

"Containment Buildings at Permitted and Interim Status Facilities"
(Key Words: Containment building; interim status; permit; TSDF)

QUESTION: EPA recently promulgated regulations for containment buildings, a new type of hazardous waste management unit used for treatment and storage of hazardous wastes. What procedures must permitted and interim status facilities follow when adding containment buildings?

ANSWER: On August 18, 1992, EPA promulgated a rule defining and establishing management standards for a new type of unit called a containment building (57 FR 37194; August 18, 1992). A facility operating under a RCRA permit may seek to add containment buildings to its permitted operations in two situations -- it may seek to convert existing units (e.g., enclosed waste piles) to containment buildings, or it may seek to construct new containment buildings. With respect to the first situation, EPA believes that many facilities will convert their existing enclosed waste piles to containment buildings (57 FR 37218). This will require a Class 2 modification (57 FR 37218; 40 CFR Section 270.42, Appendix I, Item I, 6). Construction to implement Class 2 changes generally may commence 60 days after submission of the permit modification request (Section 270.42(b)(8)). If the Agency does not respond within 90 days (or 120 days if the Agency requests an extension), the facility is automatically authorized to conduct the requested activity for 180 days. During this time, the facility is required to comply with applicable Part 265 standards in conducting the activity (Section 270.42(b)(6)(iii)). The construction of new containment buildings requires a Class 2 or 3 permit modification, depending on whether the addition of the buildings increases the facility's containment building storage or treatment capacity by more than 25 percent (57 FR 37281; Section 270.42, Appendix I, Item M, 1). Class 3 modifications are required at facilities with no existing containment building capacity. Class 3 permit modifications require formal EPA approval; there is no deadline for Agency action and no provision for automatic authorization in the absence of an Agency decision (53 FR 37919).

Permitted facilities may apply for a temporary authorization under Section 270.42(e). A temporary authorization may be granted for up to 180 days and may be reissued for an additional

180 days provided that the facility has submitted a request for a permit modification. Requests for temporary authorization must demonstrate compliance with Part 264 standards and also meet the criteria in Section 270.42(e) for approval.

A facility operating under interim status may add new treatment processes or additional treatment or storage capacity, such as containment buildings, by using existing procedures for changes during interim status under Sections 270.72(a)(2) and (a)(3). The facility must submit a revised Part A permit application and a justification explaining the need for the change, which must be approved by EPA before implementing any construction. According to Section 270.72(b), changes generally may not be made if they amount to reconstruction of the hazardous waste management facility. The Agency considers the facility "reconstructed" if the capital investment for the changes to the facility exceed 50 percent of the capital cost of a comparable, entirely new hazardous waste management facility (57 FR 37242). The reconstruction limit does not apply, however, if the changes are made in order to treat or store in tanks, containers, or containment building provided that the changes are made solely to comply with Part 268 (Section 270.72(b)(6)).

Containment buildings are not considered newly regulated units. In the August 18, 1992, Federal Register, EPA simply reclassified existing units, which may have been classified as indoor waste piles or certain miscellaneous units, as containment buildings in order to facilitate treatment of hazardous debris and other wastes. The procedural provisions for newly regulated units are thus not applicable to owners and operators of facilities that want to construct containment buildings. For instance, Sections 270.42(g) and 270.72(a)(6), which allow continued management of hazardous wastes in newly regulated units without prior Agency action, cannot be used to add containment buildings to a facility. Likewise, facilities that do not currently manage hazardous waste and want to begin managing hazardous waste in containment buildings or to construct containment buildings for the management of hazardous waste may not gain interim status. The facility must first obtain a RCRA permit before any construction or waste management activities may begin (57 FR 36241-36242).

Generators also may add containment buildings for accumulating and treating hazardous wastes. Under Section 262.34, generators may accumulate or treat hazardous waste in on-site tanks or containers for up to 90 days without a permit as long as the applicable Part 265, Subpart I (for containers) or Subpart J (for tanks) standards are followed. The August 18, 1992, Federal Register also applied this provision to containment buildings. The units must be in compliance with Part 265, Subpart DD standards, and with certain recordkeeping requirements. (June 1993 Monthly Hotline Report)