



## **REGULATORY INFORMATION**

### **Hazardous Waste Determination & Local Authorities**

#### **262.11 Hazardous waste determination.**

A person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method: (a) He should first determine if the waste is excluded from regulation under 40 CFR 261.4. (b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 CFR part 261.

Note: Even if the waste is listed, the generator still has an opportunity under 40 CFR 260.22 to demonstrate to the Administrator that the waste from his particular facility or operation is not a hazardous waste.

(c) For purposes of compliance with 40 CFR 268, or if the waste is not listed in subpart D of 40 CFR part 261, the generator must then determine whether the waste is identified in subpart C of 40 CFR part 261 by either: (1) Testing the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator Under 40 CFR 260.21; or (2) Applying knowledge of the hazard characteristics of the waste in light of the materials or the processes used. (d) If the waste is determined to be hazardous, the generator must refer to parts 264,265,268 of this chapter for possible exclusions or restrictions pertaining to management of his specific waste.

#### **265.37 Arrangements with local authorities.**

(a) The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations: (1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes; (2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority; (3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and (4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility. (b) Where State or local authorities decline to enter into such

### **Personnel Training, Required Equipment & Aisle Space**

#### **265.16 Personnel training.**

(a)(1) Facility personnel must successfully complete a program of classroom instruction

or on-the job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part. The owner or operator must ensure that this program includes all the elements described in the document required under paragraph (d)(3) of this section. (2) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. (3) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable: (i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment; (ii) Key parameters for automatic waste feed cut-off systems; (iii) Communications or alarm systems; (iv) Response to fires or explosions; (v) Response to ground-water contamination incidents; and (vi) Shutdown of operations. (b) Facility personnel must successfully complete the program required in paragraph (a) of this section within six months after the effective date of these regulations or six months after the date of their employment or assignment to the facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training requirements of paragraph (a) of this section. (c) Facility personnel must take part in an annual review of the initial training required in paragraph (a) of this section. (d) The owner or operator must maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (2) A written job description for each position listed under paragraph (d)(1) of this Section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position; (3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (d)(1) of this section; (4) Records that document that the training or job experience required under paragraphs (a), (b), and (c) of this section has been given to, and completed by, facility personnel. (e) Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

### **265.32 Required equipment.**

All facilities must be equipped with the following, unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below:

(a) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel; (b) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams; (c) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using

foam, inert gas, or dry chemical), spill control equipment, and decontamination equipment; and (d) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

#### **265.36 Required aisle space.**

The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

### **EPA Numbers & Manifests**

#### **262.12 EPA identification numbers.**

(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator.

#### **262.23 Use of the manifest.**

(a) The generator must: (1) Sign the manifest certification by hand; and (2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and (3) Retain one copy, in accordance with 262.40(a). (b) The generator must give the transporter the remaining copies of the manifest.

### **Contingency Plan**

#### **266.51 Purpose and implementation of contingency plan.**

(a) Each owner or operator must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. (b) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

#### **265.52 Content of contingency plan.**

(a) The contingency plan must describe the actions facility personnel must take to comply with 265.51 and 265.56 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility. (c) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to 265.37. (d) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see 265.55), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and

others must be listed in the order in which they will assume responsibility as alternates.

(e) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(f) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

#### **265.53 Copies of contingency plan.**

A copy of the contingency plan and all revisions to the plan must be: (a) Maintained at the facility; and (b) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

### **Labeling, Marking and Packaging, Container Requirements**

#### **262.31 Labeling.**

Before transporting or offering hazardous waste for transportation offsite, a generator must label each package in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR part 172.

#### **262.32 Marking.**

(a) Before transporting or offering hazardous waste for transportation offsite, a generator must mark each package of hazardous waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR part 172;

(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 110 gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of 49 CFR 172.304: HAZARDOUS WASTE - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency. Generator's Name and Address. Manifest Document Number.

#### **262.30 Packaging.**

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR parts 173, 178, and 179.

#### **265-171 Condition of containers.**

If a container holding hazardous waste is not in good condition, or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container

that is in good condition, or manage the waste in some other way that complies with the requirements of this part.

#### **265.172 Compatibility of waste with container.**

The owner or operator must use a container made of or lined with materials, which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.

#### **265.173 Management of containers.**

(a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste. (b) A container holding hazardous waste must not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

### **Accumulation Time**

#### **262.34 Accumulation time.**

(a) Except as provided in paragraphs (d),(e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

(1) The waste is placed:

(i) In containers and the generator complies with subpart I of 40 CFR part 265; and/or (ii) In tanks and the generator complies with subpart J of 40 CFR part 265, except 265.197(c) and 265.200. (c)(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) of this section provided he: (i) Complies with 265.171, 265.172, and 265.173(a) of this chapter; and (ii) Marks his containers either with the words Hazardous Waste or with other words that identify the contents of the containers. (2) A generator who accumulates either hazardous waste or acutely hazardous waste listed in 261.33(e) in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of this section or other applicable provisions of this chapter. During the three-day period, the generator must continue to comply with paragraphs (c)(1)(i) through (ii) of this section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

### **Waste Analysis, Records, Biennial & Exception Reporting**

#### **268.7 Waste analysis and recordkeeping.**

(a) Except as specified in 268.32 of this part, it a generator's waste is listed in 40 CFR

part 261, subpart D, the generator must test his waste, or test an extract using the test method described in part 261, appendix 11, or use knowledge of the waste, to determine if the waste is restricted from land disposal under this part. Except as specified in 268.32 of this part, if a generator's waste exhibits one or more of the characteristics set out at 40 CFR part 261, subpart C, the generator must test an extract using the test method described in appendix IX of this part, or use knowledge of the waste, to determine if the waste is restricted from land disposal under this Part.

(1) If a generator determines that he is managing a restricted waste under this part and the waste does not meet the applicable treatment standards set forth in Subpart D of this part or exceeds the applicable prohibition levels set forth in 268.32 or RCRA 3004(d), with each shipment of waste the generator must notify the treatment or storage facility in writing of the appropriate treatment standards set forth in Subpart D of this part and any applicable prohibition levels set forth in 268.32 or RCRA 3004(d). The notice must include the following information:

**(i) EPA Hazardous Waste Number;**

(ii) The corresponding treatment standards for wastes F00 1 -F005, F039, and wastes prohibited pursuant to 268.32 or RCRA 3004(d). Treatment standards for all other restricted wastes must either be included, or be referenced by including on the notification the applicable wastewater (as defined in 268.2(d)) category, the applicable subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanides), and the CFR section(s) and paragraph(s) where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in 268.42, the applicable five-letter treatment code found in Table 1 of 286.42 (e.g., INCIN, WETOX) also must be listed on the notification. (iii) The manifest number associated with the shipment of waste; (iv) For hazardous debris, the contaminants subject to treatment as provided by 268.45(b) and the following statement: This hazardous debris is subject to the alternative treatment as provided by 40 CFR 268.45; and

**(v) Waste analysis data, where available**

(2) If a generator determines that he is managing a restricted waste under this Part, and determines that the waste can be land disposed without further treatment, with each shipment of waste he must submit, to the treatment, storage, or land disposal facility, a notice and a certification stating that the waste meets the applicable treatment standards set forth in subpart D of this part and the applicable prohibition levels set forth in 268.32 or RCRA section 3004(d). Generators of hazardous debris that is excluded from the definition of hazardous waste under 261.3(e)(2) of this chapter (i.e., debris that the Director has determined does not contain hazardous waste), however, are not subject to these notification and certification requirements.

**(i) The notice must include the following information:**

**(A) EPA Hazardous Waste Number;**

(B) The corresponding treatment standards for wastes F00 1 - F005, F039, and wastes

prohibited pursuant to 268.32 or RCRA section 3004(d). Treatment standards for all other restricted wastes must either be included, or be referenced by including in the notification the applicable wastewater (as defined in 268.2ff) or nonwastewater (as defined in 268.2(d)) category, the applicable subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanides), and the CFR section(s) and paragraph(s) where the applicable treatment standard appears. Where the applicable treatment standards are expressed as specified technologies in 268.42, the applicable five-letter treatment code found in Table I of 268.42 (e.g., INCIN, WETOX) also must be listed on the notification. (C) The manifest number associated with the shipment of waste; (D) Waste analysis data, where available.

(ii) The certification must be signed by an authorized representative and must state the following: I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in 40 CFR Part 268 Subpart D and all applicable prohibitions set forth in 40 CFR 268.32 or RCRA section 3004(d). I believe that the information I submitted is true, accurate and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment.

#### **262.40 Recordkeeping.**

2 (a) A generator must keep a copy of each manifest signed in accordance with 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter. (b) A generator must keep a copy of each Biennial Report and Exception Report for a period of at least three years from the due date of the report. (c) A generator must keep records of any test results, waste analysis, or other determinations made in accordance with 262.11 for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

#### **262.41 Biennial report.**

(a) A generator who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of a Biennial Report to the Regional Administrator by March 1 of each even numbered year. The Biennial Report must be submitted on EPA Form 8700-13A, must cover generator activities during the previous year, and must include the following information: (6) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.

#### **262.42 Exception reporting.**

(a)(1) A generator of greater than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste. (2) A generator of

greater than 1000 kilograms of hazardous waste in a calendar month must submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.

The Exception Report must include:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery; (ii) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(b) A generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the EPA Regional Administrator for the Region in which the generator is located.