This document provides guidance to Ohio EPA, Division of Environmental Response and Revitalization (DERR) Hazardous Waste Program’s inspectors, owners/operators of hazardous waste treatment, storage, and disposal (TSD) facilities and large quantity generators (LQG) of hazardous waste when determining whether the response to an incident involving hazardous waste is considered implementation of the hazardous waste contingency plan, which must be reported to the director of Ohio EPA. In addition, since all permitted TSD facilities in Ohio have conditions included in their permit concerning when a contingency plan must be implemented, Ohio EPA hazardous waste permit writers should consider this guidance when writing, modifying or renewing permits.

What Background Information was Used to Write this Guidance?

Owners and operators of hazardous waste TSD facilities and LQGs are required, by rule, to have a hazardous waste contingency plan for their facility, to implement the plan under certain conditions and to report certain incidents to the director of Ohio EPA.

Ohio Administrative Code (OAC) rules 3745-54-51(A) and 3745-65-51(A) require TSD facility owner/operators to have a contingency plan for each facility. Pursuant to OAC rule 3745-52-34(A)(4), an LQG who accumulates hazardous waste is also required to comply with OAC rule 3745-65-51(A). The two rules, OAC rules 3745-54-51(A) and 3745-65-51(A), contain the same language and state that "the contingency plan shall 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."

OAC rules 3745-54-51(B) and 3745-65-51(B) require TSD facility owners/operators and LQGs to implement the provisions of their contingency plan "immediately whenever there is a fire, explosion or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment." Therefore, the contingency plan must contain response procedures for these types of incidents.

Furthermore, per OAC rule 3745-54-56(J) and 3745-65-56(J), the owner/operator of a TSD facility and an LQG "must note in the operating record the time, date and details of any incident that requires implementing the contingency plan." These rules also state that within 15 days after the incident, the TSD facility owner/operator or LQG must submit a written report regarding the incident to the director of Ohio EPA. The information to be provided in the report is listed in OAC rules 3745-54-56(J) and 3745-65-56(J).
Contingency Plan

What are some Example Scenarios that Demonstrate the Potential to Threaten Human Health and the Environment?

DERR presumes that all of the following scenarios have the potential to threaten human health and the environment. In your contingency plan, you may provide information that the unique nature of the hazardous waste you are managing or the way that you are managing the hazardous waste would not be a threat to human health or the environment in certain emergency situations.

(Note: this list is not inclusive, there may be other scenarios not listed that would be a threat to human health and the environment.)

- Any fire involving hazardous waste;
- Any explosions involving hazardous waste;
- Any uncontrolled hazardous waste reaction that produces or has the potential to produce hazardous conditions, including noxious, poisonous, flammable or explosive gases, fumes or vapors; harmful dust or explosive conditions;
- Any hazardous waste release, outside of a secondary containment system, that causes or has the potential to cause off-site soil and/or surface water contamination; or
- Any hazardous waste release that produces or has a potential to produce hazardous conditions, including noxious, poisonous, flammable or explosive gases, fumes or vapors; harmful dust or explosive conditions.

What are My Reporting Requirements if an Incident Occurs?

If any of the above described incidents or other threatening incident occurs at a TSD facility or LQG; the emergency coordinator is to implement the facility contingency plan. Every time the contingency plan is implemented, details of the incident must be noted in the facility operating record. LQGs who do not maintain operating records should keep a report of the incident in their hazardous waste files.

In addition, within 15 days after an incident that requires implementation of the contingency plan, the TSD facility owner/operator or LQG must submit a written incident report to the director of Ohio EPA. OAC rules 3745-54-56(J) and 3745-65-56(J) contain a list of details that are to be included in the report.

What are Some Examples of Incidents that Require a Contingency Plan to be Implemented and a Report of the Incident Made to the Director of Ohio EPA?

Listed below are examples of different situations which required the implementation of a facility's hazardous waste contingency plan. The inspector should note that the decision whether to implement the contingency plan must be made by the emergency coordinator considering the conditions and situation presented to him at the time of the incident, in accordance with OAC rules 3745-54-51 and 3745-65-51. The inspector should use his best professional judgment, considering the information he can gather from inspecting the facility and this guidance document, to determine if an emergency coordinator should have implemented the facility contingency plan and reported the incident to the director.

- A tanks overfill protection device fails. The tank is accidentally overfilled with an ignitable waste. The waste fills the secondary containment area. The pump used to transfer the waste from the secondary containment area to a tank sparks, creating a fire in the secondary containment area. The emergency coordinator is notified and he immediately implements the facility's contingency plan due to the fire involving hazardous waste.
Contingency Plan

- A hazardous waste is being added to a storage tank. The workers at the tank suddenly become very ill. The emergency coordinator notes that the outside of the hazardous waste storage tank is very hot, so a reaction in the tank is suspected. The emergency coordinator implements the facility's contingency plan.

- Hazardous waste catches on fire in a storage area at a TSD facility. The fire is quickly extinguished by on-site personnel. The contingency plan is implemented because the fire involves hazardous waste.

Is there Certain Documentation that is Optional?
The following information is not required by the regulations. When an incident is NOT a threat to human health and the environment, DERR recommends that documentation of the incident be compiled and maintained by the emergency coordinator. Such documentation can be helpful to the facility owner/operator or LQG during a hazardous waste inspection to substantiate that implementation of the hazardous waste contingency plan was not necessary.

Documentation of a non-threatening incident should include:

- The date, time and place of the incident;
- The name of the emergency coordinator who first responded to the incident;
- A description of the incident and proximity to the hazardous waste management unit;
- Documentation on how the emergency was assessed and reasons why the emergency coordinator felt that the incident was not a threat;
- Material Safety Data Sheets (MSDS), analytical results or pertinent generator/process knowledge of chemical materials involved in the incident; and
- The hazardous waste manifest or other documentation (bill of lading, etc.) to record the type and quantity of wastes or hazardous wastes generated as a result of the incident and the method(s) of disposal.

Contact
For more information, contact the Hazardous Waste Compliance and Inspection Support Unit of the Division of Environmental Response and Revitalization at 614-644-2924.

References


Ohio Administrative Code rules 3745-54-50 through 3745-54-56 and 3745-65-50 through 3745-65-56.

Ohio EPA's Sample Contingency Plan.