

<u>SUBJECT</u>		<u>DATE</u>
1394.	RCRA Empty vs. DOT Empty	ENCORE JUL 30, 2020
1395.	RCRA Empty vs. DOT Empty II	ENCORE AUG 6, 2020
1396.	Empty Containers and the "Empty" Label	ENCORE AUG 13, 2020
1397.	Exceptions to Free Liquids in Landfills Prohibition	ENCORE AUG 20, 2020
1398.	Dust Suppression in Landfills with Nonhazardous Liquids	ENCORE AUG 27, 2020
1399.	Treated Hazardous Wastes Used as Dust Suppressant	ENCORE SEP 3, 2020
1400.	Regulatory Status of Used Oil Mixed with Diesel Fuel	ENCORE SEP 10, 2020
1401.	RCRA Liquids, Free Liquids, and Releasable Liquids	ENCORE SEP 17, 2020
1402.	Available Regulatory Relief from Underlying Hazardous Constituent (UHC) Requirements	ENCORE SEP 24, 2020
1403.	Smoke Detector Disposal and the NRC	ENCORE OCT 1, 2020
1404.	DOT Shipping of Damaged, Defective, or Recalled Lithium Batteries	ENCORE OCT 8, 2020
1405.	Conservative Declaration that Material is a Hazardous Waste	ENCORE OCT 15, 2020
1406.	Manifest Exception Report Submittal Timeframes – RCRA vs. TSCA	ENCORE OCT 22, 2020
1407.	Characteristic Ignitable, Corrosive or Reactive Debris and Macroencapsulation	ENCORE OCT 29, 2020
1408.	RCRA Satellite Accumulation Areas and Applicability of Personnel Training	NOV 5, 2020
1409.	The Hazardous Waste Generator Improvements Rule and Designation of Nonhazardous Waste	NOV 12, 2020
1410.	RCRA Aisle Space Requirements and Washington State vs., EPA	NOV 19, 2020
1411.	The Definition of Good Housekeeping	ENCORE NOV 24, 2020
1412.	Absorbent Additions and Treatment	ENCORE DEC 3, 2020
1413.	LDR Notifications and F001-F005 Constituents of Concern	ENCORE DEC 10, 2020
1414.	LDR Notifications and F001-F005 Constituents of Concern – Again!	ENCORE DEC 17, 2020
1415.	'Twas the Night before Christmas – The Twenty-Seventh Edition	DEC 24, 2020
1416.	LDR Notifications and F001-F005 Constituents of Concern - One Last Time!	ENCORE DEC 31, 2020
1417.	RCRA Empty Containers and Removing as Much Waste as Possible	ENCORE JAN 7, 2021
1418.	Universal Waste, Incandescent Bulbs and Nonhazardous Bulbs	ENCORE JAN 14, 2021
1419.	Listed Waste Codes and Pre-RCRA Wastes	ENCORE JAN 21, 2021
1420.	Commercial Chemical Products and Unused Batteries	ENCORE JAN 28, 2021
1421.	Recycling of Non-Listed Commercial Chemical Products	ENCORE FEB 4, 2021
1422.	RCRA Personnel Training and Classroom Training vs. Online Training	ENCORE FEB 11, 2021
1423.	EPA Definition of "Annual" Refresher Training	ENCORE FEB 18, 2021
1424.	Satellite Accumulation of Aerosol Cans and Determining the 55-Gallon Limit	ENCORE FEB 25, 2021
1425.	PCB Wastes and RCRA Hazardous Waste Characteristics D018 through D043	ENCORE MAR 4, 2021
1426.	PCB Containers and Empty Requirements	ENCORE MAR 11, 2021
1427.	PCB Containers and Empty Requirements II	ENCORE MAR 18, 2021
1428.	PCB Containers and Decontamination Requirements	ENCORE MAR 25, 2021
1429.	F002, Methylene Chloride and Coffee Decaffeination	APRIL FOOL'S APR 1, 2021
1430.	Central Accumulation Area – Location and Total Number	APR 8, 2021
1431.	Satellite Accumulation Area Container and Temporary Central Accumulation	APR 15, 2021
1432.	Satellite Accumulation and "At or Near"	ENCORE APR 22, 2021
1433.	Generators and Waste Analysis Plans	APR 29, 2021
1434.	RCRA TSDFs Operating Record Requirements	ENCORE MAY 6, 2021
1435.	Operating Records Not Referenced in the "Operating Record" Regulations	ENCORE MAY 13, 2021
1436.	RCRA Generators Operating Record Requirements	MAY 20, 2021
1437.	Operating Record vs. Operating Log	MAY 27, 2021
1438.	RCRA Hazard Labeling – A Random Scenario	ENCORE JUN 3, 2021
1439.	RCRA Treatment and the Two-Part Definition	ENCORE JUN 10, 2021
1440.	D002 Waste and Dilution as Adequate LDR Treatment	ENCORE JUN 17, 2021
1441.	Hazard Label Marking Requirements for Permitted TSDFs	JUN 24, 2021
1442.	Keeping Satellite Accumulation Area Containers Closed – New vs., Obsolete Requirements	JUL 1, 2021
1443.	Central Accumulation Areas and Signage Requirements	ENCORE JUL 8, 2021
1444.	Hazardous Waste Tanks and the Less than 90-Day Accumulation Time Limit	ENCORE JUL 15, 2021
1445.	Product Storage Tank Residues and Hazardous Waste Regulations	ENCORE JUL 22, 2021
1446.	TSDF Written Notice of Appropriate Permits to the Generator and Recordkeeping Requirements	JUL 29, 2021
1447.	TSDF Written Notices of Appropriate Permits – Permitted Facilities vs., Interim Status Facilities	AUG 5, 2021

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TWO MINUTE TRAINING

TO: CENTRAL PLATEAU CLEANUP COMPANY

FROM: PAUL W. MARTIN, RCRA Subject Matter Expert
CPCCo Environmental Protection, Hanford, WA

SUBJECT: TSDf WRITTEN NOTICES OF APPROPRIATE PERMITS – PERMITTED FACILITIES
VS., INTERIM STATUS FACILITIES

DATE: AUGUST 5, 2021

<u>CPCCo Projects</u>	<u>CPCCo Functionals</u>	<u>HMIS</u>	<u>Hanford Laboratories</u>	<u>Other Hanford Contractors</u>	<u>Other Hanford Contractors</u>
Richard Austin Tania Bates Bob Cathel Rene Catlow Richard Clinton Randal Fox Bailey Hardy Stuart Hildreth Sarah Horn Sasa Kosjerina Richard Lipinski Carlie Michaelis Stuart Mortensen Dave Richards Deborah Singleton Sean Sexton Dave Shea Phil Sheely Kat Thompson Jeff Westcott	Jeff Bramson Bob Bullock Frank Carleo Danielle Collins Jennifer Copeland Jeanne Elkins Ryan Fisher Jonathan Fullmer Leah Hare Steve Heninger John Hultman Julie Johanson Barry Lawrence Diane Leist Mitch Marrott Stewart McMahand Brian Mitcheltree Anthony Nagel Chris Plager Linda Petersen Brent Porter Dale Snyder Kat Thompson Wayne Toebe Daniel Turlington Britt Wilkins	Brett Barnes Michael Carlson Mike Demiter Kip George Jerry Cammann Garin Erickson Panfilo Gonzalez Jr. Dashia Huff Mark Kamberg Jon McKibben Saul Martinez Matt Mills Carly Nelson Michelle Oates Eric Pennala Jon Perry Christina Robison Christian Seavoy David Shaw John Skogle Lana Strickling Greg Sullivan	(TBD) <u>DOE RL, ORP, WIPP</u> Duane Carter Al Farabee Tony McKarns	Bill Bachmann Dean Baker Scott Baker Paul Crane Tina Crane Ron Del Mar John Dorian Mark Ellefson Darrin Faulk Rob Gregory James Hamilton Andy Hobbs Stephanie Johansen Ryan Johnson Megan Lerchen Mike Lowery Michael Madison Terri Mars Cary Martin Grant McCalmant Steve Metzger Tony Miskho Tom Moon Chuck Mulkey Kirk Peterson	Dan Saueressig Joelle Moss Glen Triner Greg Varljen Robin Varljen Julie Waddoups Jay Warwick Ted Wooley

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TWO MINUTE TRAINING

SUBJECT: TSDF Written Notices of Appropriate Permits – Permitted Facilities vs., Interim Status Facilities

Q: Last week's Two Minute Training (2MT) discussed the written notice of appropriate permits that a permitted treatment, storage, and disposal facility (TSDF) must send to a generator. This notice must inform the generator in writing that the TSDF has the appropriate permit(s) for, and will accept, the waste the generator is shipping. In Washington State, this is a general requirement at WAC 173-303-290 and therefore applicable to both permitted and interim status TSDFs. The equivalent Federal requirement for a permitted TSDF is found at 40 CFR 264.12(b). Is there an equivalent Federal requirement for an interim status TSDF to notify the generator of appropriate permits and that the interim status TSDF will accept the generator's waste?

A: A word search of 40 CFR 265, "Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities", for phrases such as "appropriate permit", "will accept" and the regulatory citation "264.12", revealed no regulations that require an interim status TSDF to notify a generator that the TSDF has the appropriate permits to manage and will accept the generator's waste. (One theory for this lacking requirement is that technically an interim status facility does not yet have permits.)

Furthermore, a review of the May 19, 1980, Federal Register, at "Subpart B – General Facility Standards", step 2., "Required Notices" on page 33179, discussed notices of hazardous waste shipments to or from foreign sources. This notice applies to both interim status and permitted TSDFs. Immediately following the foreign sources notice discussion, EPA discussed the TSDF notice of appropriate permits. The preamble wording specifically references 40 CFR 264.12 for permitted TSDFs but did not reference the equivalent interim status regulation at 40 CFR 265.12. EPA did state in the Federal Register that generators are required to "send their hazardous wastes only to a facility with appropriate permits for the waste (or to facilities whose owner or operator has interim status)". However, the Federal Register and the current 40 CFR 264/265 regulations do not reference an interim status regulation requiring such a notice. It is a regulatory mystery why EPA codified the notice of appropriate permits in the permitted regulations at 40 CFR 264 but did not codify the equivalent regulation in the interim status regulations at 40 CFR 265.

Note that since 1980 most states have final RCRA authorization and can be more stringent, e.g., adding a notice of appropriate permit requirement for interim status facilities. Hence, States, like Washington State, may address this mystery by adding the notice of appropriate permits as a general regulation for both permitted and interim status TSDFs or a State may add the requirement to the State's interim status regulations. A review of Tennessee and Utah hazardous waste regulations found notification of appropriate permits equivalent to 40 CFR 264.12 for permitted TSDFs and no references for interim status facilities. A review of Texas hazardous waste regulations found no requirement for either permitted or interim status facilities to notify the generator of appropriate permits.

If anyone in the 2MT Nation can solve this regulatory mystery, please provide feedback.

SUMMARY:

- A Federal permitted TSDF is required to inform the generator in writing that the Federal TSDF has the appropriate permits and will accept the generator's hazardous waste.
- A Federal interim status TSDF is apparently not required to inform the generator of appropriate permits.
- The 2MT Nation is requested to help solve this regulatory mystery.

Excerpts from WAC 173-303-290, 40 CFR 264.12, 40 CFR 265.12, and the May 19, 1980, Federal Register are attached to the e-mail. If you have any questions or answers to the mystery, please contact me at Paul.W.Martin@rl.gov or at (509) 376-6620.

FROM: Paul W. Martin

DATE: 8/5/2021

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TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: TSDF Written Notices of Appropriate Permits – Permitted Facilities vs., Interim Status Facilities

WAC 173-303-290 Required notices.

(3) The owner or operator of a facility that receives dangerous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that they have the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record required under WAC 173-303-380(1).

“Federal Register/ Vol. 45, No. 98 / Monday, May 19, 1980 / Rules and Regulations 33179

B. Subpart B – General Facility Standards

2. *Required Notices.* Sections 264.12 and 265.12 require that the owner or operator of a facility notify the Regional Administrator at least four weeks in advance of the date of any shipments of hazardous waste from foreign sources. This requirement is a corollary to the proposed § 250.20(c)(3) standard, which required generators who ship their waste to foreign countries to inform the foreign government having jurisdiction over the facility to which the waste is to be sent. The Agency believes that this requirement is necessary in order for EPA to effectively oversee the transportation and management of hazardous waste imported to the United States.

Sections 264.12 and 265.12 also require that, before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator must notify the new owner or operator of the RCRA Section 3004 and Section 3005 requirements. The Agency has added this requirement to the final rules in order to minimize the possibility that an unsuspecting buyer may purchase a facility, not knowing that this purchase entails his having to comply with these Subtitle C regulations. However, it should be noted that if the “old” owner or operator fails to comply with this standard, the “new” owner or operator is still required to comply with all applicable RCRA regulations, including those in Part 122 establishing requirements for permits.

Section 264.12 also requires the owner or operator of an off-site facility to inform the generator in writing that the facility has the appropriate permit(s) for, and will accept, the generator’s waste. The Agency believes this provision, which was suggested in the comments, is necessary for the proper functioning of the manifest system, because Part 262 requires that generators send their hazardous waste only to a facility with appropriate permits for the waste (or to facilities whose owner or operator has interim status). A written certification by the facility owner or operator thus assures the waste generator that the requirements of Part 262 are satisfied. It also avoids the potential problem of a generator designating a facility on the manifest which has the appropriate permits for his waste, but which has not agreed to accept the waste.

The rest of this section of the preamble discusses the comments received on the proposed § 250.43 standards contained in this Subpart.”

[PWMartin comment: The May 19, 1980, Federal Register is silent concerning an interim status TSDF informing the generator via a written notice that the TSDF has the appropriate permits for and will accept the generator’s waste. Only 40 CFR 264.12 (permitted TSDFs) is discussed in the Federal Register preamble and there was no discussion concerning corresponding language in 40 CFR 265.12 (interim status TSDFs).]

FROM: Paul W. Martin

DATE: 8/5/2021

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TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: TSDF Written Notices of Appropriate Permits – Permitted Facilities vs., Interim Status Facilities

40 CFR §264.12 Required notices

(a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to 40 CFR part 262, subpart H from a foreign source must submit the following required notices:

(1) As per 40 CFR 262.84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in 40 CFR 262.84(b)(1) at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(2) As per 40 CFR 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document must be maintained at the facility for at least three (3) years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the owner or operator of a facility bears no responsibility.

(3) As per 40 CFR 262.84(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in 40 CFR 262.84(b)(1) of the need to return or arrange alternate management of the shipment.

(4) As per 40 CFR 262.84(g), such owner or operator shall:

(i)...

(ii)...

(b) The owner or operator of a facility that receives hazardous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record.

(c) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator must notify the new owner or operator in writing of the requirements of this part and part 270 of this chapter.

[*Comment:* An owner's or operator's failure to notify the new owner or operator of the requirements of this part in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.]

TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: TSDF Written Notices of Appropriate Permits – Permitted Facilities vs., Interim Status Facilities

40 CFR §265.12 Required notices

(a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to 40 CFR part 262, subpart H from a foreign source must submit the following required notices:

(1) As per 40 CFR 262.84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in 40 CFR 262.84(b)(1) at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(2) As per 40 CFR 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document must be maintained at the facility for at least three (3) years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

(3) As per 40 CFR 262.84(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in 40 CFR 262.84(b)(1) of the need to return or arrange alternate management of the shipment.

(4) As per 40 CFR 262.84(g), such owner or operator shall:

(i)...

(ii) ...

(b) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator must notify the new owner or operator in writing of the requirements of this part and part 270 of this chapter. (Also see §270.72 of this chapter.)

[PWMartin comment: 40 CFR 265.12 contains no wording corresponding to 40 CFR 264.12(b) concerning the TSDF informing the generator via a written notice that the TSDF has the appropriate permits for and will accept the generator's waste.]