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RCRA/Superfund/OUST Hotline Monthly Report Question

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1. Treatment in a Generator's 90-Day Containment Building

According to the March 24, 1986, Federal Register, generators may treat hazardous waste in accumulation tanks or containers in conformance with the requirements of §262.34 and Subparts J or I of Part 265 without obtaining a permit or interim status (51 FR 10168). In the August 18, 1992, Federal Register (57 FR 37194), EPA promulgated standards for a new hazardous waste management unit known as a containment building (Parts 264 and 265, Subpart DD), and amended §262.34 to allow generators to accumulate hazardous waste on-site in containment buildings for 90 days or less without a permit or interim status (§262.34(a)(iv); 57 FR 37264). May generators accumulating hazardous waste in containment buildings in compliance with §262.34 and Part 265, Subpart DD treat the waste without obtaining a permit or interim status?

A generator accumulating hazardous waste in a containment building for less than 90 days in compliance with §262.34 and Part 265, Subpart DD (the technical standards for interim status containment buildings) may treat these hazardous wastes in the containment building without obtaining a permit or interim status as long as thermal treatment is not involved. The August 18, 1992, Federal Register states that §262.34 has been revised to exempt generators from permitting requirements when accumulating or treating hazardous waste onsite in containment buildings (57 FR 37242 and 37253). Generators who accumulate or treat hazardous waste in containment buildings must comply with the general Part 262 regulations, as well as the following requirements in accordance with §262.34(a)(1)(iv): comply with Subpart DD of 40 CFR Part 265; place in the facility's operating record a certification by a professional engineer that the building complies with the design standards specified in 40 CFR §265.1101; and maintain in the facility's files documentation showing no hazardous wastes remain in the unit for longer than 90 days (57 FR 37264).

If a generator chooses to treat a prohibited hazardous waste in containment buildings, however, and is conducting such treatment

in order to meet applicable Part 268. Subpart D treatment standards, he or she must comply with the waste analysis plan requirements of §268.7(a)(4). Section 268.7(a)(4) has been modified to reflect the addition of containment buildings to §262.34 as accumulation/treatment units (57 FR 37270).

Thermal treatment is regulated by the specific standards for incinerators (Part 265, Subpart O), boilers and industrial furnaces (Part 266, Subpart H), and thermal treatment (Part 265, Subpart P), and is therefore not eligible for the §262.34 permit exemption even if the treatment occurs inside a containment building.