33481
interim authorization, Phase I	§123.128	33481
interim authorization, Phase II	§123.129	33483
interstate movement of hazardous waste	§123.130	33483
State progress reports, sharing of information, and coordination with other programs	§§123.131-123.133	33483
EPA review of State permits	§123.134	33484
EPA approval process	§123.135	33484
withdrawal of State programs	§123.136	33484
reversion of State programs	§123.137	33484

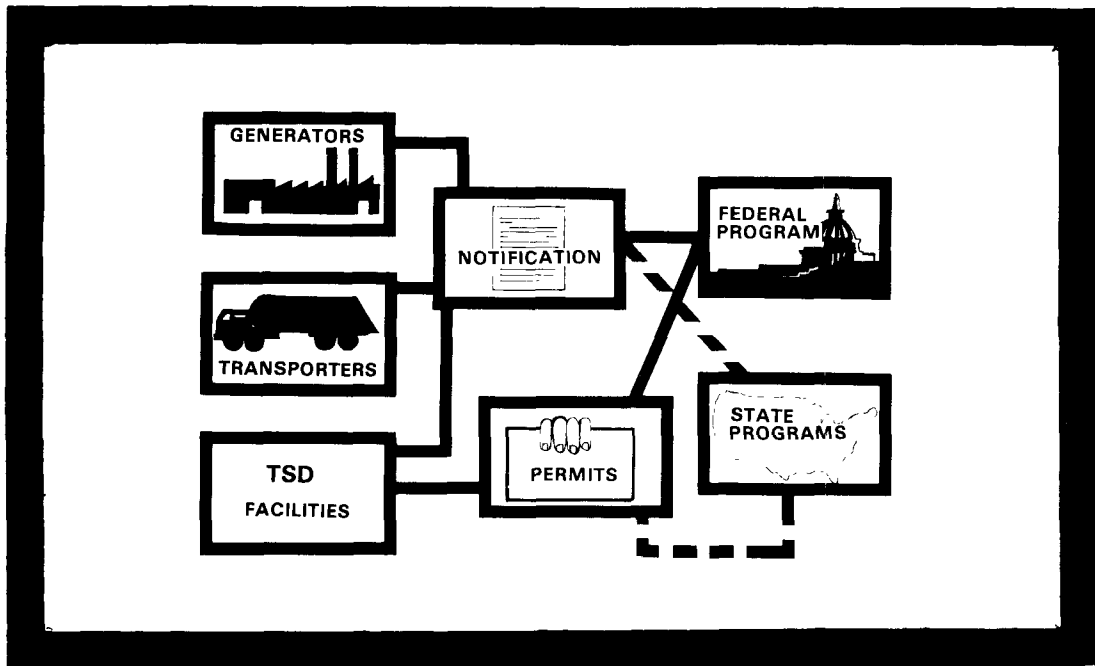
PART 124: PREAMBLE, DECISIONMAKING PROCEDURES 33405-417

General		
hearings available		33405
purpose and scope, definitions		33406
application for a permit, consolidation of permit processing		33407
modification, revocation and reissuance, termination of permits		33408
draft permits		33408
public notice and comment period, public hearings		33409
effective date of permit, contested permit conditions		33411
RCRA hazardous waste permits, special procedures		33412
PSD permits, special procedures		33412
NPDES permits, special procedures		33413
Evidentiary hearing for EPA-issued NPDES permits and EPA-terminated RCRA hazardous waste permits		33414

PART 124: REGULATION, PROCEDURES FOR DECISIONMAKING 33484-511

General program requirements	Subparts A-F, §§124.1-124.128, Appendix A	
hearings available under Part 124	Subpart A, §§124.1-124.21 §124.1 (table)	33485
application for permit	§124.3	33486
consolidation of permit processing	§124.4	33487
modification, revocation and reissuance, or termination of permits	§124.5	33487
draft permits	§124.6	33488
statement of basis	§124.7	33488
fact sheets	§124.8	33488
administrative record		
for draft permits (to EPA)	§124.9	33488
for final permits	§124.18	33491
public notice, public comments and requests for public hearings	§§124.10-124.14	33489
issuance/effective date of permit	§124.15	33490
appeal of permit decisions	§124.19	33491
RCRA hazardous waste permits, specific procedures	Subpart B (reserved)	33492
PSD permits, specific procedures	Subpart C, §§124.41-124.42	33492
NPDES permits, specific procedures	Subpart D, §§124.51-124.66	33493

Evidentiary hearings for EPA-issued NPDES permits and EPA-terminated RCRA hazardous waste permits filing/submission of documents requests/decisions on requests for evidentiary hearing hearing procedures decisions, appeals Nonadversary panel procedures	Subpart E, §§124.71-124.91 §124.73 §§124.74-124.75 §§124.76-124.88 §§124.89-124.91 Subpart F, §§124.111-124.128, Appendix A	33498 33498 33499 33503 33504
PART 125: PREAMBLE, NPDES CRITERIA AND STANDARDS (REVISIONS AND TECHNICAL AMENDMENTS)		33417-418
PART 125: CRITERIA AND STANDARDS FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (AMENDMENT)		33512-513
CONSOLIDATED PERMIT APPLICATION FORMS FOR EPA PROGRAMS AND INSTRUCTIONS		33515-588
PREAMBLE		33516-544
Overview of consolidated application forms, general application requirements for §122.4 and Form 1 NPDES Forms 2b and 2c and related NPDES regulations Hazardous waste application requirements (Part A) for §122.24 and Form 3		33517 33520 33543
INSTRUCTIONS FOR CONSOLIDATED PERMIT APPLICATION FORMS AND SAMPLE FORMS	Forms 1-5	33544-588
General instructions and EPA Regional Office contacts Form 1, instructions and general information Activities not requiring permits Glossary Sample Form 1, General Information, Consolidated Permit Program Forms 2a-2d, Application for Permit to Discharge Wastewater Form 2a (reserved) Form 2b, Animal Feeding Operations and Aquatic Animal Production Facilities, instructions Sample Form 2b Form 2c, Existing Manufacturing, Commercial, Mining, and Silviculture Operations, instructions Sample Form 2c Form 2d (reserved) Form 3, RCRA Hazardous Waste Permit Application, instructions Sample Form 3 Form 4, Underground Injection of Fluids (reserved) Form 5, Air Emissions in Attainment Areas (PSD permit) (reserved)		33545 33546 33549 33550 33555 33557 33558 33559 33567 33580 33584

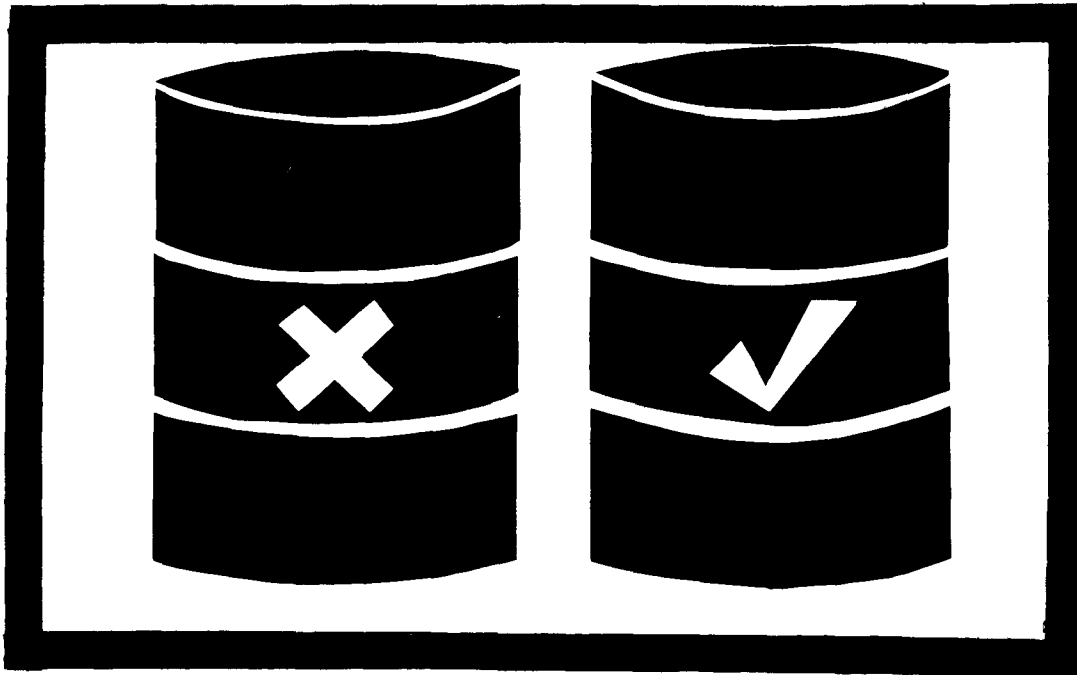


Questions and Answers

Sections

identification and listing
generator standards
transporter standards
facility standards
facility permits
State programs
enforcement
notification

Identification and Listing



Keywords

acutely hazardous wastes
Appendix VIII
Appendix VII
coal combustion wastes
commercial chemical products
containers
corrosivity
criteria for listing
definition
delisting
EP toxicity
hospital wastes
large generators
list
metals
mixture rule

multiple numbers
oil and gas industry wastes
PCBs
polyurethane
primary products
proprietary mixture
resource recovery
saccharin
solvents
State regulations
testing
testing methods
waste category
waste oil
wastes regulated

Are any process wastes listed based on the criterion of acutely hazardous waste, and have those determinations been made exclusively on bioassay testing?

There currently are no process wastes under Sections 261.31 or 261.32 listed as acutely hazardous wastes (in accordance with the criteria in Section 261.11(a)(2)). This is not to say that EPA may not, in the future, list certain process wastes as acutely hazardous wastes. At this time, only the 122 commercial products (which are hazardous wastes if discarded) listed in Section 261.33(e) are included because they are acutely hazardous wastes.

In listing the commercial products in Section 261.33(e), EPA used the scientific information reported in the Registry of Toxic Effects of Chemical Substances, published by the National Institute of Occupational Safety and Health, as well as in other scientific documents, as the basis for defining the waste as

identification and
listing

acutely hazardous. In most cases, that information is derived from bioassay tests.

A generator is not required to use the acutely hazardous criterion as a characteristic. EPA will use this criterion to list acutely hazardous wastes in Part 261, Subpart D.

What is Appendix VIII, and how was it compiled?

Appendix VIII of Part 261 is a list of toxic chemicals that have been shown in reputable scientific studies compiled by EPA to have toxic, carcinogenic, mutagenic, or teratogenic effects on humans or other life forms. The Appendix is used by the Agency to identify those toxic constituents that, if present in a waste, could result in the waste's being placed on the hazardous waste list in accordance with the criterion of Section 261.11(a)(3). EPA must, however, consider other factors before listing a waste that contains an Appendix VIII constituent. These factors include:

- o the toxicity of the constituents;
- o its concentration in the waste;
- o its ability to migrate or escape from the waste;
- o its persistence or degradability;
- o its potential to bioaccumulate;
- o quantity of the waste generated;

identification and
listing

- o potential for mismanagement of the waste;
- o damage incidents resulting from improper management of the waste;
- o actions taken by other regulatory authorities based on the health or environmental hazard posed by the waste or waste constituent.

Consideration of these factors may argue for or against listing the waste. For each constituent listed in Appendix VIII, EPA has developed a background document that summarizes the available data on the constituent and indicates how these data support the listing of the constituent in Appendix VIII.

EPA expects to add other constituents to Appendix VIII as additional data are developed and assessed. Interested persons may petition EPA to add (or delete) constituents to Appendix VIII by following the procedures outlined in Section 260.20.

Must the generator of a solid waste that is not listed as a hazardous waste and does not exhibit any of the characteristics identified in Subpart C of Part 261 but does contain a constituent listed in Appendix VIII declare the waste hazardous?

No. A generator is not required to declare a waste hazardous because it contains an Appendix VIII constituent. A generator is only required to declare a waste as a hazardous waste if it is listed in Subpart D of Part 261, is a mixture containing a hazardous waste listed in Subpart D of Part 261, or exhibits any of the characteristics identified in Subpart C of Part 261 (see Section 262.11 for these requirements).

Appendix VIII is informational and has no independent regulatory force. Before a waste can be listed as hazardous under the criterion in Section 261.11(a)(3), it must both contain at least one of the Appendix VIII constituents and be evaluated in accord with the factors set forth in that criterion. The Agency performs this process, not the generator.

identification and
listing

Appendix VIII
threshold limits

Are concentration thresholds established beyond which a waste containing an Appendix VIII compound becomes a hazardous waste?

No. EPA has not established concentration threshold limits for the constituents listed in Appendix VIII.

identification and
listing

What analytical procedures should be used to determine if a waste contains any of the chemicals listed in Appendix VII?

Appendix III identifies the analytical procedures that should be used to determine if a listed waste contains any of the chemicals listed in Appendix VII. These procedures may be used to delist a waste by demonstrating that it does not contain the constituents that caused EPA to list it.

Prior to final selection of a method, the analyst should consult "Test Methods for Evaluating Solid Waste" (SW-846), which describes specific methods of testing in detail.

coal combustion wastes

How do the regulations deal with solid and liquid wastes from direct combustion of coal?

Section 261.4(b)(4) excludes, from regulation under RCRA, fly ash, bottom ash, slag, and flue gas emission control wastes generated by the combustion of coal or other fossil fuels.

Section 261.4(a)(2) excludes, from regulation under RCRA, wastewater point source discharges subject to regulation under Section 402 of the Clean Water Act.

All other solid wastes generated by coal-burning facilities are subject to regulation if they either are listed as a hazardous waste, are mixtures containing a listed hazardous waste, or exhibit any of the characteristics of hazardous wastes (see Section 261.3). These might include metal-cleaning wastes, boiler blowdown, and listed commercial products (see Section 261.33(e) and (f)) that are discarded.

What is Section 261.33?

Section 261.33 contains a listing of 361 commercial products that are hazardous wastes if and when they are discarded. Because these are valuable commercial products, they normally are not discarded. For various reasons, however, they are occasionally discarded, and, when this occurs, EPA believes these products may pose a present or potential hazard to human health or the environment. Thus, Section 261.33 brings these commercial products under hazardous waste regulation if and when they are discarded or intended to be discarded.

Section 261.33 also causes off-specification materials and the clean-up residues and debris from spills of the commercial products listed therein to be hazardous wastes, if and when they are discarded or intended to be discarded.

Finally, Section 261.33 causes containers that have held those commercial products listed in Section 261.33(e) and that are discarded to be hazardous wastes unless the container is triple-rinsed or equivalently decontaminated.

identification and
listing

commercial chemical
products

Is a waste listed in Section 261.33 classified
as hazardous if it does not exhibit the EP
toxicity characteristic?

Yes. Any waste listed in Part 261, Sub-
part D (including Section 261.33), is a hazard-
ous waste regardless of whether or not it
exhibits the EP toxicity characteristic (unless
it is delisted under procedures outlined in
Section 260.22).

identification and
listing

Is a waste a hazardous waste if it contains a commercial product listed in Section 261.33(f), but does not exhibit any of the four characteristics?

It is probably not a hazardous waste. If the waste is not listed as a hazardous waste, is not a mixture containing a listed hazardous waste, and does not exhibit any of the four characteristics, it is not a hazardous waste by virtue of containing a commercial product listed in Section 261.33(e) or (f) unless the commercial product was discarded by mixing it into the waste.

commercial chemical
products
acutely hazardous

What kinds of products are included among those listed as acutely hazardous in Section 261.33(e)?

The commercial products listed in Section 261.33(e) are explosive or acutely toxic materials. Most of them are acutely toxic materials as determined by data that exhibit one of the following properties:

- o The LD50 (the dose at which 50 percent of the animals die) is less than 50 milligrams per kilogram of body weight when the chemical is given orally to rats.
- o The LC50 (the concentration at which 50 percent of the animals die) is less than 2 milligrams per liter when rats breathe the chemical for 1 hour.
- o The LD50 (the dose at which 50 percent of the animals die) is less than 200 milligrams per kilogram of body weight when the chemical is applied to the skin of a rabbit.

identification and
listing

commercial chemical
products
acutely hazardous
pesticides

If a pesticide (or any other product) listed
in Section 261.33(e) is stored in grain
elevators, is it subject to the regulations?

It is probably not subject to the regulations. The commercial chemical products listed in Section 261.33 are only subject to regulation if and when they are discarded or intended to be discarded. Pesticides stored (or being used) in a grain elevator are probably not being discarded and, therefore, are probably not hazardous wastes.

identification and
listing

commercial chemical
products
 acutely hazardous
 container disposal

What is meant by "triple rinsing" of containers that hold the commercial products listed in Section 261.33(e)?

"Triple rinsing" means rinsing the container three times with a solvent capable of removing the commercial product from the container (see Section 261.33(c)(1)). A volume of solvent equal to at least 10 percent of the volume of the container should be used for each rinse. The solvent used for rinsing must be managed as a hazardous waste.

Alternative equivalent decontamination procedures can be substituted for triple rinsing as provided in Section 261.33(c)(2).

identification and
listing

Do the regulations cover disposal of an off-specification latex paint containing 0.1 percent formaldehyde (which is listed in Section 261.33) as a preservative?

No. Formaldehyde, as a constituent in latex paint or off-specification latex paint, does not cause it to be a hazardous waste unless the formaldehyde is purposefully being discarded by mixing with the paint which, in turn, is being discarded.

Certain process wastes generated in the manufacturing of paint (including latex paint) are listed in amendments to Part 261, Subpart D, published in the Federal Register on July 16, 1980 (45 Federal Register 47832-34). These newly listed hazardous wastes, however, do not include off-specification latex paint.

commercial chemical
products
rationale for listing

Why did EPA list the commercial products in
Section 261.33 since they are normally used
and not discarded?

In the development of the regulations,
EPA learned from operators of solid waste
facilities that, in addition to wastes, they
also receive significant amounts of discarded
commercial products. Apparently, commercial
products are occasionally discarded because
of expiration dates, disposal of inventories,
changes in production lines, and other reasons.
Section 261.33 deals with those commercial
products that, when discarded, can pose a
substantial hazard to human health or the
environment.

identification and
listing

Is it necessary to have both Section 261.33
and Appendix VIII?

Yes. Their purposes are different.
Appendix VIII lists 387 toxic chemicals that
EPA uses in listing hazardous wastes under the
criteria delineated in Section 261.11 (a)(3).
Generators of solid waste do not have to use
Appendix VIII to determine if their wastes are
hazardous.

Section 261.33 lists 361 commercial pro-
ducts that are hazardous wastes if and when
they are discarded or intended to be dis-
carded, if their off-specification variants
are discarded, or if the residue and debris
from the spills of these chemicals are dis-
carded. Also, containers that have held any
of the 122 commercial products listed in
Section 261.33(e) are hazardous wastes if
they are discarded, unless the containers are
triple-rinsed or equivalently decontaminated.
In short, Section 261.33 actually lists hazardous
wastes. Appendix VIII lists hazardous con-
stituents that, if contained in solid wastes,
may cause EPA to list those solid wastes as
hazardous wastes.

identification and
listing

commercial chemical
products
small-quantity limit

Does the limit of 1,000 kilograms per month
apply to commercial products listed in
Section 261.33?

The small-quantity generator limit of 1,000 kilograms per month applies only to commercial products listed in Section 261.33(f). The commercial products (or their off-specification variants) listed in Section 261.33(e) have a lower limit (1 kilogram per month). Also, a lower limit applies to containers and the residues and debris of spills of commercial products listed in Section 261.33(e) (see Section 261.5(c) (3), (4), and (5)). In either case, the limits apply only if the generator complies with the requirements of Section 261.5(d).

identification and
listing

commercial chemical
products
storage

Is a facility that stores the commercial
products listed in Section 261.33 prior to
their sales subject to the regulations?

No. The commercial products listed in
Section 261.33 are subject to regulation only
when they are discarded or intended to be
discarded.

identification and
listing

containers
empty

Are empty containers that have held hazardous materials regulated under RCRA?

Only those empty containers that have held any of the 122 acutely toxic commercial products listed in Section 261.33(e), that are discarded, and that have not been triple-rinsed or equivalently decontaminated are hazardous wastes.

If these containers are triple-rinsed or equivalently decontaminated before being discarded, they are not hazardous waste and are not subject to regulation.

The above answers only apply to empty containers. Those containing hazardous wastes are subject to the regulations because their contents are subject to regulation.

identification and
listing

If at the time a waste is placed in a pond its pH is 12.5 to 13, but within a month or so its pH declines to 12.5, is the waste included in the hazardous waste system?

Yes. The waste is a hazardous waste when it enters that pond because it meets the corrosivity characteristic. In this case, the pond would be a hazardous waste treatment facility because treatment is being accomplished to reduce the hazardousness (alkalinity) of the wastes. The owner or operator of the pond would have to comply with the notification requirements, would have to submit a Part A permit application, and would have to comply with the Interim Status Standards of Part 265 until a permit is issued or denied.

The waste removed from the pond would be hazardous waste until demonstrated to the contrary. In this case, if the pond reduces the pH to below 12.5, the pond operator must document that the treated waste does not

identification and
listing

exhibit the corrosivity characteristic (this presumes that the incoming waste is only hazardous by virtue of the corrosivity characteristic).

What corrosivity characteristic is used for solids?

The corrosivity characteristic applies only to liquids, not to solids. No solid material can, therefore, be a hazardous waste by virtue of the corrosivity characteristic.

criteria for listing

What are the criteria for placing substances
on the hazardous waste list?

The criteria for listing a hazardous waste in Subpart D of Part 261 are delineated in Section 261.11. For each hazardous waste listed in Subpart D of Part 261, EPA has developed a background document that describes the criterion or criteria used, the supporting data, and how the data were used against the criterion or criteria in deciding to list the waste. These background documents are available in the EPA Regional libraries and in the docket room and the library at EPA headquarters in Washington, D.C.

identification
and listing

definition
electroplating
operations

What is the definition of "electroplating operations" as used in Section 261.31, which covers hazardous waste from nonspecific sources?

The background document covering electroplating wastes, which is available in Regional libraries and EPA headquarters, indicates specific processes and wastes that are covered by the listing in Subpart D.

identification and
listing

definition
solid waste

Why is the term "solid waste" used throughout the RCRA regulations when liquids are sometimes involved?

EPA employs this term because it is used in the statute (Resource Conservation and Recovery Act) and because it has a very definite meaning within the statute. Section 1004(27) of the statute defines "solid waste" to include "solid, liquid, semisolid, or contained gaseous material."

identification and
listing

What are the differences among "used," "re-used," "reclaimed," or "recycled"?

These terms (and their differences) are not defined in the RCRA regulations; therefore, their dictionary meanings apply. The four terms are employed to assure coverage of the types of actions that can be taken on wastes when they are not discarded. As such, there is some overlap in their meaning.

definition
waste
economic value

Is waste defined with regard to economic value?

No. EPA believes that defining waste with regard to economic value is unworkable and makes no sense in the context of recycle and reuse activities since a waste that is being recycled or reused, by definition, has "value." EPA believes a better criterion for determining if a material is a waste is whether it is sometimes discarded or is, in fact, discarded (see Section 261.2).

identification and
listing

In a delisting petition for a toxic ("T") waste containing measurable amounts of a hazardous compound listed in Appendix VIII, is it necessary to show that the waste does not contain any Appendix VIII compounds?

No. The petitioner need only show either of the following:

- o The waste does not contain the specific Appendix VIII constituent(s) that caused the Agency to list the waste. Appendix VII identifies the constituent(s) that caused EPA to list each of the hazardous wastes listed in Sections 261.31 and 261.32 against the "T" criterion.
- o The waste does not pose a substantial present or potential hazard to human health or the environment based on the listing criteria contained in Section 261.11(a)(3). As above, this showing need only to be made with respect to the Appendix VIII constituent(s) that

identification and
listing

caused EPA to list the waste. Petitioners should review the listing background document for the particular waste to ascertain EPA's basis for listing the waste and then demonstrate, in their petitions, why their wastes differ significantly.

If the EP toxicity test shows that a waste does not contain any of the contaminants at the concentrations listed in Table 1, Part 261.24, must the generator notify EPA with respect to that waste?

The generator is not required to notify EPA by August 18, 1980, under Section 3010, unless the waste (1) is a listed waste, (2) is a mixture containing a listed waste, or (3) exhibits any of the other characteristics of hazardous waste. However, if, at some future time, the waste exhibits the EP toxicity characteristic or any of the other characteristics, the generator must notify EPA and obtain an EPA Identification Number in accordance with Section 262.12 before treating, storing, disposing of, or transporting the waste or offering the waste for transport.

EP toxicity
testing protocol

How does the extraction procedure differ from the one in the proposed regulation?

The extraction procedure is part of the testing protocol for the EP toxicity characteristic. The test is basically the same extraction procedure as that described in the proposed regulation. The EP toxicity characteristic, however, has been changed significantly. In the proposed regulation, a waste was a hazardous waste if its extract contained any of the eight heavy metals or six organic compounds listed in the National Interim Primary Drinking Water Standards in concentrations greater than 10 times the maximum concentration limits specified in those standards. The final regulation changed the "10 times" to 100 times.

identification and
listing

Are all hazardous wastes generated by hospitals regulated under RCRA?

No. The regulations promulgated on May 19, 1980, do not include an infectious waste characteristic or list any infectious wastes that typically are generated by hospitals. EPA expects, however, in fall 1980, to list a number of infectious wastes generated by hospitals, veterinary hospitals, and medical research facilities. Some hospitals, however, may generate some of the hazardous wastes listed in Part 261.33 or solid wastes that exhibit any of the characteristics defined in Subpart C of Part 261. If so, they are subject to the regulations with respect to these hazardous wastes. In most of these cases, EPA believes that the special requirements regarding small-quantity generators (see Part 261.5) will apply.

large generators
small quantities

Are small quantities of hazardous waste produced by large generators excluded from full regulation under RCRA?

No. A generator must aggregate all hazardous waste generated on his site to determine if he generates less than 1,000 kilograms per month. If he generates 1,000 kilograms per month or more, all quantities of hazardous waste that he generates are subject to full regulation.

identification and
listing

list
future size

How big is the hazardous waste list likely to become?

The regulations promulgated under RCRA on May 19, 1980, listed 85 process wastes, as well as 361 commercial products that are hazardous waste if they are discarded. On July 16, 1980, EPA added another 18 process wastes to the list. Before the end of 1980, the number of listed process wastes could increase to 150. Over the next decade, EPA intends to inventory and characterize the solid wastes produced by American industry and identify those additional solid wastes that should be listed as hazardous wastes. As these hazardous wastes are identified, the Agency will move to list them. As a result, the Agency fully expects that the number of hazardous wastes listed in the regulations will increase several fold. EPA also expects to add to the list of commercial products.

identification and
listing

metals

Are lead pipe, chrome-plated metals, and similar materials considered to be hazardous wastes?

They probably are not. These materials are not listed as hazardous wastes, and they probably would not exhibit any of the characteristics of hazardous waste, including the EP toxicity characteristic.

identification and
listing

mixture rule
minimum
concentration

For a waste classified as a hazardous waste because it is a mixture containing a listed hazardous waste, what minimum concentration of that listed hazardous waste causes the mixture to be a hazardous waste?

There is no minimum concentration. Any amount of a listed hazardous waste causes the mixture to be a hazardous waste.

identification and
listing

multiple numbers

Which of the several numbers under which
1,1,1-trichloroethane is listed should be
used in reporting?

It depends on what waste is being reported.
If the 1,1,1-trichloroethane is being discarded
as an unused commercial product, its Hazardous
Waste Number is U226 (see Section 261.33(f)).
If the 1,1,1-trichloroethane is a spent solvent,
its Hazardous Waste Number is F001 (see Section
261.31).

identification and
listing

oil and gas industry
wastes
future regulation

Are drilling muds and brines from the production and exploration of crude oil and gas permanently exempt from regulation under RCRA?

This is not known. Under pending congressional amendments to RCRA, EPA will be required to undertake a study of crude oil and gas drilling muds and brines that probably will take 2 years to complete. When it is completed, EPA will reconsider whether these wastes need to be regulated as hazardous wastes. If EPA concludes that they should be regulated as hazardous wastes, the Agency will initiate appropriate rulemaking. According to the pending amendments, congressional approval is required before rulemaking under RCRA for these wastes can proceed.

identification and
listing

PCBs

Are PCBs covered by the hazardous waste regulations?

Waste PCBs are not covered by the RCRA regulations at this time. They continue to be exclusively regulated under the Toxic Substances Control Act. EPA intends, however, to integrate the regulation of waste PCBs into the RCRA regulations.

identification and
listing

Is polyurethane listed as a hazardous waste?

No. The plastic polyurethane is not listed as a hazardous waste (the chemical urethane, however, is listed). Although not listed as a hazardous waste, polyurethane may exhibit the ignitability characteristic and, therefore, could be a hazardous waste.

primary products

Do the regulations apply to primary products
that are hazardous waste?

Yes. The regulations do apply to primary products that meet the definitions of solid wastes and hazardous wastes. EPA expects, however, that primary products will only occasionally be hazardous wastes. A primary product would meet the definition of solid waste (see Section 261.2(b)) if:

- o it is discarded or is being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded; or
- o it has served its original intended use and sometimes is discarded.

If it meets the definition of solid waste, it would be a hazardous waste (see Section 261.3(a)) if:

- o it is listed as a hazardous waste in Part 261, Subpart D; or
 - o it is a mixture containing a hazardous
- identification and listing

- waste listed in Part 261, Subpart D; or
- o it exhibits any of the characteristics of hazardous waste identified in Part 261, Subpart C.

proprietary mixture

Can a generator use the compositional information disclosed by the manufacturer of a proprietary mixture, or must the generator analyze the waste?

EPA presumes that this question pertains to determinations of whether unlisted wastes are hazardous wastes by virtue of characteristics.

The generator may use any available information he chooses to determine if a waste exhibits any of the characteristics of hazardous wastes. Testing--using the tests for characteristics delineated in the regulations or using equivalent methods--is, of course, the most assured means of making such determinations. The regulations do not, however, specifically require testing.

Making determinations based on compositional information would be acceptable if reasonable inferences could be drawn relative to the characteristics.

identification and
listing

If methanol and pure perchloroethylene are distilled from a hazardous waste, are the purified chemicals regulated under RCRA?

They are probably not regulated. Even though the methanol and perchloroethylene are generated by the treatment (distillation) of a hazardous waste, they do not appear, in this case, to be solid wastes because they are primary products of manufacturing (waste reclamation) and do not meet the definition of solid waste in Section 261.2(b). Because they are not solid wastes, they cannot be hazardous wastes according to Section 261.3(c)(2).

resource recovery

Is a listed spent solvent that is going to a
resource recovery facility regulated under RCRA?

Only storage and transportation of that
solvent are now regulated (Section 261.6(b)).
EPA is planning, however, to regulate eventually
the recycling of spent solvents.

identification and
listing

Since a commercial product, such as saccharin, is considered a hazardous waste when discarded, are all wastes containing saccharin as a constituent also listed?

No. They are not hazardous waste unless the waste itself:

- o is listed as a hazardous waste; or
- o is a mixture containing a listed hazardous waste; or
- o exhibits any of the characteristics of hazardous waste.

If the commercial product, saccharin, is discarded by mixing it into a solid waste, then the waste becomes a hazardous waste by virtue of the second of the above rules.

Wastes that contain the constituent, saccharin, where the saccharin is not added by an act of discarding the commercial product, saccharin, are not hazardous wastes simply by virtue of containing saccharin.

solvents
spent

Are the spent solvents listed in Section 261.31 generated by specific processes, or are any materials that contain these solvents considered hazardous?

The spent solvents listed in Section 261.31 cover spent solvents generated by any and all processes; hence they are not limited to spent solvents derived from specific processes.

These listed spent solvents themselves are hazardous wastes. Also, any solid waste with which these listed spent solvents are mixed are hazardous wastes. Solid wastes that may contain some amounts of solvents from the manufacturing or other activity in which the solvents are used are not, however, hazardous wastes by virtue of their solvent content; they may, however, be hazardous wastes for other reasons.

identification and
listing

May States regulate different wastes than those covered by the RCRA regulations?

A state must cover at least the same universe of hazardous wastes as identified by Part 261 in order to qualify for authorization to operate a hazardous waste management program in lieu of the Federal program. A State may, however, regulate more hazardous wastes than identified in Part 261 and still qualify for authorization. Where a State does not apply for or qualify for authorization, the State can regulate any universe of hazardous wastes, independent of the Federal program that EPA will operate in that State.

testing
characteristics

If a waste is found to exhibit any one of the four characteristics of hazardous waste, must the generator test for the other three characteristics?

If a waste exhibits any one of the characteristics of hazardous waste, it is considered to be a hazardous waste and is subject to the regulations; no further determination or testing is required. Under the reporting requirements of Part 262 and the notification requirements, however, a generator must identify all characteristics that a waste exhibits. Thus, in order for a generator to comply with these requirements, a determination must be made with regard to all four characteristics.

identification and
listing

Is there a way to obtain formal EPA approval
for alternative methods of testing?

Yes. Section 260.21 allows petitioning
the Agency for equivalent testing and analytical
methods. That section explains how to file
petitions and describes the information they
should contain.

waste category
removal from list

How can an entire category of waste be removed
from the hazardous waste list?

Petitions can be filed under Section 260.20
to request an amendment to the regulations to
remove an entire waste category from the hazard-
ous waste list.

identification and
listing

Must a generator who burns waste oil as a fuel off-site use the manifest system?

This is a difficult question to answer in the abstract. Although waste oil is not now listed as a hazardous waste, it may be a hazardous waste if it has mixed into it any of the hazardous wastes listed in Part 261, Subpart D. EPA has reason to believe that such mixtures may occur frequently, particularly mixtures containing the spent solvents listed in Section 261.31. If the waste oil is such a mixture and is being recycled (burned as a fuel), it is subject to the storage and transportation regulations, including the manifest requirements (see Section 261.6(b)). If it is not such a mixture, it is not subject to such regulation.

waste oil
EP toxicity

Does waste oil exhibit the EP toxicity
characteristic?

EPA does not know which waste oils exhibit the EP toxicity characteristic. It is highly probable that many waste oils (including automotive oil) do because they contain several of the heavy metals, particularly lead, listed in Table 1 of Part 261. There may be difficulties in using the methods specified in Appendix II in analyzing waste oil. EPA is studying this problem.

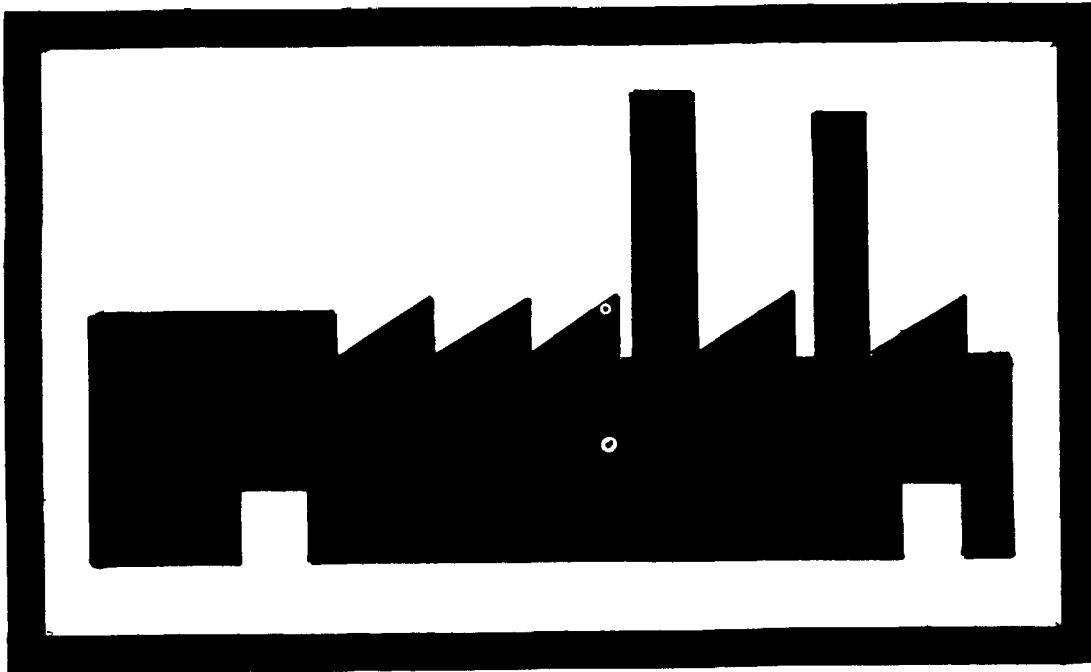
identification and
listing

If a waste is not currently identified or listed as a hazardous waste in the Subtitle C regulations, but is later listed or identified in the regulations, what liabilities might result from its disposal prior to when it was identified or listed?

The regulatory requirements of RCRA only apply to a waste after the effective date of the regulation or regulation amendment under Part 261 that lists the waste as a hazardous waste or identifies a characteristic causing the waste to be a hazardous waste. By statute, the effective date occurs 6 months after the date of promulgation of the regulation or regulation amendment. Before that time, provisions of Subtitle D of RCRA might apply (if the waste is land disposed), State laws might apply, and injunctive remedies determined by Federal courts under any action taken under Section 7003 of RCRA would apply. Also, liabilities under common law would apply before that date.

identification and
listing

Generator Standards



Keywords

accumulation
alternate facilities
annual report
EPA assistance
exclusions
liability

manifest
official documents
pesticide containers
small-quantity generators
State laws and requirements
storage
testing

When does the 90-day period begin in which a generator can "accumulate" hazardous waste on-site without a storage permit?

That period begins when the first waste is accumulated. If, for example, waste is being accumulated in a 55-gallon drum, the 90-day period begins when the first amount of hazardous waste is added to the drum.

accumulation
duration

Why did EPA select an accumulation period of 90 days rather than a longer period?

The accumulation period reflects an attempt to balance the congressional intent to avoid interfering with the generator's production processes, during which some waste must be allowed to accumulate, with the need to mitigate the dangers posed by the accumulated hazardous waste. Storage for longer than 90 days presents the same potential dangers as longer-term storage. It should, therefore, be fully regulated.

generator standards

If one-third of the hazardous waste in an on-site storage tank is emptied every week and the waste is hauled off-site, could the generator qualify for a small-generator limit as long as the amount on-site does not exceed 1,000 kilograms?

The generator can only qualify as a small-quantity generator if the total amount of hazardous waste he generates is less than 1,000 kilograms per month (see Section 261.5).

accumulation
storage

Will generators who store hazardous waste until they have accumulated a sufficient amount for hauling off-site be required to apply for a permit as a storage facility?

If the waste is stored in containers or tanks for less than 90 days before shipping off-site, no storage permit is required (see Section 262.34). If the waste is stored for more than 90 days, however, a storage permit is required.

The 90-day rule merely exempts the generator from the requirement to obtain a storage permit. It does not change the technical requirements for storage. For example, generators must accumulate their hazardous waste either in shipping containers approved by the Department of Transportation or in tanks that meet the Interim Status Standards.

The generator standards state that accumulated hazardous waste should be placed in "containers" or "tanks." What happens if the waste is accumulated in piles?

The accumulation rule (see Section 262.34) does not apply to waste piles. It applies only to waste that is to be shipped off-site in 90 days or less and is stored in approved containers or tanks. Waste piles are treated differently from tanks or containers because, whereas it is possible to mark on containers or tanks the date that accumulation began, there is no accurate or reasonable way to do that with a waste pile. Bulk waste stored in piles prior to shipping off-site must meet all Interim Status Standards for waste piles, and the generator must obtain a permit for storage.

alternate facilities
designation by
generator

Must generators specify an alternate hazardous waste treatment, storage, or disposal facility on the manifest?

No. A generator must, of course, designate a facility that has Interim Status or a RCRA, Subtitle C, permit. He may also designate an alternate facility (with Interim Status or a RCRA, Subtitle C, permit) to be used by the transporter should an emergency such as a strike or fire preclude delivery to the designated facility.

generator standards

What documents will generators use as sources
for their annual reports?

For hazardous waste shipped off-site, the information on the manifest used for shipping that waste should be used in preparing the annual report. For hazardous waste treated, stored, or disposed of on-site, the information maintained in the operating record required under Section 265.73 or Section 264.73 should be used to prepare the annual report.

annual report
unregulated wastes

Will generators be required to include in their annual reports wastes that have hazard class characteristics as defined by the Department of Transportation but are not regulated by RCRA?

No. The generator's annual report need deal only with hazardous wastes as defined in Section 261.3.

generator standards

Does EPA plan to assist industries that experience serious adverse economic impacts from the RCRA regulations?

Yes. EPA has established an Industry Assistance Program (IAP) for this purpose. The IAP staff coordinates Regional and Federal assistance to economically impacted industries. The Agency intends to give particular attention to the following segments of industry: chrome pigments, chlorine, electroplating (job shops), textiles, leather tanning, metals (several), petroleum rerefining, pesticides, plastics, and pharmaceuticals. Other assistance activities of the Agency include providing training and information materials on technical, managerial, and financial options and promoting standardization. For further information, contact Michael Barclay, RCRA Industry Assistance Coordinator, Office of Solid Waste (WH-565), U. S. Environmental Protection Agency, Washington, D.C. 20460, (202) 755-9190.

generator standards

exclusions

What quantities of wastes are excluded from full regulation under RCRA?

Except for those wastes that are excluded from RCRA regulation under Section 261.4, no quantities are "excluded" from the regulations. Section 261.5 provides, however, special requirements for hazardous wastes that are generated by small-quantity generators. Section 261.5 specifies the quantities below which these special requirements apply. In addition, special requirements apply to hazardous wastes that are beneficially used or reused or legitimately recycled or reclaimed (see Section 261.6).

generator standards

Is the generator liable for any problems that occur before ultimate disposal of a hazardous waste even if he complies with the regulations?

Compliance with the regulations merely ensures that EPA will not bring an enforcement action for violations under Subtitle C of RCRA. Compliance does not necessarily insulate a generator from liability under common and statutory law.

liability
authorized representative

What is the legal liability of a generator's authorized representative who signs the notification form and Part A of the permit application?

Both the notification form and Part A of the permit application contain a clause stating that the signer is familiar with the facts presented therein and certifies that they are correct. If it can be shown that the signer knowingly made false statements in the notification or Part A, he is subject to criminal prosecution under Section 3008(d)(3) of RCRA.

generator standards

If a hazardous waste facility has its permit revoked, will generators who used that facility before revocation be liable for wastes disposed of there?

EPA will not take enforcement action against generators who follow the regulations and use facilities having Interim Status or a RCRA, Subtitle C, permit unless there is reasonable cause to do so. Compliance with the regulations, however, does not necessarily insulate a generator from liability under common and statutory law.

manifest
analytical report

Must an analysis of the constituents of the
hazardous waste accompany the manifest?

No.

generator standards

manifest
generator's
phone number

Must the manifest carry the generator's
telephone number?

Yes (see Section 262.21(a)(2)).

generator standards

manifest
identification of
wastes

When wastes are combined prior to being disposed of off-site, does the generator have to identify all waste materials on the manifest?

The manifest requires a description of the waste as shipped, using nomenclature of the Department of Transportation. If it is a mixture, the description on the manifest may simply be "hazardous waste, not otherwise specified (NOS)." The generator (and the off-site facility operator) must, however, identify wastes generated (and handled, in the case of the off-site facility) by all applicable EPA Hazardous Waste Numbers in their respective annual reports. Thus, the generator will have to inform the off-site facility operator of all EPA Hazardous Waste Numbers applicable to his waste. This need not be done on the manifest, however.

generator standards

How does the manifest system work when a hazardous waste generated in Puerto Rico, for example, is shipped to New Jersey, off loaded, and taken by truck to a disposal facility?

It works in the same way as it does for any shipment of hazardous waste. The generator must fill out a manifest, sign it, get the transporter's signature, and keep a copy. All transporters must sign the manifest and keep a copy. The owner or operator of the ultimate disposal facility must sign and keep a copy of the manifest and send a copy back to the generator.

manifest
original copy

Where is the "original" (top copy) of the
manifest filed?

The regulations proposed in December 1978 required the original of the manifest to accompany the shipment and be returned to the generator by the receiving facility. The word "original" has been dropped. The final regulations require that the generator receive a copy of the manifest with a handwritten signature of the facility owner or operator. The generator is required to keep a copy of the manifest signed by the first transporter until he receives the copy signed by the facility owner or operator. The owner or operator of the facility that receives the waste also must retain a copy of the manifest (signed by a facility representative and the transporter delivering the waste).

generator standards

Who should sign the manifest and the annual report?

The generator must sign the manifest. Normally, the certification statement on a shipping paper of the Department of Transportation is signed by the foreman on the dock. He is responsible for verifying that the material has been properly packaged, marked, labeled, and containerized in accordance with the requirements of DOT and EPA.

The annual report must be signed by the person designated in Section 122.6(a) or by a duly authorized representative of the person-- that is, the plant supervisor or the person in charge of the facility.

pesticide containers

Do the regulations cover the disposal of empty pesticide containers by farmers?

Farmers disposing of empty pesticide containers that result from their own use are not subject to the regulations if they triple-rinse the containers and dispose of the rinsate on their own property in accordance with the pesticide label.

generator standards

small-quantity
generators

See identification and listing.

generator standards

State laws and
requirements

Is a generator whose waste is sent to a hazardous waste facility in another State responsible for complying with that State's requirements?

Yes. A generator who sends waste out of state must comply with that State's hazardous waste regulations, laws, and program. If the State program is not authorized by EPA, the generator may have to comply with two sets of requirements--State requirements and the RCRA regulations. Where the unauthorized State's requirements are less stringent than the Federal requirements, the RCRA regulations apply and vice versa.

generator standards

storage

See accumulation.

generator standards

testing

Must a generator test a waste if he already knows the composition and the concentration ranges?

No. The RCRA regulations do not require testing to determine if a solid waste is a hazardous waste (see Section 262.11).

If the waste is listed as a hazardous waste or is a solid waste mixture containing a listed hazardous waste, the generator must designate the waste as a hazardous waste (unless it has been "delisted" under Section 260.22). If the waste is not listed and is not a mixture containing a listed hazardous waste, the generator need not test the waste if he has sufficient knowledge about it with regard to the characteristics of hazardous wastes identified in Part 261, Subpart C. If, however, a generator found to be producing a hazardous waste has not designated it as such and is not managing it as such, EPA would take enforcement action.

generator standards

Must the generator perform the tests for identifying a hazardous waste, or can they be performed by an outside laboratory?

The RCRA regulations require only that the generator determine if a waste is a hazardous waste; he does not have to test the waste to make this determination. The regulations place no restrictions on obtaining the services of an outside laboratory to perform any testing necessary to make the determination.

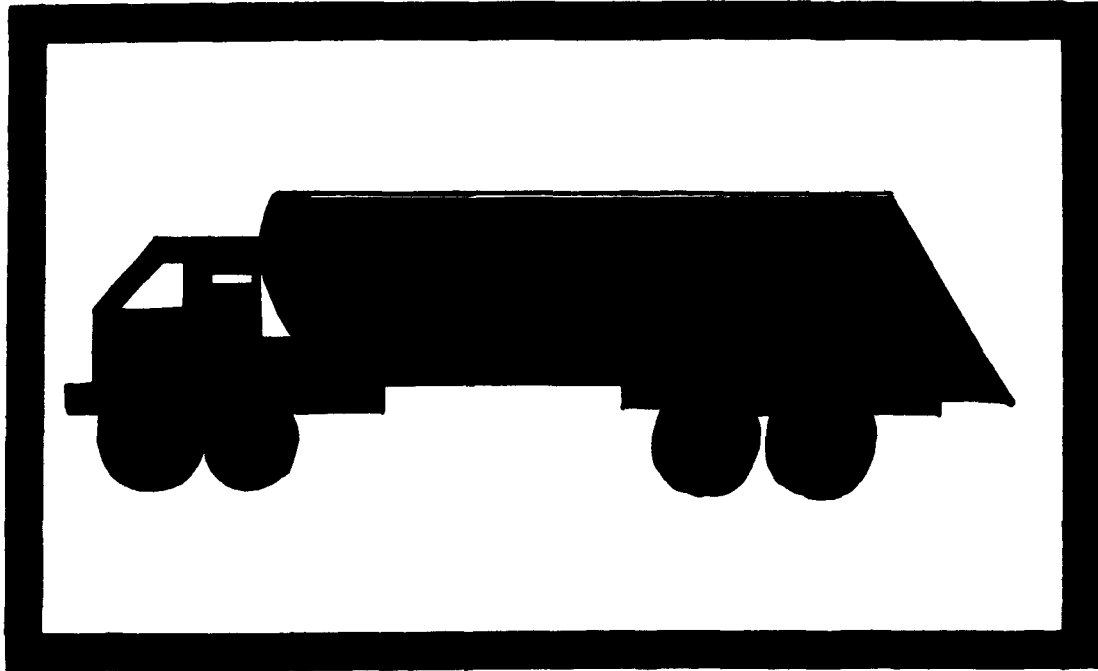
testing
listed wastes

Must a generator test the wastes listed under
Sections 261.31, 261.32, or 261.33?

No. The generator does not have to test
a waste that has been listed as a hazardous waste
in Sections 261.31, 261.32, or 261.33. Listing
defines a waste as a hazardous waste. Treat-
ment, storage, and disposal facilities to which
the wastes are shipped may, however, request a
chemical analysis from the generator.

generator standards

Transporter Standards



Keywords

definition
delivery of materials
Department of Transportation

notification
small shipments
spills
vehicles

How much waste must one carry to be considered a transporter of a hazardous waste?

Any amount of hazardous waste carried causes the transporter to be a transporter of hazardous waste. Certain hazardous wastes, when transported, are not, however, subject to the transportation requirements of the regulations:

- o The hazardous wastes generated by small-quantity generators (see Section 261.5) and
- o the hazardous wastes destined for use, reuse, recycling, or reclamation (except for sludges, listed hazardous wastes, and mixtures containing listed hazardous wastes).

delivery of materials

Would it be advisable to allow a transporter to divert recyclable materials that the generator designated for disposal?

No. Under the RCRA regulations, it is the generator's responsibility to designate the hazardous waste facility to which the waste is to be taken. The transporter is required to deliver the waste to the facility designated by the generator. The transporter could, of course, let the generator know where the waste being handled could be recycled.

transporter
standards

Have EPA and the Department of Transportation coordinated their hazardous waste activities?

Yes. EPA and DOT jointly developed the regulations for the transportation of hazardous waste. The regulations in Part 263 applicable to transporters incorporate, by reference, pertinent parts of DOT's rules on labeling, marking, packaging, placarding, and other requirements for reporting hazardous waste discharges or spills during transportation. DOT, in turn, has amended its Hazardous Materials Transportation Regulations to include the requirements in Part 263. EPA believes that these joint efforts will make it easier for transporters to comply with all requirements and will eliminate overlapping administrative and enforcement activities. Coordination will, of course, minimize additional costs for recordkeeping by transporters. Furthermore, EPA and DOT have jointly signed a Memorandum of Understanding that outlines the enforcement responsibilities of each agency where there is overlapping jurisdiction.

transporter
standards

Department of Transportation
regulations
applicability

Are the Department of Transportation's regulations concerning the transportation of hazardous materials applicable to both hazardous wastes and hazardous substances?

Yes. DOT has amended its Hazardous Materials Transportation Regulations specifically to include all hazardous wastes (HW) and hazardous substances (HS) regulated by EPA (Federal Register, May 22, 1980). To determine how a particular HW or HS is regulated by DOT, a generator should first check to see if it is listed in the Hazardous Materials Table in Section 172.101 of the DOT regulations. If it is, the table directly points out the requirements for transportation. If it is not listed, a generator must then determine if his HW or HS exhibits any of the characteristics under DOT's 15 hazard classes. If so, it must be shipped as designated in the Hazardous Materials Table for the appropriate hazard class. If not, then the HW or HS falls under the ORM-E hazard class (49 Code of Federal Regulations 173.500(b)(5)) and must be shipped according to the general requirements of a hazardous waste "not otherwise specified (NOS)" or a hazardous substance NOS as listed in the table.

transporter
standards

Where can transporters and generators secure information on the Department of Transportation's regulations covering the transportation of hazardous waste?

The DOT regulations were published in the Federal Register of May 22, 1980, and in Title 49 of the Code of Federal Regulations. Copies may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402. In addition, DOT publishes a list of colleges, universities, and private companies that offer programs on the transportation of hazardous substances and numerous pamphlets dealing with various aspects of the regulations. Copies of the list and pamphlets may be obtained from: Department of Transportation, Research and Special Programs Administration, Office of Hazardous Materials, Information Services Division, 700 D Street, S.W., Washington, D.C. 20590.

Department of Transportation
regulations
open trucks

May hazardous waste be hauled in open trucks?

Any container that complies with rules and regulations established by the Department of Transportation may be used. DOT has developed regulations specifically for open trucks.

transporter
standards

How do EPA's Hazardous Waste Numbers relate to the Department of Transportation's shipping numbers?

The shipping numbers in the DOT regulations relate to emergency response and are not necessarily specific to a waste material. The numbers tie into an already existing system of emergency response codes developed by the United Nations (UN). DOT expanded the list of codes to include more materials than those used by the UN. Those codes are required on the manifest because they are part of the proper DOT shipping description. The Hazardous Waste Numbers in EPA's identification regulations, which are specific to waste materials, are not required on the manifest, but must appear in annual reports and other records that EPA requires.

notification
new wastes

Do transporters have to file another notification for each new hazardous waste they receive?

No. Notification is based upon the wastes transported during the 3 months prior to notification. New notification need not be submitted later.

transporter
standards

Must a generator who transfers small quantities of hazardous waste from a subsidiary plant to a main facility for accumulation and treatment comply with the transporter standards of the regulations?

If a subsidiary plant qualifies as a small-quantity generator, the plant is only required to see that the waste is sent to a facility that has a RCRA permit, has Interim Status, or is permitted, licensed, or registered by the State to manage municipal or industrial solid waste. In this case, the subsidiary plant does not have to meet the generator standards under Part 262 or the transporter standards under Part 263.

Should a subsidiary plant not qualify as a small-quantity generator, however, it is subject to all of the RCRA requirements, including the transporter standards.

spills
responsibility

Who is responsible for spills of hazardous waste in transit?

Both the generator and transporter have responsibilities when a hazardous waste is spilled. According to Part 263, Subpart C, a transporter must:

- o report spills (see Section 263.30(c));
- o take appropriate immediate action to protect human health and the environment; and
- o clean up the spill.

The generator must:

- o help prevent spills by assuring that the waste is properly packaged in containers that are neither damaged nor leaking and that are properly marked and labeled (see Part 262, Subpart C);
- o ascertain the status of shipments of hazardous wastes that do not reach the designated facility; and
- o submit an Exception Report for unreturned manifests.

transporter
standards

Will trucks hauling hazardous wastes have to be labeled on the outside to declare their contents?

Most vehicles hauling hazardous waste must carry Department of Transportation placards, according to Section 172.504 of DOT's Hazardous Materials Transportation Regulations:

- o Vehicles hauling wastes that fall into the six hazard classes listed in Table 1 require one of the six specified placards, regardless of the quantity carried.
- o Vehicles hauling wastes that fall into the 15 hazard classes listed in Table 2 require placards only when carrying 1,000 pounds (454 kilograms) or more.
- o Vehicles hauling hazardous materials listed in Section 172.500 do not require placards. Among these materials are disease-causing agents, ORM-A, B, C, and D materials, and small quantities excepted by DOT under Section 172.101.

Facility Standards

TSD Facilities

Keywords

active/inactive sites
approved facility
baghouse
chemical analyses
closure
contingency plan
Department of Defense
disposal
evaporation
existing facilities
explosive wastes
facility
financial requirements
generator
ground water
incineration
Interim Status
Interim Status Standards

land treatment
landfills
legal responsibility
personnel
postclosure care
publicly owned treatment works
recordkeeping and reporting
records
recycling
reports
sites
siting
storage
surface impoundments
surveillance system
treatment
volatile wastes

If a plant ceases on-site disposal prior to November 19, 1980, is it subject to the RCRA regulations?

No. The regulations apply only to hazardous waste treatment, storage, or disposal facilities that either are in operation or begin operation on or after November 19, 1980, the effective date of the regulations. If, however, the on-site facility was handling hazardous waste on the date of promulgation of the regulations (May 19, 1980), the owner or operator must notify under Section 3010 of RCRA, even though the facility closed before the regulations became effective.

The on-site facility would be an inactive facility, which is defined as "inactive portion" in Section 260.10(a)(29). An inactive facility is subject to Section 7003 of RCRA. Under this section of the statute, EPA can seek injunctive action to remedy an imminent hazard's being caused by the facility.

active/inactive
sites
closure procedures

Can an inactive facility (that does not receive hazardous waste on or after November 19, 1980) be closed after November 19, 1980, without having to go through full RCRA closure procedures?

Yes. The closure rules in Parts 264 and 265 apply only to facilities at which hazardous waste was treated, stored, or disposed of after November 19, 1980. It would, however, be in the best interests of the owner and operator of an inactive facility, and the public as well, for the closure to be in accordance with the closure requirements of Part 264.

Section 7003 of RCRA applies across the board to both active and inactive facilities. If an inactive facility (before or after closure) is causing an imminent hazard as defined in Section 7003, then it is subject to that provision, even though it may not be subject to Subtitle C of RCRA.

facility standards

How do active facilities, inactive facilities,
and closed facilities differ?

An active facility is one in which hazardous waste treatment, storage, or disposal operations are being or have been conducted after November 19, 1980. An inactive facility is one in which such operations are not being or have not been conducted after November 19, 1980.

A closed facility is one that operated after November 19, 1980, under Interim Status or under a RCRA permit and closed in accordance with the closure requirements of Part 264 or Part 265.

approved facility

What is an approved hazardous waste facility?

The term "approved" is not used in RCRA or the regulations. When the term is used, EPA takes it to mean a facility that:

- o has received a RCRA permit from EPA or an authorized State; or
- o has Interim Status under RCRA, Section 3005(e).

facility standards

Is a baghouse used to recover product and other material for immediate reprocessing considered an air pollution control facility, thus making the product, by definition, a solid waste?

The answer depends on the primary purpose of the baghouse. If a baghouse is intended primarily to recover product, as opposed to being an air pollution control facility, then the recovered product is not a solid waste. If, on the other hand, the baghouse is intended to control air pollution, and captures a "product" in the process, the captured material would be a "sludge" (see Section 260.10(a)(63)) from an air pollution control facility and, thereby, would be a solid waste in accordance with Section 261.2(a). If, however, this "sludge" meets the definition of hazardous wastes (see Section 261.3), its immediate reprocessing would not, at this time, be regulated under the RCRA regulations since this reprocessing would be a legitimate recycling or reclamation of hazardous waste (see Section 261.6).

facility standards

chemical analyses

Who must provide the detailed chemical analysis of a waste before it is treated, stored, or disposed of?

The owner or operator of a hazardous waste treatment, storage, or disposal facility is required to obtain a waste analysis, which usually will involve a detailed chemical analysis before treating, storing, or disposing of the waste (see Section 265.13 and related requirements of Part 265). The owner or operator, however, may require the generator to perform part or all of the required waste analysis as a condition of doing business with the generator. This would be a business arrangement, not a requirement of the regulations.

facility standards

If the owner or operator of a facility does not qualify for or does not obtain Interim Status, and the facility is required to close temporarily while awaiting a permit, do the closure requirements in the regulations of May 19, 1980, apply?

No. The closure rules in Part 265 apply only to those facilities that have obtained, and are closed while under, Interim Status.

contingency plan

Can the Spill Prevention, Control, and Counter-measures (SPCC) plan be utilized to prepare the contingency plan and meet certain other planning requirements (such as inspections and training)?

Section 265.52(b) explicitly says that the requirement for a RCRA contingency plan can be met by suitable modification of the SPCC plan. All the RCRA emergency requirements that must be in writing could be considered part of the SPCC plan, or, in fact, any State or local emergency plan. It is questionable, however, whether an SPCC or any other emergency plan would include all of the provisions required in an inspection or a training plan. It may be stretching the original intent of the SPCC plan to cover all RCRA requirements. All plans can, however, be included in an overall SPCC or other emergency plan, as long as all RCRA requirements are met.

facility standards

Do the RCRA, Subtitle C, regulations apply to facilities of the Department of Defense that store and ship hazardous waste?

Yes. These regulations apply to all Federal agencies that generate, store, transport, treat, or dispose of hazardous waste.

facility standards

disposal
State standards versus
Federal standards

Can a waste generated in a State that uses 10 times the National Interim Primary Drinking Water Standards for its EP toxicity characteristic be disposed of as a nonhazardous waste in a State that uses the Federal level of 100 times the standards?

Yes. Under certain conditions, it is permissible under the RCRA regulations for the State where the waste originated to have a more stringent standard than the Federal standards or other equivalent State standards. The waste would be a hazardous waste in the State of origin, and that State's standards governing generators and transporters would apply. The waste, however, would not be a hazardous waste in the receiving State.

facility standards

evaporation

Is evaporation a disposal process?

No. Evaporation is a volume-reduction process and is considered to be a treatment, not a disposal, process.

facility standards

existing facilities

Are facilities "in existence" according to Subtitle C of RCRA if they began operations after October 21, 1976?

No. They are not considered "in existence" unless they commenced construction before October 21, 1976. EPA expects, however, that Congress will amend Section 3005(e) of RCRA to change the date by which a facility must be "in existence" to qualify for Interim Status.

facility standards

Since there are no commercial facilities for disposal of bulk explosives, the Department of Defense and other governmental agencies have worked with industry to render these materials harmless. Would it be feasible to provide a general exemption to allow these activities to continue?

The Interim Status Standards (see Section 265.382) allow open burning or detonation of explosive wastes if they cannot safely be disposed of through other methods. The regulation applies to all facilities, commercial and governmental. Facilities that meet the definition of existing facilities, that notify, and that apply for permits can continue to operate during Interim Status. EPA does not approve of open burning or detonation of explosive wastes, but decided that at least during Interim Status--until appropriate facilities become available--open burning or detonation of these wastes will be allowed under controlled conditions.

facility standards

The regulations specify the distances from property lines at which the explosives can be detonated in relation to the amount of explosive wastes to be disposed of.

facilities
on-site list

Will on-site or generator-controlled disposal facilities be identified as such in EPA's computer list of facilities?

Yes.

facility standards

facility
definition

Is a series of ponds on different portions of
a site considered one facility?

Yes. There was some confusion on this
in the proposed rules. Part 260 now contains
a new definition that makes it clear that a
single "facility" may consist of several similar
or different types of hazardous waste units,
such as several ponds, an incinerator, a land-
fill, and storage facilities.

How can the financial strength of a hazardous waste facility be determined?

Owners or operators of treatment, storage, and disposal facilities are required to estimate the cost of closure and, for disposal facilities, the cost of postclosure care. These are the only requirements in the Phase I (May 19, 1980) regulations. On May 19, 1980, however, EPA also proposed additional financial assurance and insurance requirements (see 45 Federal Register 33260). The Agency intends to promulgate these additional requirements as soon as it can complete its consideration of the public comments. Section 265.143(e) of the proposed rules provides for an assets test to assure funds for closure of a facility. This test will allow a company to meet its financial responsibilities for closure without putting aside any money. Section 265.145(g) of the proposed rules describes a similar provision for postclosure care of facilities.

facility standards

financial
requirements
General Status versus
Interim Status

How will the financial requirements for hazardous waste facilities with General Status permits differ from the requirements during Interim Status?

EPA does not anticipate that they will differ significantly except perhaps for the insurance provisions. The repropose financial assurance requirements cover both Interim and General Status. We expect that the cost-estimating requirements promulgated for Interim Status will be the same as for General Status. The insurance requirements for Interim Status in the repropose regulations cover only sudden and accidental occurrences. The General Status insurance provisions, proposed in December 1978, cover both sudden and non-sudden occurrences. We are reopening the comment period for the latter provisions so that EPA can reexamine them in the context of new analyses by EPA and developments in the insurance field.

facility standards

financial
requirements
government
facilities

Must hazardous waste facilities owned or
operated by States or the Federal Government
meet the financial requirements?

No. Section 265.140(c) of the regulations
exempts States and the Federal Government from
the financial requirements.

facility standards

financial
requirements
insurance

Will facilities that receive permits during the first year or two of the permitting process have to acquire nonsudden insurance coverage as a condition for receiving a permit?

The requirements for nonsudden insurance coverage for facilities that are issued a permit are still under rulemaking consideration (see 45 Federal Register 33264). The Agency intends to promulgate these insurance requirements in fall 1980.

facility standards

What is required financially of a facility
during Interim Status?

At present, the owner or operator of each
facility must:

- o prepare and keep on hand plans for
closure, and, in the case of disposal
facilities, for postclosure care;
- o prepare cost estimates for these plans.
The cost estimates must be adjusted
for any changes in the plans that affect
costs and must also be adjusted
annually for inflation. The cost
estimates also must reflect the
maximum amount that could be expected
to be expended for closure, as indicated
by the closure plan.

EPA soon expects to distribute to the
Regions drafts of guidance documents for esti-
mating the costs of closure and postclosure
care for their review and use.

Additional financial requirements for

facility standards

facilities during Interim Status were repropoed on May 19, 1980. The public comment period on these requirements closed on August 18, 1980. EPA expects to include financial responsibility requirements as part of Phase II standards (to be promulgated in fall 1980). Owners and operators will have 6 months after promulgation within which to comply.

Why did EPA repropose the financial assurance requirements for hazardous waste facilities?

In response to comments received, EPA has substantially revised the financial requirements and believes that the public should have an opportunity to comment on the new version.

EPA has had little experience with financial mechanisms and, therefore, anticipates that the reproposal may be significantly improved as a result of comments and suggestions by the public. The financial requirements were repropose in the Federal Register of May 19, 1980, along with the final regulations for Interim Status.

Why must the reproposed financial requirements be so complex? Is this in the spirit of the Administration's efforts to streamline regulations and lessen the regulatory burden?

The bulk and complexity of the financial requirements have increased because, as a result of public comments, EPA now proposes allowing facility owners and operators a number of alternatives to meet their closure and post-closure financial responsibility; the regulations proposed in 1978 permitted only the trust fund option. The reproposed regulations allow much more flexibility and, in many cases, could mean lower costs in providing financial assurance as compared with the original proposal. Thus, EPA believes that these regulations reflect the spirit of regulatory reform. EPA welcomes suggestions on ways to allow such flexibility in a simpler way, while still providing adequate financial assurance.

Must a solvent recovery plant have an insurance policy?

Those portions of a solvent recovery plant engaged in the legitimate recycling or reclamation of hazardous waste are not now subject to the regulations (see Section 261.6). Those portions of a solvent recovery plant providing storage of hazardous wastes that are either sludges or listed in Part 261, Subpart D, are, however, subject to the regulations. At this time, the regulations do not require insurance coverage. Section 265.147 of the revised rules proposed on May 19, 1980 (see 45 Federal Register 33260), would, however, require, if promulgated, insurance coverage for sudden and accidental occurrences in the amount of \$1 million per occurrence and \$2 million aggregate, exclusive of legal defense costs for facilities having Interim Status.

generator
on-site treatment
facility

If an industrial plant (which does not meet the small-generator exclusion) generates a waste exhibiting one of the hazardous waste characteristics and then treats or mixes that waste on-site so that it no longer meets the characteristic(s), will the plant require a permit as a treatment facility?

Yes. The plant is treating a hazardous waste and therefore requires a permit. The plant must notify EPA under Section 3010 of RCRA, must submit a Part A permit application as required by Part 122, and must comply with the Interim Status requirements of Part 165.

facility standards

Do the Interim Status Standards require ground-water monitoring at all hazardous waste facilities?

No. Ground-water monitoring is required only at surface impoundments, landfills, and land-treatment facilities used to manage hazardous wastes (see Part 265, Subpart F). Such monitoring must be initiated within 1 year after the effective date of the regulations (that is, before November 19, 1981). All or part of the monitoring requirements may be waived if the owner or operator can demonstrate that there is a low potential for migration of hazardous waste or hazardous waste constituents from the facility via the uppermost aquifer to water-supply wells (domestic, industrial, and agricultural) or to surface water (see Section 265.90(a) and (c)).

ground water
monitoring
compliance date

When must a facility with an existing ground-water monitoring system comply with the Interim Status Standards for ground-water monitoring?

In accordance with Section 265.90(a), owners and operators of all surface impoundments, landfills, and land-treatment facilities must implement a ground-water monitoring program capable of determining the facility's impact on the quality of ground water in the uppermost aquifer underlying the facility within 1 year after the effective date of the regulations (that is, before November 19, 1981). Such a monitoring program must include the use of a monitoring system meeting the specified technical requirements in the regulations.

To help implement the ground-water monitoring requirements, EPA has developed a guidance manual on Interim Status Standards for Regional Offices and the States. In addition, the Agency is developing more detailed technical guidance manuals that will be available to the public, the States, and EPA Regional Offices. These documents will be revised over time as EPA gathers more experience in implementing the regulations for monitoring ground water.

facility standards

If statistical procedures show that a facility may be affecting ground-water quality, what subsequent actions must the owner or operator take?

The owner or operator must notify the Regional Administrator within 7 days of confirmation that the facility may be affecting ground-water quality (see Section 265.93(d)(1)). Within 15 days of such notification, the owner or operator must submit to the Regional Administrator a plan for a ground-water quality assessment at the facility. The plan must be implemented, and a written report must be submitted to the Regional Administrator (see Section 265.93).

incineration
energy recovery

If a waste is incinerated on-site for energy recovery, is it covered by the regulations?

If the purpose of the incineration is legitimate recovery of energy, the regulations do not apply (see Section 261.6). If, however, the purpose of the incineration is destruction of waste, this would be considered treatment and would be subject to the regulations. EPA may, in the future, regulate incineration of hazardous wastes for energy recovery.

facility standards

What are the requirements (other than general facility requirements) for incineration of hazardous waste?

The Interim Status Standards applicable to incinerators are:

- o The incinerator must be brought up to normal steady-state conditions before hazardous waste is added.
- o The owner or operator must analyze the waste in sufficient detail to establish steady-state conditions. The analysis must determine the heating value of the waste and the concentrations of halogens, sulfur, lead, and mercury.
- o Instruments controlling temperature and emission control must be monitored at least every 15 minutes, and appropriate changes must be made to maintain steady-state conditions.
- o The stack plume must be observed visually at least hourly, and the entire incinerator must be inspected daily.
- o At closure, all hazardous waste and residues must be removed from the incinerator.

incineration
permits

Does an on-site hazardous waste incinerator
need a permit?

Yes. It would need a treatment permit
because EPA considers incineration to be
treatment, rather than disposal.

facility standards

How does thermal treatment differ from incineration?

Thermal treatment involves subjecting hazardous waste to elevated temperatures to change its chemical, physical, or biological character or composition. Incineration, the most widely practiced form of thermal treatment, uses flame combustion in a device to degrade thermally (oxidize) hazardous waste. Other forms of thermal treatment include pyrolysis, microwave discharge, wet air oxidation, calcination, and molten salt processes.

The facility standards in Part 265 include requirements for incinerators, other thermal treatment devices, and the conduct of open burning of explosive waste.

Interim Status

Can an existing facility that does not presently handle any of the hazardous wastes identified in the May 19, 1980, regulations qualify for Interim Status in the future if the facility needs to handle any of these wastes at that time?

Yes. The facility can do so, however, only if it filed a notification by August 18 and a permit application by November 19, 1980. Facilities that fail to notify or submit a permit application on time may not handle hazardous waste until they receive a hazardous waste permit.

What do the Interim Status Standards cover?

The Interim Status Standards, which become effective November 19, 1980, generally cover:

- o administrative requirements;
- o ground-water monitoring for disposal facilities;
- o standards for closure and postclosure care;
- o cost estimates for closure and post-closure care;
- o special requirements for handling ignitable, reactive, and incompatible wastes;
- o additional requirements specific to 10 different types of hazardous waste management facilities.

The regulated community must read Part 265 to be aware of all the specific requirements that apply during the Interim Status period.

facility standards

Interim Status
Standards
multiple-facility coverage

If a plant has several hazardous waste facilities, each associated with an individual process, are the individual facilities covered by the Interim Status Standards?

Yes.

facility standards

How are the Interim Status Standards organized?

All of the Interim Status Standards are contained in Part 265. The organization of this part is shown in 45 Federal Register 33220 and 33221.

land treatment

Must core samples be taken and lysimeters installed at each segment of a land-treatment facility, or could a representative site be selected?

Section 265.278 requires the owner or operator of a land-treatment facility to develop a plan during Interim Status to monitor the unsaturated zone beneath the facility. That plan must take into account, for example, the variability of the hazardous waste treated and the different types of soil that may be present. If the same waste is applied to essentially the same soil in various segments of a facility, one representative site could be selected. If, however, different types of hazardous wastes are being treated or different soils are encountered, then either several representative sites or a sampling of each segment will be required.

facility standards

landfills
active/
inactive sites

Do the RCRA regulations apply to material disposed of in a landfill prior to November 19, 1980, the effective date of the regulations?

If hazardous waste is added to the previously disposed of material after November 19, 1980, then the entire landfill becomes an active landfill and is covered by the regulations. If, however, the hazardous waste is segregated from the previous material, then that portion of the landfill containing the previous material is an inactive portion and is not subject to the regulations.

facility standards

landfills
bulk liquids

Can bulk liquids be buried in chemical landfills?

No. They cannot be unless the landfill is lined and has a leachate collection system or the waste is first stabilized so that it contains no free liquids (see Section 265.314).

facility standards

landfills
drums

Can drums of liquid hazardous waste be buried
in landfills?

No. Sections 265.314 and 265.315 prohibit
landfill disposal of drums containing free
liquids and empty drums that have not been
crushed or shredded. These provisions become
effective on November 19, 1981. The disposal
of drums containing solids is not affected by
the regulations.

facility standards

landfills
ignitable wastes

Can ignitable (low-flash-point) liquid wastes
be disposed of in a chemical landfill?

A liquid waste that exhibits the characteristic of ignitability in Section 261.21 must be treated so that it no longer meets the ignitability characteristic before being placed in a landfill (see Section 265.312). This may be done by mixing the waste with other materials so that the resulting mixture no longer meets the ignitability characteristic. This mixing may be done before placement in the landfill. Mixing may also be done after placement in the landfill but, because the waste is liquid, only if the provisions of Section 265.314 are met.

facility standards

Can incinerator residues formerly disposed of in municipal landfills continue to be disposed of there if they are found to be hazardous wastes under the RCRA regulations?

This can be done only if:

- o the owner or operator of the municipal landfill has Interim Status and meets the Interim Status Standards or has received a RCRA permit. In other words, the municipal landfill must be a hazardous waste disposal facility under RCRA.
- o the incinerator qualifies as a small-quantity generator under Section 261.5, and the municipal landfill is permitted, licensed, or registered by the State.

landfills
liquid wastes

Why can drums of liquid waste not be placed in lined landfills since the regulations allow bulk liquids to be placed in lined landfills?

The RCRA regulations prohibit the disposal of bulk liquids in landfills unless the landfill has an adequate liner and leachate collection and removal system (see Section 265.314(a)(1)). Containers of liquids are prohibited from being disposed of (with certain exceptions) in landfills, even though the landfill is equipped with a liner and leachate collection and removal system (see Section 265.314(b)). Drums are likely to begin to corrode and then leak after closure of the facility, when the leachate collection system is no longer operating. The corroded drums will eventually collapse, causing the landfill to subside and the cover to break. This rationale is discussed in detail in the Preamble to Part 265 (45 Federal Register 33213).

facility standards

landfills
municipal

Are municipal landfills regulated under RCRA?

No. They are not regulated unless they receive hazardous wastes from generators who are not small-quantity generators.

facility standards

legal
responsibility

Is the owner or the operator of a hazardous waste facility responsible for complying with the RCRA regulations?

Both the owner and the operator are responsible. If EPA detects a violation of the regulations, it can proceed against the owner, the operator, or both.

facility standards

How are workers at hazardous waste facilities protected legally?

Three categories of sites have to be considered:

- o Workers at privately owned hazardous waste facilities may fall under the standards of the Occupational Safety and Health Act (OSHA). In addition, the RCRA, Subtitle C, regulations require that workers be trained in contingency responses and other procedures relevant to their jobs, such as required waste analysis, preparedness equipment and plans, and proper operating procedures (see Section 265.16).
- o Workers at Federal facilities will be protected by the programs established by their agencies in accordance with the requirement in OSHA (29 U.S.C. 653 (b)(1)) that Federal agencies establish health and safety programs comparable facility standards

to the OSHA program. The requirements of Section 265.16 also apply.

- o Workers at State and local facilities will be protected by State and local requirements as well as by Federal regulations under OSHA and Section 265.16.

Can the training received by existing employees before the effective date of the RCRA regulations be applied to the training required under the regulations?

Yes. Employees who have attended courses or received instruction in hazardous waste management before the effective date of the regulations need not repeat this training after the regulations take effect. Additional training will probably be required, however, to acquaint employees with any new requirements imposed by the new regulations. Part 264 and Section 265.16(a) require that all training of employees be reviewed annually.

personnel
training

If an industrial plant has on-site facilities to treat hazardous wastes, do the training requirements of Section 265.16 extend to personnel in the production unit?

No. The training requirements apply only to personnel involved in those aspects of the facility's operation that relate to the management of hazardous waste.

facility standards

Do the RCRA regulations provide for perpetual care of hazardous waste disposal facilities?

No. The regulations call for postclosure care of a hazardous waste disposal facility for a period of years. This period is 30 years unless the EPA Regional Administrator concludes that a longer or shorter period is appropriate. The length of the period is determined by the nature of the disposal facility, the types of waste handled, and other factors. The owner or operator may petition the Regional Administrator to request that some or all of the requirements for postclosure care be discontinued or altered.

publicly owned
treatment works

Would a publicly owned treatment work (POTW) that accepts hazardous waste by rail or truck be classified as a hazardous waste management facility?

Yes. These facilities are considered hazardous waste management facilities. Such a facility receives a RCRA permit by rule under Section 122.26(c), and the owner or operator is expected to comply with the requirements outlined in that section, which include having and complying with a permit under the National Pollutant Discharge Elimination System and complying with the manifest requirements and certain reporting and recordkeeping requirements.

facility standards

How accurate must records be for hazardous waste disposed of on-site?

Section 264.73 requires that several types of records be maintained. The owner or operator is required to keep records on the type and quantity of wastes, on how and at what locations the wastes are disposed of, on waste analyses, inspections, training, monitoring results, and incidents that require implementation of the contingency plan, and on the estimated closure and postclosure costs. The regulations do not specify the degree of accuracy required for these records because it will vary depending on the types of records, the character of the individual wastes, and other case-by-case factors. The owner or operator is expected to keep timely and accurate records and to use reasonably accurate testing or estimating methods, as appropriate, to develop the information required in the several records.

More specifically, this question is related to two problems. The first is whether the disposal facility should weigh the hazardous waste. EPA decided that it could not justify scales for every facility, and so they are not required. Measurements need not, therefore, be exact, although if a facility already has a scale, it facility standards

should be used.

The second problem relates to the location of wastes in a disposal facility. Section 265.73(a)(2) requires that the "location and quantity of each hazardous waste must be recorded on a map or diagram of each cell or disposal area." That information is vital for many reasons, including emergency response and postclosure care. These records, therefore, must be as accurate as possible.

EPA is providing two separate sets of guidance on recordkeeping--one set for the Interim Status Standards and the other to accompany the Phase II regulations to be published in fall 1980.

records

What kinds of records must be kept for on-site hazardous waste systems?

The recordkeeping requirements apply equally to all hazardous waste treatment, storage, and disposal facilities, whether on-site or off-site. These requirements are outlined in Section 265.73.

facility standards

records

How long must the owner or operator keep the operating record after the postclosure care period is completed?

Section 265.73(b) states that the operating record must be maintained until closure, not postclosure. For disposal facilities, Section 265.74(c) states that copies of the records of waste disposal locations and the quantities at each location must be transmitted to local authorities upon closure. In the case of records of groundwater monitoring, Section 265.94(a)(1) and (b)(1) state that such records must be kept throughout the postclosure care period. In regard to enforcement actions, Section 265.74(b) states that the retention period for all records is extended automatically for the duration of those actions.

facility standards

Are on-site recycling systems subject to the regulations?

The recycling system itself is not presently regulated under RCRA. If, however, the material being recycled is a hazardous sludge, a listed hazardous waste, or a mixture containing a listed hazardous waste, the on-site storage of the waste before recycling would be subject to the RCRA regulations (see Section 261.6).

recycling
solvents

Is a solvent recycling plant that handles hazardous wastes considered a hazardous waste facility under RCRA?

Yes. It is considered a hazardous waste facility, but the recycling operation itself is not now subject to regulation. Any associated storage operations, however, are subject to regulation if they handle hazardous wastes which are sludges, listed hazardous wastes, or mixtures containing listed hazardous wastes (see Section 261.6).

facility standards

Do the RCRA regulations cover the burning of a hazardous waste oil or process gas in a steam boiler that meets all air pollution requirements?

No. The burning of a waste oil or process gas for energy recovery is not now covered by the regulations because such burning is considered recycling (see Section 261.6). The recycling and reuse of waste oil will, however, be covered by the Phase II regulations.

reports

How must on-site disposal facilities report quantities of waste disposed?

Data on the quantity of waste disposed of on-site or off-site must be reported by weight, in either English or metric units, in the facility's annual report (see Section 265.75).

facility standards

sites
change in location

What is the status of a disposal operation that was in existence before RCRA was enacted in 1976, but since then has started a new operation under the same ownership on a new part of the old site or on a new site?

As RCRA currently reads, only those hazardous waste management facilities "in existence" before October 21, 1976, can qualify for Interim Status. Therefore, in this case, that portion of the facility in existence before enactment of RCRA can qualify for Interim Status; the newer portions cannot be allowed to operate after November 19, 1980, until a RCRA, Subtitle C, permit is issued. Congress is expected, however, to amend Section 3005(e) of RCRA to move the "in existence" date to October 30, 1980. When this change is made, both the old and newer portions of the facility, in this case, will qualify for Interim Status if a notification under Section 3010 of RCRA and Part A of a permit application under Part 122 covering both portions are submitted to EPA.

facility standards

siting
standards for
special areas

Are there standards for the location of facilities in special areas such as coastal flooding zones and habitats of endangered species?

These standards have not yet been promulgated. They will be issued in Part 264 in fall 1980 and will apply to permitted facilities, but not to facilities with Interim Status.

facility standards

storage
commercial
chemical products

If a container leaked about 10 pounds of a pesticide listed in Section 261.33(e), which was then picked up on an absorber and held for 120 days before it was shipped off-site for disposal, would the company become a storage facility under RCRA?

Yes. If a material listed in Section 261.33(e) is discarded or intended to be discarded, it is a hazardous waste (see Section 261.33(a)). In this case the absorbed material is intended to be discarded. If more than 1 kilogram (2.2 pounds) per month of that hazardous waste is generated, it is subject to the full set of regulations rather than the special requirements of Section 261.6. In this case, the 10-pound leak is assumed to be a single event or, at a minimum, a leak that occurred at a rate greater than 1 kilogram per month; thus, Parts 262, 264, 265, and 122 apply.

If the generator of a hazardous waste accumulates (or holds) the waste for more than 90 days before shipping it off-site, he becomes an

facility standards

operator of a storage facility (see Section 262.34(b)). In this case, the generator held the waste 120 days and, therefore, is the operator of a storage facility.

storage
drums

Can drums of nonhazardous wastes be stored
with hazardous wastes?

Yes. There is no restriction on storing
drums of hazardous and nonhazardous waste to-
gether, provided the compatibility requirements
in Section 265.177 are met and the other re-
quirements of the regulations are not violated.

facility standards

storage
drums

Can drums of hazardous waste be stored in the open?

Yes. They can be stored in this way if the requirements of Subpart I of Part 265 are met. Most pertinent is Section 265.173(b), which requires that drums of hazardous waste not be stored in such a manner that they may rupture or begin to leak.

facility standards

storage
existing
facility

Would a fenced area be considered an existing facility?

It would not necessarily be so considered. According to the definition of "existing facility" in Section 260.10(a)(20), the facility must be in operation or have commenced construction on October 21, 1976. Congress is expected to change this date to October 30, 1980. On the basis of this expectation, a fenced area being used for hazardous waste treatment, storage, or disposal, or under construction for these purposes on October 30, 1980, would be considered an existing facility. The mere fact that a facility is fenced does not qualify it as an existing facility.

facility standards

storage
impoundments/tanks

Is a concrete-lined excavation for storing lead sludge (which is a hazardous waste) classified as a surface impoundment?

Yes. There is a fine distinction between the definitions of "tank" and "surface impoundment."

- o A "tank" is made primarily of man-made materials that provide the primary structural support.
- o A "surface impoundment" is made primarily of earth that provides the primary structural support.
- o An impoundment may be lined with concrete, plastic, or some other man-made material, but, if the structural support is basically provided by the earthen materials, it is a surface impoundment and not a tank.

facility standards

storage
lagoons, tanks,
basins

What do the Interim Status Standards require of lagoons, steel tanks, and concrete basins storing hazardous waste?

The regulations define tanks as being constructed primarily of nonearthen materials that provide structural support, whereas impoundments are constructed primarily of earthen materials, although they may be lined with man-made materials. Under this definition, a concrete basin would probably be a tank, while a lagoon would be a surface impoundment. The Interim Status requirements for surface impoundments are set forth in Subpart K of Part 265; those for tanks are in Subpart J.

facility standards

storage
leaking tanks

If an underground storage tank that contains a hazardous waste develops a leak and contaminates adjacent soil, is the contaminated soil a hazardous waste?

The regulations do not specifically address this situation. The Agency intends to examine this question and issue either a Regulatory Interpretation Memorandum or an amendment to the regulations in the near future.

facility standards

Is the owner or operator of an underground storage tank containing hazardous wastes a hazardous waste generator if the tank leaks?

Yes. He should notify EPA under Section 3010 of RCRA as soon as the leak is detected unless he has already done so.

The leakage constitutes disposal and requires a RCRA permit. This will probably require the issuance of an emergency permit under Section 122.27. The EPA Regional Office will provide guidance on requirements when notification is made.

storage
length of time

How long can a hazardous waste be stored in
a storage facility?

The RCRA regulations do not place a time limit on storage of hazardous waste. They define storage as holding hazardous waste for a temporary period after which the waste will be treated, disposed of, or stored elsewhere. The temporary period could be days, months, or years. The owner or operator must plan to remove the stored material eventually. This must be reflected in the closure plan, which must state when and how the facility will ultimately be closed and estimate the maximum amount of waste that will be in storage at any time. In addition, under the proposed financial requirements, the funds for closure must be able to handle the maximum amount of waste that may be stored. The closure regulations also require that stored waste must be treated, disposed of, or removed from the facility within 90 days of receiving the final volume of hazardous waste before closure.

facility standards

Would a surface impoundment constructed only for short-term containment during an emergency be exempt from RCRA regulations?

No. But it could be subject to special provisions of the regulations. If, during an unanticipated emergency, a surface impoundment must be constructed for short-term containment of hazardous waste until treatment or permanent disposal of the waste can be carried out, then the owner or operator must obtain an emergency permit under Section 122.27. The emergency impoundment must be operated and closed in accordance with RCRA requirements incorporated in that permit.

surface impoundments
temporary storage

Is a permit required for an impoundment that normally contains nonhazardous wastes, but a few times records pH's outside the range of 2 to 12.5?

Two cases must be considered:

- o The influent is not normally a hazardous waste and the impoundment does not normally contain a hazardous sludge. Occasionally, however, the pH of the influent surges, causing the waste or the sludge to be a hazardous waste. At those times the impoundment becomes a hazardous waste facility, and the owner or operator must have notified under Section 3010 of RCRA and must have submitted Part A of a permit application under Part 122, Subpart B, to be able to operate the facility legally under Interim Status. During those times, the owner or operator must comply with the Interim Status Standards of Part 265.

facility standards

- o The influent is not normally a hazardous waste, and, through some reaction in the impoundment, the pH occasionally surges to cause the wastes in the impoundment to become a hazardous waste. At those times, the impoundment likewise becomes a hazardous waste facility and the owner or operator must have acted and act in the manner described above.

surveillance system

In order for a facility to meet the regulatory requirement for a 24-hour surveillance system, must the facility have guards whose sole function is to control access to the active portion of the site?

No. If a facility is operated continuously so that the active portion is always within view and control of employees other than guards, then these employees can be considered to perform the same function as guards. Enough employees have to be at the site, however, to minimize the possibility that an unauthorized person will slip in unnoticed.

facility standards

treatment

If an industrial plant generates a waste that meets one of the characteristics, is not a small-quantity generator, and treats that waste on-site so that it no longer meets the characteristics, is the plant subject to RCRA regulations?

Yes. The plant is also a treatment facility, and the owner or operator must comply with the applicable requirements of the regulations and must notify as both a generator and a treater of hazardous wastes.

facility standards

treatment
crushed containers

If a manufacturer crushes glass containers holding liquid hazardous waste to separate the glass from the liquid waste for reuse or recycling, does the crushing constitute "treatment"?

No. It does not constitute "treatment" because the crushing process does not change the physical, chemical, or biological character or composition of the hazardous waste. The manufacturer is, however, a generator of hazardous waste (the liquid waste that inevitably drains out of the crushing operation). This question may have hidden complexities; such a manufacturer should, therefore, confer with his EPA Regional Office in order to define better the applicability of the regulations.

facility standards

treatment
neutralization

Is the neutralization of an acidic or basic waste that is a hazardous waste considered treatment of hazardous waste?

Yes. It is considered treatment of a hazardous waste because the definition of "treatment" in RCRA and Section 260.10(a)(73) includes neutralization.

facility standards

treatment
sour water

Is a stripper considered a hazardous waste treatment facility if it strips sour water containing 1 percent hydrogen sulfide?

If the sour water is a hazardous waste, then the stripper would be considered a hazardous waste treatment facility.

facility standards

treatment
volume reduction

Would dewatering hazardous waste solutions to reduce volume constitute treatment and thus require a RCRA facility permit?

Yes. The definition of treatment in RCRA and Section 260.10(a)(73) includes volume reduction and changes in the physical character and composition of a waste. Dewatering typically reduces the volume of the waste and changes the physical character of the waste; thus, dewatering is "treatment."

facility standards

volatile wastes

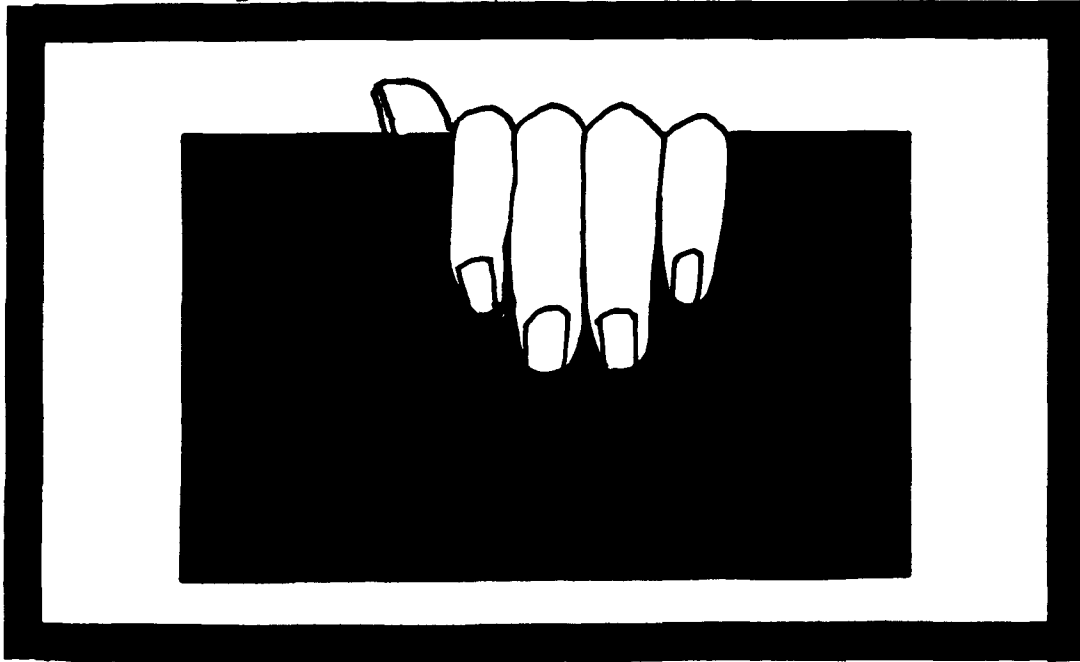
Do the RCRA regulations protect against the volatilization of hazardous pollutants into the atmosphere?

Yes. They do to some extent. For example, restrictions on the placement of ignitable, reactive, and incompatible waste in surface impoundments and landfills will control volatilization to some extent. At this time, however, the regulations do not specifically address volatilization from hazardous wastes. We are acutely aware that a problem exists for some types of wastes, but have encountered difficulties in developing applicable standards. This matter is fully discussed in the Preamble to Part 265 (see 45 Federal Register 33166).

facility standards

Consolidated Permits:

Facility Permits



Keywords

applications
consolidated permits
duration
Federal override
incineration
Interim Status
issuance

land treatment
landfills
new facilities
on-site lagoons
permitted facilities
phases of regulations
sanitary landfills

applications
information required

Should nonhazardous waste be included on permit
applications?

No.

facility permits

consolidated permits

How are the RCRA, National Pollutant Discharge Elimination System, and air pollution permits related?

NPDES permits control point source discharges from a facility into surface waters. The air pollution permits control air emissions from a facility. If a facility also treats, stores, or disposes of hazardous wastes, a RCRA permit would be required. Under the consolidated permits program, all these permits can be issued together, minimizing duplicative or inconsistent permit conditions and improving use of manpower and resources.

facility permits

Under the consolidated permit regulations, will a permit under one program be held up until a permit under another program is issued?

In general, this would not be the case, although EPA will have to make this decision on a case-by-case basis. When the permits can be issued independently, they will be, and delays in one will not affect the other. On occasion, however, some factors may have to be considered simultaneously in both proceedings, which may delay issuance of one of the permits.

duration

Why are RCRA permits limited to 10 years rather than the full life of the facility?

The hazardous waste program is new. Over the next few years we expect to change our technical regulations and to revise previously issued permits. Furthermore, we think certain facilities, such as landfills, should be subjected to comprehensive periodic reviews. This would be very difficult to do if the term of the permit were 25 to 30 years. RCRA permits may be issued for terms of less than 10 years, and many will be for the reasons stated.

facility permits

Can EPA override a State that ignores EPA's comments on a draft permit and issues the permit unchanged?

Yes. In commenting on a draft permit, EPA can advise the State and the permit applicant that a certain condition is necessary to carry out the requirements of the State's statute and regulations, which EPA has previously approved as being equivalent or substantially equivalent to RCRA. If the State does not include this condition in the final permit, EPA may directly enforce that condition against the permit holder.

incineration

Is a facility permit needed to incinerate, on-site, liquid solvents that are hazardous wastes?

Yes. A permit is needed unless the solvents are burned for the legitimate purpose of recovering energy (see Section 261.6). In this case, a permit is not required for the incinerator, but is required for any storage of the solvents prior to burning.

facility permits

Can changes be made at a facility during Interim Status? If so, is there public review of such changes?

Some changes are allowed if the permit application is revised. These include:

- o changes in the types and quantities of wastes handled;
- o increases in the design capacity of the facility;
- o changes in the methods of handling waste in order to comply with Federal law or protect health and safety;
- o changes in ownership.

The last three changes require approval of the EPA Regional Administrator or the State. Although formal public notice and comment are not required on these changes, the Regional Administrator may solicit such comment. In addition, the revised application and the Regional Administrator's approval are available to the public, subject to constraints under the Freedom of Information Act and possibly Section 3007 of RCRA.

facility permits

Interim Status
existing facilities

What is an "existing facility" that is eligible
for Interim Status?

RCRA defines an existing facility as one
in existence prior to October 21, 1976. We
have interpreted this to mean facilities that are
in operation or have started construction as of
that date.

The House and Senate Committees have
proposed changing that date to October 30, 1980.
We strongly support such a change so that
facilities built after October 21, 1976, do
not have to close until they get a permit. If
Congress acts, we will modify our regulations
as soon as practicable.

facility permits

What is the status of a hazardous waste facility that was in existence before RCRA was enacted in 1976, but later moved to a new site?

Under RCRA, as it now stands, the facility at the new site would not be eligible for Interim Status. If, however, the facility is in existence (as defined by RCRA) at the new site by the amended "in existence" date (expected to be October 30, 1980), has notified EPA by August 18, 1980, and has applied for a permit for the new site by November 19, 1980, it would qualify for Interim Status. The old site would be an "inactive facility" if it ceased operations prior to the effective date of the regulations (November 19, 1980).

Interim Status
termination

Can EPA take Interim Status away from a
facility?

EPA can terminate Interim Status only by
issuing or denying a permit. The statute (RCRA)
grants Interim Status if the following conditions
are met:

- o The facility was in existence on October
21, 1976 (or October 30, 1980, if
Congress changes the date as expected).
- o The owner or operator notifies EPA
within 90 days of the publication of
the regulation under RCRA, Section 3001.
- o The owner or operator files a permit
application within 6 months of publica-
tion of the regulations.

If these conditions are not met, the owner
and operator will not have Interim Status. If
these conditions are met, the owner and operator
are granted Interim Status, which continues until
a permit is issued or denied (a permit can be denied
under Section 122.22(a)(3) for failure to submit
facility permits

Part B of the permit application or to furnish full information required by Part B). A facility owner or operator may be prosecuted for violating Interim Status Standards without affecting Interim Status--that is, the facility may continue to operate until a final decision on the permit is made.

issuance
priorities

What are EPA's priorities for issuing permits?

As a first priority, we will move against the facilities that pose the greatest threats to public health and the environment. Second, we will give high priority to permit applications for new and improved facilities to increase capacity, compensate for any losses in capacity caused by the closing of inadequate facilities, and increase the amount of waste going to good facilities. Third, we will give priority to existing wastewater treatment facilities whose permits under the National Pollutant Discharge Elimination System are due to be reissued in 1981 and 1982, so that action on their RCRA and NPDES permits can be consolidated.

facility permits

issuance
timing
all permits

How long will it take EPA and the States to issue
all permits?

We estimate that there are nearly 30,000
existing facilities that must be permitted by
EPA or the States. An unknown number of
new facilities will also require permits. It
will probably take 5 to 8 years to issue RCRA
permits to all existing facilities.

facility permits

issuance
 timing
 individual permits

When will EPA begin to issue permits for hazardous waste management facilities?

The technical regulations on which the Federal permits will be based will be published in fall 1980 and go into effect 6 months later. At that time (spring 1981), we should receive the first Part B permit applications and start to process them. Processing an application and holding a public hearing, if necessary, may take 6 months or longer. The first EPA permits should be issued, therefore, in fall 1981.

facility permits

issuance
violations during
process

Will the owner or operator of an existing hazardous waste facility be in violation of the RCRA regulations if it continues to operate while EPA is processing a permit application?

The owner or operator of an existing facility will not be in violation of the regulations if he has submitted his notification and Part A permit application on time, is complying with the Interim Status Standards, and has submitted his Part B permit application when requested by EPA.

facility permits

land treatment
sludge

Will areas used for land treatment of sludge require a permit, and will each noncontiguous area require a separate permit?

A permit is required only if the sludge is a hazardous waste. One permit can be used to cover noncontiguous areas within a single "facility." If, for example, there is a fence around the entire facility, and there are two or three separate, noncontiguous areas within that fence, then only one permit is required.

If, on the other hand, the noncontiguous areas are distinctly separated (such as by public rights-of-way), then each area will require a separate permit.

facility permits

Does a landfill have to file for Interim Status if it receives hazardous waste only from small-quantity generators?

If the hazardous waste received by the landfill comes only from small-quantity generators, as defined in Section 261.5, the landfill is not subject to the RCRA, Subtitle C, regulations. The landfill must, however, be permitted, licensed, or registered by a State to manage municipal or industrial solid waste. These conditions apply to both on-site and off-site landfills. A landfill that receives hazardous waste from persons who are not small-quantity generators is subject to the RCRA regulations.

new facilities

Why does EPA require a new facility to have a permit prior to starting construction?

Our permits will dictate design, location, and construction requirements for new facilities. The only practical way of influencing the proper design, location, and construction of a new facility is to do so before construction begins. Otherwise, the applicant might be faced with the unfortunate situation of either being denied a permit or having to carry out costly retrofits.

facility permits

on-site lagoons

Must existing on-site sludge-drying lagoons that store sludge prior to shipment off-site obtain a permit and meet all requirements of the regulations if the sludge is a listed hazardous waste?

Yes. The owner and operator of such lagoons must notify EPA, apply for a permit, meet all of the requirements given in Part 265 for surface impoundments during Interim Status, and then meet the conditions of the permit when it is issued.

facility permits

permitted facilities
list

Where can a list of licensed or regulated facilities in various States be obtained?

We expect to develop a national list of hazardous waste treatment, storage, and disposal facilities that have qualified for Interim Status by submitting a notification and a Part A permit application. This list will not connote federally approved or, necessarily, State approved facilities. The facilities are simply those that can continue to handle hazardous wastes under Interim Status, as allowed by the statute, until EPA or the State issues or denies a permit.

We also plan to maintain a computer bank of information on the location of all permitted facilities, the kinds of services provided, and the types of waste they are permitted to accept. The generator can, in the meantime, consult the nearest EPA Regional Office or State agencies for information on approved or authorized hazardous waste management facilities.

facility permits

What requirements for RCRA permits will be covered in the regulations coming out in fall 1980?

The regulations coming out in fall 1980 will include additional facility standards in Part 264, which will be used in drafting permits. Although most of the procedural requirements were promulgated on May 19, 1980, a few additional procedural requirements will also be issued in the fall in Part 264.

sanitary landfills

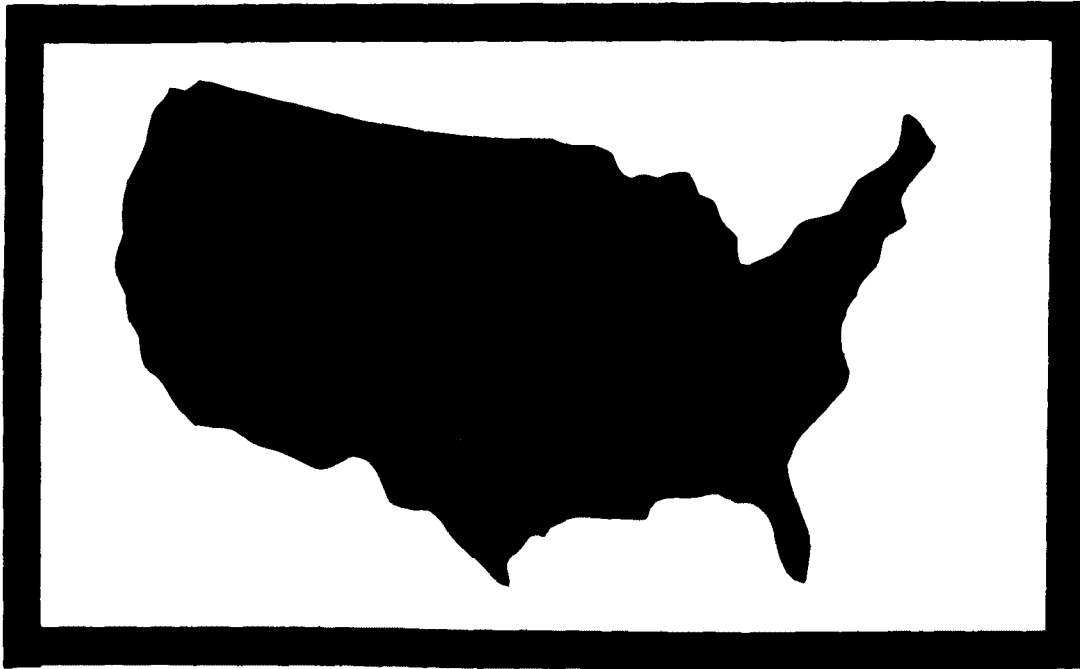
Will a sanitary landfill require a permit if it receives such items as small pesticide containers and paint cans from households?

A sanitary landfill that receives household wastes (see definition in Section 261.4(b)(1)) and only those hazardous wastes generated by small-quantity generators (see Section 261.5) will not be considered a hazardous waste disposal facility and will not require a RCRA permit.

facility permits

Consolidated Permits:

State Programs



Keywords

authorization
Cooperative Arrangement
costs
enforcement
EPA role
Federal assistance
Federal funding
Federal requirements

Federal/State requirements
incentives
listed wastes
local ordinances
manifest system
notification
public participation

How will EPA authorize State hazardous waste programs?

EPA will grant two types of authorization: final and interim authorization.

- o For final authorization, the State program must be consistent with the Federal program and other State programs, equivalent to the Federal program, and provide adequate enforcement.

States may apply for final authorization after promulgation of EPA's Phase II regulations (scheduled for fall 1980). Final authorization is for an indefinite period; it can, however, be withdrawn by EPA for cause.

Because the requirements for final authorization are fairly stringent, we think that most States will have to modify their existing legislation, regulations, and operations to qualify.

- o For interim authorization, a State program must be substantially equivalent to the Federal program. RCRA,

State programs

Section 3006, specifies a 2-year interim authorization period. This is a more flexible authorization that will allow many States to participate while developing programs capable of receiving final authorization.

How long will it take EPA to review a State's application for authorization of its program?

The regulations (Part 123, Subpart F) allow EPA 120 days to act on a complete application for interim authorization, but EPA hopes to be able to review applications within 60 days after submission. For final authorization, RCRA requires EPA to act on a State's complete application within 180 days of receipt.

authorization
final

Is EPA requiring that States adopt the Department of Transportation regulations (49 Code of Federal Regulations 100 to 199) in order to receive final authorization for their hazardous waste programs?

For final authorization, the States need not specifically adopt these regulations, but must have requirements equivalent to and consistent with 49 Code of Federal Regulations 172, 173, 178, and 179.

State programs

Will EPA grant final authorization to a State program that bans the importation of hazardous waste?

No. Any aspect of a State program that unreasonably restricts, impedes, or bans the movement of hazardous waste across State borders from point of generation to a storage, treatment, or disposal facility with an appropriate permit would be inconsistent with the Federal program. EPA would not grant final authorization to a hazardous waste program in such a State.

authorization
interim
States qualifying

How many States does EPA estimate will receive interim authorization and which ones?

At the beginning of 1980, 40 States had legislation that included at least partial authority to control hazardous waste. Many of these States are upgrading their legislative authority in order to qualify for authorization.

We estimate that about half of the States could qualify for interim authorization during Fiscal 1981. Others could qualify after that date, if they make certain changes in their programs.

We do not have an accurate estimate of which States will apply, when they will apply, and which will actually qualify.

State programs

When can States apply for and receive interim authorization?

States may apply for Phase I interim authorization at any time between promulgation of the Phase I regulations (May 19, 1980) and the effective date of the Phase II regulations (spring 1981). States may receive interim authorization for the Phase I regulations after they become effective (November 19, 1980).

States with Phase I interim authorization must apply for interim authorization for Phase II within 1 year after the Phase II regulations are promulgated. Consequently, the 2-year interim authorization period, as specified in Section 3006 of RCRA, will commence 6 months after the date of promulgation of Phase II.

authorization
partial

Must a State apply to EPA for authorization of its program? Can it apply for authorization for only a part of the program?

States are not mandated by RCRA to apply for authorization. EPA encourages them to apply for authorization, however, to avoid the need for EPA to operate the Federal program in the State, to avoid having both a Federal and a State program operated in the State, and to encourage States to assume primary responsibility for the regulation of hazardous waste.

States may apply for and obtain partial interim authorization--authorization that does not cover regulation of generators or transporters or a manifest system. They may not obtain partial final authorization.

State programs

What happens if a State program is not authorized by November 19, 1980?

EPA must administer the Federal program in that State. In these cases, we will, however, attempt to establish a Cooperative Arrangement with the State, whereby the State could administer certain parts of the Federal program for EPA. Such a Cooperative Arrangement would make more effective use of Federal and State resources and avoid overlapping and duplicative Federal and State efforts. Under a Cooperative Arrangement, EPA retains final responsibility for enforcing the Federal program.

costs

Who will bear the cost of enforcement in States with authorized programs?

The cost of implementing authorized State programs--including enforcement, surveillance, permitting, and research--will be borne by the States themselves, with Federal grant aid from EPA.

State programs

To receive authorization for its program, must a State have hazardous waste enforcement penalties as stringent as those of EPA?

No. In general, however, to receive final or interim authorization, States must have available the same array of enforcement tools as EPA. They must also have the authority to assess penalties of at least the amounts specified in the Federal regulations. The penalties actually assessed in an enforcement action are expected to vary and may be higher or lower than the minimum levels the States must be able to assess per day. The minimum levels are:

- o interim authorization--\$1,000 per day
civil or criminal;
- o final authorization--\$10,000 per day
civil and criminal and 6 months imprisonment.

EPA role
authorized programs

How will EPA oversee State programs?

EPA will automatically receive all draft State permits or permit applications for major facilities (approximately 10 percent of the facilities) and may also receive draft State permits or permit applications for selected nonmajor facilities. We will review these documents and point out major deficiencies before the State issues a permit.

We will receive from the State noncompliance reports and annual summary reports describing the overall program status.

We will periodically conduct program reviews and audits and can take enforcement action for violations of program requirements, including a State's nonadherence to comments from EPA on a draft permit.

State programs

When State programs are authorized, does EPA cease to be involved in annual reporting, permitting, and enforcement requirements?

EPA's role is not completely eliminated, even though the primary responsibility for the program remains with the State. The regulated community would report to the State in accordance with State requirements. The State, in turn, would report annually to EPA, and more frequently in certain other instances (noncompliance, for example).

In general, the State would administer the State's standards. Although EPA will review and comment on some draft permits and permit applications, the State will be the permitting authority.

Section 3008 of RCRA allows EPA to enforce any standard, including standards of authorized States. Thus, under certain circumstances (such as when the State fails to take action), EPA may directly enforce such standards.

Federal assistance

Has EPA been working with the States to help identify hazardous waste storage, treatment, and disposal facilities that may pose potential environmental or public health problems?

Yes. EPA has established a special Hazardous Waste Site Enforcement Task Force to identify and investigate potential hazardous waste sites. States are being encouraged to use the data management information system developed by this task force. The public should not, however, interpret the identification of a possible hazardous waste site or incident as meaning that illegal activities are occurring or that an actual health or environmental threat exists.

The Department of Justice created a new Hazardous Waste Section with approximately 13 attorneys plus support staff. These attorneys are working closely with EPA's task force.

State programs Recently these efforts have been supplemented by contracts establishing Field

Investigation Teams, which will supply 180 man-years of support for the EPA Regional Offices in conducting investigations of uncontrolled sites.

Federal funding
adequacy

Will Federal funding be adequate to help the States develop their hazardous waste programs?

We provided \$15 million in grants to the States for hazardous waste management in Fiscal 1979 and \$18.6 million in Fiscal 1980. The President's budget for Fiscal 1981 increases this to \$30 million. We believe that annual funding at these levels is sufficient to help the States, recognizing that the Federal Government does not intend to fund completely the States' programs. Special provisions in grant regulations, however, do allow up to 100 percent Federal funding of developmental activities.

EPA is encouraging States to augment their staffs by using the Intergovernmental Personnel Act (which allows EPA to loan current EPA employees to States) and by using State assignee positions (by which EPA hires personnel and assigns them for a specific term to States at no direct cost to the States).

State programs

On what basis will EPA allocate Federal funds
to State programs?

Quantities of hazardous wastes disposed
of in the State, numbers of generators,
population, and land area are the principal
factors used in a formula to allot Federal
funds to States. Details of funding allotments
can be found in 43 Federal Register 186, Section
35.706-2 (September 25, 1978).

Federal funding
enforcement

Will EPA provide funds to States' attorneys
general to support enforcement regulations?

At present, EPA cannot provide funds
directly to States' attorneys general. We
will give grants to the States, and they,
in turn, will decide how much will be allotted
to their attorneys general.

State programs

Can an authorized State program be more stringent than the Federal program?

For interim authorization, it can be. For final authorization, it also can be, but with a few exceptions:

- o The State manifest system must be consistent with the Federal manifest system so that interstate shipments can be tracked.
- o The State cannot arbitrarily prohibit the siting of hazardous waste facilities within its borders.
- o The State cannot prohibit the entrance of hazardous waste if it is destined for a designated facility with an appropriate RCRA permit.

State programs that are less stringent than the Federal program will not qualify for final authorization; for interim authorization, State programs must be "substantially equivalent" to the Federal program.

State programs

Federal/State
requirements

What are the obligations of handlers of hazardous waste in cases where an authorized State program differs from the Federal program?

When RCRA regulations take effect and prior to authorization of a State program, handlers will have to comply with both the State and Federal programs. After authorization, handlers need only comply with State programs.

State programs

Will the regulated community have to answer
to both EPA and State governments?

EPA expects to authorize many, if not most, State programs to operate in lieu of the Federal program. In that event, EPA's role will be primarily one of overseeing the State program, and industry will deal primarily with the State. In a few instances, EPA may be responsible for the operation of the manifest (tracking) system for a short period until the end of interim authorization. If a State has no hazardous waste program, industry will deal only with EPA. If, however, the State does have a program, but it is not authorized by EPA, industry will be required to deal with both the State and EPA.

incentives

What incentives do States have to develop their own hazardous waste programs?

The States have a central interest in protecting the public health and environment of their citizens. Furthermore, adequate hazardous waste management services are essential to economic development in a State. A State also has an interest in avoiding a situation where the industries within its boundaries have to comply with both Federal and State requirements.

State programs

listed wastes

Are States required to list generic hazardous wastes from industries that do not exist within the State during interim authorization?

If a waste is not generated, treated, stored, or disposed of within a State, its regulations need not cover that waste for the State to receive interim authorization.

For final authorization, however, the State program must regulate the same universe of waste as the Federal program, even if some wastes have not historically been generated, treated, stored, or disposed of in that State.

State programs

listed wastes

May a State list more wastes than those listed
by EPA?

Yes. While an authorized State program
must be equivalent to EPA's, it may be more
stringent or comprehensive.

State programs

What happens if a county or town passes a local ordinance that bans the siting of a hazardous waste facility within its boundaries?

States are addressing this problem in different ways. Some, for example, are invalidating local ordinances passed after particular dates. EPA believes that, in general, local zoning ordinances are matters of local and State, not Federal, concern. Final authorization may be denied, however, if some aspects of a State's law or a State's program act as a ban on facilities in the State for reasons not sufficiently based on protection of human health or the environment.

manifest system
multiple requirements

Will handlers of hazardous waste who are already subject to one or more State manifest systems be required to comply with EPA's manifest system?

In States authorized by EPA, handlers of hazardous waste need only comply with the State's manifest system, which will be compatible with EPA's system. In States not authorized by EPA, a generator may have to comply with both the State's and EPA's manifest systems.

State programs

Can a State with final authorization develop
a manifest form that goes beyond the EPA/
Department of Transportation requirements?

DOT has the authority to preempt State
requirements that are inconsistent with its
transportation regulations. Thus, while some
modifications of the EPA/DOT format may be
allowed, DOT can preempt significant changes.

manifest system
State requirements

Can an authorized State require copies of a
manifest for its records?

In EPA's basic system, the manifest goes from generator, to transporter, to facility, and back to generator. A State can add on to that system by requesting that it receive copies of every manifest. In cases of interstate shipments, the receiving State can also request copies of the manifest.

State programs

Must a State with final authorization use the Federal manifest form?

First, there is no specified Federal manifest form; there is only a format requiring specific information. Second, there is a difference, in terms of what a State must or may do for final authorization, between the information on the manifest and the way the manifest moves through the system. Certain things can be done; others cannot. For example, the Department of Transportation may preempt a State regulation that requires a transporter to carry more information than DOT regulations require. A State can, however, still require a generator to provide a facility with information through means other than the manifest. A State could also prohibit disposal facilities from accepting wastes until they have that additional information, and the transporter might carry other papers as part of a contract between him and a generator or facility. A State cannot override minimum DOT requirements concerning when a manifest must be carried.

State programs

notification

Once a State program is authorized by EPA,
will generators have to notify the EPA
Regions?

The initial notification will be to EPA
Regional Offices because no States are yet
authorized. Once a State has authorization,
however, any new transporters, generators,
or owners and operators of hazardous waste
facilities will notify the State.

State programs

What can the public do to ensure that hazardous waste facilities comply with the regulations in an authorized State?

An approved State program must provide for public participation in the permit-issuing process, in the reporting of violations, and in court enforcement actions (see Sections 123.9(d) and 123.128(f)(2)). Section 7004 of RCRA authorizes EPA to develop regulations regarding public participation in programs receiving RCRA funds. Under these regulations, published in the Federal Register (40 Code of Federal Regulations 25, January 16, 1979), citizens can participate in these processes and become informed about the facilities in their State or locality.

If citizens believe that RCRA regulations are being violated and that the State or EPA is not adequately enforcing the regulations, they have the right to bring "citizen suits," under Section 7002 of RCRA.

State programs

Finally, Waste Alert!--a public information program funded by EPA and operated by a coalition of public interest groups--offers citizens the opportunity to participate in a range of problems concerning hazardous waste.

How will the public be involved in the permitting process?

Before issuing a permit, EPA or an authorized State must issue a public notice identifying the applicant and the facility and telling where copies of the draft permit and other related information may be obtained. The notice must be circulated in local newspapers for major permits and mailed to various agencies and parties expressing interest. Public comment in writing will be accepted for at least 30 days after this notice is issued.

A public hearing will be held whenever there is a significant degree of public interest. Written and oral comments may be submitted. At the time he issues a final permit, the EPA Regional Administrator or the State Program Director must respond to all significant public comments.

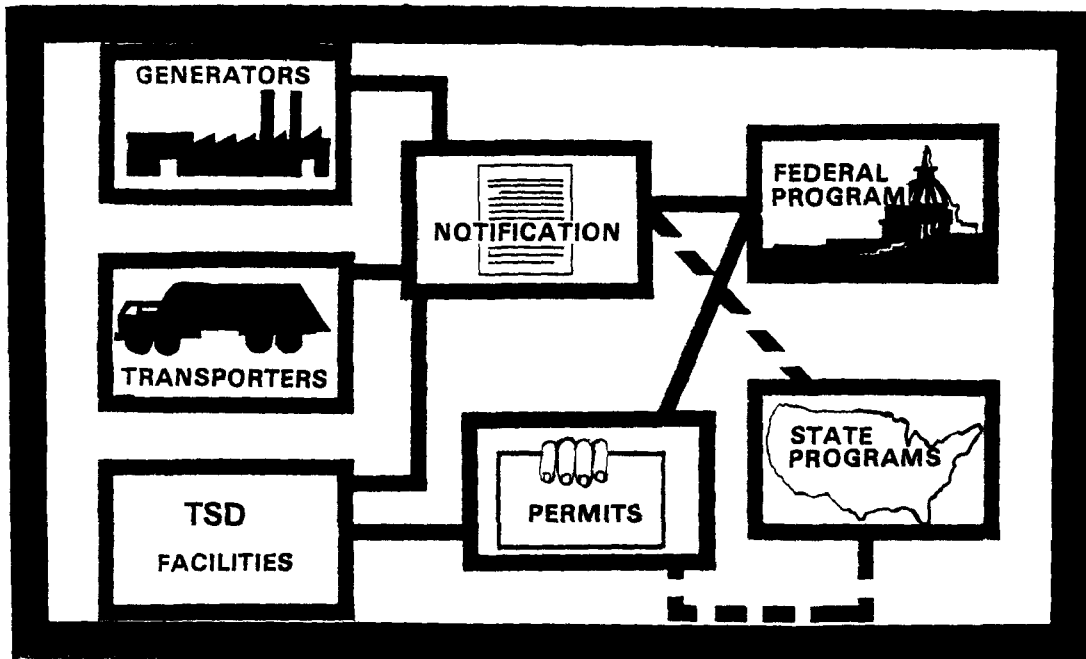
public participation
State application

Will the public be able to review and to comment to EPA on the State's application for authorization of its hazardous waste program?

Yes. Public notice of the State's application will be issued. State applications will be available for inspection and copying in the appropriate EPA Regional Office and the main office of the State agency. There will be an opportunity for a public hearing, and public comments can be filed for at least 30 days. EPA will respond in writing to all significant comments received.

State programs

Enforcement



Keywords

authorized States
closure of facility
compliance
dumping
generators

inspections
legal responsibilities
penalties
staffs
transporters

Can EPA enforce the RCRA regulations if an authorized State refuses to act when an active hazardous waste facility is violating the regulations?

Yes. EPA has several options. It can:

- o revoke the State permit or take other enforcement action against a State permittee, if the permittee is not complying with the terms of the permit;
- o revoke the State permit or take other action against a State permittee not complying with a condition pointed out as necessary by EPA in its comments on a draft permit;
- o take action under the imminent hazard authority (Section 7003);
- o take enforcement action under Section 3008 for noncompliance with any program requirements;
- o in appropriate cases withdraw the State program authorized under Section 3006(e) and administer the Federal program in that State.

enforcement

closure of facility

How long will it take to close an unsuitable facility under RCRA?

EPA can use one or more of several methods to close a facility:

- o Administrative procedures where a permit has been issued. EPA's experience with other permit programs has shown that revoking a permit, assuming that the permittee used all the legal means available to him, can take up to 5 years.
- o Permit denial where a permit application is pending. Denial of a permit can take up to 12 months after the receipt of Part B of the application. Under RCRA, once the Agency has taken final action on the permit application, Interim Status ends. If final action is denial of a permit, the facility must shut down (or operate without a permit and be subject to criminal penalties) unless EPA's decision is stayed by a court.

enforcement

- o Enforcement action. A facility can sometimes be closed or required to provide other remedies more quickly under the imminent hazard provision (Section 7003) if the government can demonstrate that the facility is creating an imminent and substantial endangerment to human health or the environment.

compliance
Interim Status

If EPA determines that a facility with Interim Status is not complying with the regulations, will it be immediately closed?

No. We will take an enforcement action to order the facility to comply with the requirements and, if appropriate, to assess penalties. We can also expedite the processing of a permit, which could result in denial of a permit. If there appears to be an imminent and substantial endangerment to human health or the environment, we can go to court (under Section 7003 of RCRA) to seek an injunction to close the facility.

enforcement

compliance
30-day requirement

Why must the government give a violator of the RCRA regulations 30 days in which to comply with them?

The 30-day period is required by Section 3008(a) of RCRA. Amendments to RCRA now pending before Congress call for deletion of the 30-day period.

enforcement

dumping
illegal

What can EPA do to stop illegal dumping of
hazardous waste?

The key to stopping illegal dumping of
hazardous waste is the "cradle-to-grave" control--
which includes the manifest system requiring
a generator to identify an authorized hazardous
waste management facility and to assure that the
facility receives the waste--coupled with en-
forcement.

enforcement

Can generators be held responsible, in the legal sense, for damages resulting after hazardous waste leaves their control?

Generators may be liable for damages caused by hazardous wastes that have left their physical control. Such liability may be imposed by application of negligence, strict liability, contract law, or other legal theories. Because of the varied application of these doctrines to particular situations, liability may confidently be determined only on a case-by-case basis.

generators
monitoring

How will generators of hazardous waste be monitored?

EPA plans to monitor the compliance of hazardous waste generators in two ways:

- o on-site inspections of generators;
- o in-depth review of reports submitted by generators, transporters, and treatment, storage, and disposal facilities.

The activities of generators will be closely monitored during the early years of the RCRA program. As the "key" to the cradle-to-grave control system, they must comply in order for that system to be maintained.

enforcement

inspections

Do the RCRA regulations provide for routine Federal and State inspections of facilities that handle hazardous waste?

Yes. Section 122.7(i) enables the routine inspections authorized by Section 3007(a) of RCRA. In addition, under Section 123.8(b) (2) and Section 123.128(9) (2) (ii), States are required to have a program for periodic inspection of facilities and activities subject to regulation.

enforcement

legal responsibilities
consulting firm

if a company retains a consulting firm to
assist it in meeting its responsibilities under
RCRA, who signs the official documents, and
who is responsible for complying with the
hazardous waste regulations?

The company itself is responsible for both
signing official documents and complying with
the regulations.

enforcement

What kinds of penalties can be meted out to violators of the RCRA regulations?

Failure to comply with the requirements of a compliance order issued to a violator subjects the violator to a civil penalty of not more than \$25,000 for each day of continued noncompliance and/or suspension or revocation of a permit.

Any person who knowingly commits any of the following acts will, upon conviction, be subject to a fine of not more than \$25,000 for each day of violations, imprisonment not to exceed 1 year, or both:

- o transports hazardous waste identified in these regulations to a facility without a permit;
- o treats, stores, or disposes of hazardous waste without a permit; or
- o makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for

enforcement

the purposes of compliance with these regulations.

For repeat violations, these penalties may be doubled. Penalties in authorized States will be for the same causes, but the amounts can vary.

staffs

Does EPA intend to increase its enforcement staff and encourage the States to augment their enforcement resources?

Yes. EPA has tripled its enforcement staff between Fiscal 1979 and Fiscal 1981 and expects to increase it substantially in Fiscal 1982. State programs will not be authorized unless they contain an adequate enforcement program.

enforcement

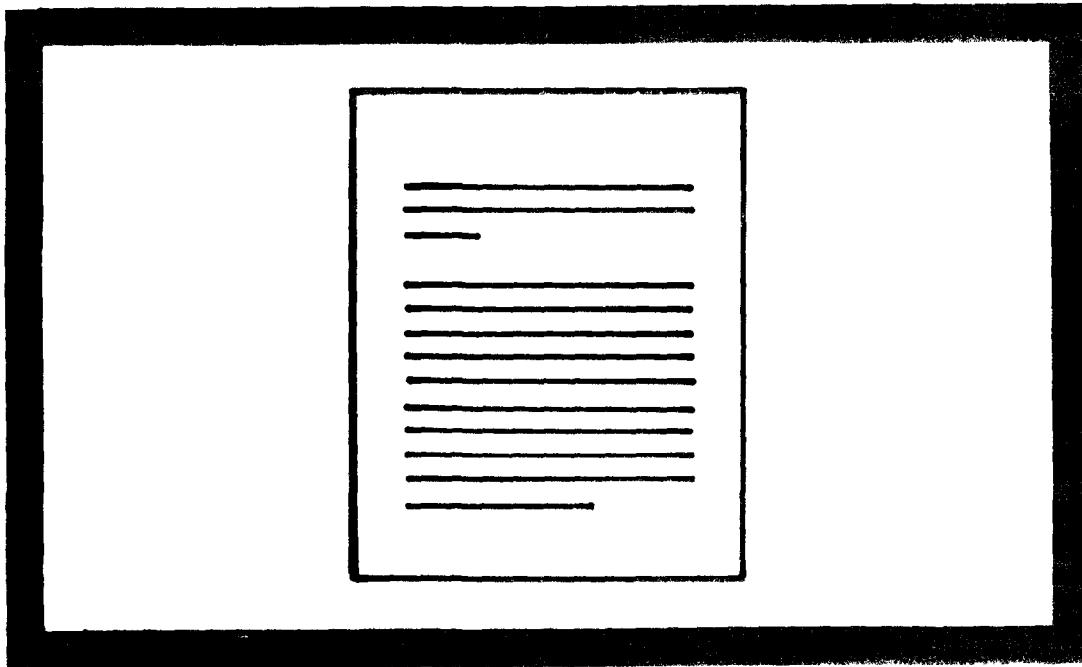
transporters

How will the regulations for transporters be enforced?

EPA has negotiated a Memorandum of Understanding with the Department of Transportation to coordinate enforcement of the transportation regulations. DOT will conduct compliance monitoring and enforcement for in-transit activities. Although DOT has assumed primary responsibility in this area, EPA retains enforcement authority.

enforcement

Notification



Keywords

confidentiality
facilities
forms
generators
identification numbers

information to States
timetable
transporters
who notifies

Is all information in the notification form available to the public, or can a generator request confidentiality on, for example, a portion of the waste stream?

All information that EPA receives from notification will be made available to the public. Notifiers may request, however, that the information they submit be kept confidential. EPA will consider such requests only if the notifier submits a written substantiation of his claim with the notification. A written substantiation does not guarantee that EPA will ultimately determine that the information submitted warrants confidential treatment.

facilities
multiple

May large corporations with several facilities
notify for all facilities in a single notification?

No. A separate notification must be submitted for each facility that is subject to the regulations.

notification

Where can notification forms be obtained?

Multiple copies of notification forms can be obtained by writing to Ed Cox, Solid Waste Information, USEPA, 26 West Saint Clair Street, Cincinnati, OH 45268 or calling him at (513) 684-5362.

Single copies of the forms and related information are available in the Regions from the following people:

Rich Cavagnero
EPA Region I
(617) 223-0240

Connecticut, Maine, Massachusetts, Rhode Island, Vermont, New Hampshire

Harry Ruisi
EPA Region II
(212) 264-0503

New Jersey, New York, Virgin Islands, Puerto Rico

Shirley Bulkin
EPA Region III
(215) 597-8751

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Ray Cozart
EPA Region IV
(404) 881-3446

notification

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Y. J. Kim
EPA Region V
(800) 572-3176 (IL)
(800) 621-3192 (IN, MI, MN, OH, WI)

Illinois, Indiana, Michigan, Minnesota,
Ohio, Wisconsin

Fred Woods
EPA Region VI
(214) 767-2765

Arkansas, Louisiana, New Mexico, Oklahoma,
Texas

Dennis Degner
EPA Region VII
(800) 892-3837 (MO)
(800) 821-3714 (IA, KS, NE)

Iowa, Kansas, Missouri, Nebraska

Jim Rakers
EPA Region VIII
(303) 837-2221
(800) 332-3321 (CO)
(800) 525-3022 (MT, ND, SD, UT, WY)

Colorado, Montana, North Dakota, South
Dakota, Utah, Wyoming

Bill Wilson
EPA Region IX
(415) 556-1407

Arizona, California, Hawaii, Nevada, Guam,
American Samoa, Commonwealth of the Northern
Marianas

Betty Wiese
EPA Region X
(206) 442-1260
(800) 542-0841 (WA)
(800) 426-0663 (AL, ID, OR)

Alaska, Idaho, Oregon, Washington

forms
number per site

Must a research facility and a plant on the same
site each submit a notification?

No. A single notification covering both
may be submitted.

notification

generators

Must a generator notify EPA if he is not sure that the wastes are hazardous, does not have time to test, and does not have enough information to make the determination based upon knowledge of materials and processes?

A generator of hazardous waste who is not a small-quantity generator must notify EPA of his activity by August 18, 1980 (or within 90 days after promulgation of a revision of Part 261). Testing is not required for the purpose of notification; the generator can rely on his knowledge of the process and materials involved in his operation. A generator who chooses not to notify because of some degree of uncertainty and then is later found to be generating hazardous waste may, however, be subject to civil penalties and fines under Section 3008 of RCRA.

notification

identification
numbers

Would a generator who also transports or stores hazardous waste have a single identification number for all RCRA transactions?

Yes. If the generator also stores on-site and transports his own hazardous waste, he receives and should use only one EPA identification number.

notification

information to
States

Will EPA turn over the notification information to the States before State programs are authorized?

Unless that information is determined to be confidential, it is available to the States and to the general public by virtue of the Freedom of Information Act. The States do not have to wait until they are authorized to get that public information.

notification

When must generators, transporters, and owners and operators of hazardous waste facilities notify EPA?

Anyone who generates or manages a hazardous waste listed or identified in the regulations promulgated on May 19, 1980, must file a notification by August 18, 1980. New generators or transporters or owners and operators of new hazardous waste facilities must file a notification before they begin operations. Those persons who generate or manage a hazardous waste identified or listed by an amendment to Part 261 must notify EPA within 90 days after promulgation of the amendment.

transporters

Is it necessary for a large transportation company with many terminals to notify EPA and obtain an identification number for each terminal?

No. Such a transporter would have to submit only one notification and obtain only one identification number for its transportation activities and many terminals.

notification

who notifies

Who must notify?

All persons who generate or transport hazardous waste or who own or operate a facility for treating, storing, or disposing of hazardous waste must notify EPA of their activity, unless they fall under an exemption (see Section 261.5 and 261.6). Anyone failing to notify may be subject to civil and criminal penalties.

notification