

Hazardous Waste Technical Corrections and Clarification Rule

Direct Final Rule
75 FR 123989
[March 18, 2010](#)

What is this Federal Register About?

This is both a direct final rule and a proposed rule. EPA issued a direct final rule because they view this action as noncontroversial and anticipate no adverse comments. If EPA receives no adverse comments on the final rule by May 3, 2010, the revised rules will be effective June 16, 2010. If EPA does receive adverse comments on the rule, they will withdraw the final rule and consider the comments received prior to issuing a final rule. (Note: On [June 4, 2010](#) EPA withdrew several rule changes. The rules affected are highlighted in the table below. A short explanation is provided later in this summary.)

The sections of the hazardous waste rules changed under this rulemaking are listed below. EPA has made these changes to correct typographical errors, incorrect or outdated citations, omissions and to provide clarification. The rules changed include 40 CFR parts:

Subject	Change to				
Hazardous waste general	261.10	261.4	261.5	261.6	
Hazardous waste generators	262.10	262.11	262.23	262.34	262.41
	262.42	262.60			
Hazardous treatment, storage and disposal facilities Hazardous treatment, storage and disposal facilities	264.52 264.552	264.56	264.72	264.314	264.316
Interim status standards for treatment, storage and disposal facilities	265.52	265.56	265.72	265.314	265.316
Standards for specific wastes and specific facilities	266.20	266.22	266.70	266.80	266.101
Changes to Land Disposal Restrictions Treatment Standards or Description	F025	K031	K156	K157	K158
Land disposal Restrictions Universal Treatment Standards	Ethyl ether Bis(2-Ethylhexyl)phthalate		Added to Universal Treatment Standard table		
	Hexachlorothane Hexachloropropylene		Uncertain what change was made		

Listed below are short summaries of the more significant changes EPA made to the hazardous waste rules in this direct final rule.

40 CFR 261.5, a number of changes to 261.5 were made to correct the amount of hazardous waste a generator can produce to be classified as a conditionally exempt small quantity generator. For example, correcting a rule to state “100 kg or less” instead of “less than 100 kg.”

40 CFR 261.6(a)(2)(ii) is revised to make clear that hazardous waste burned for energy recovery or material recovery in boilers or industrial furnaces, that are not regulated under subpart O of 264 or 265, is subject to regulation under 40 CFR part 266.

40 CFR 261.31, the listing for F037 is revised correcting the phrase in the listing description “. . .oil cooling wastewaters” to read “. . .oily cooling wastewaters.”

40 CFR 262.34(a)(2): The change to this rule requires generators to mark their hazardous waste storage tanks with each waste accumulation start date. (Note: EPA withdrew this change – See [June 4, 2010 Federal Register](#))

40 CFR 262.34(c): The rule was revised to make it clear that small quantity generators may also use the satellite accumulation provision.

40 CFR 262.34(a)(5): This is a new paragraph but the provision it contains is not new. EPA moved the long-standing generator closure requirement from 262.34 (a)(4)(B) to this new paragraph to make it clearer that the closure requirements is one of the requirements applicable to large quantity generators accumulating waste on-site.

40 CFR 270.4(a): EPA added a new paragraph to reinstate a sentence that was inadvertently omitted in 1987 from the effect of a permit rule. The new paragraph clarifies that a permit may be modified, revoked and reissued or terminated for cause as set out in 270.41 and 270.43 and, that a permit may be modified at the request of the permittee. Please note, Ohio EPA does not have an equivalent rule to 40 CFR 270.4.

EPA made a number of manifest related changes to the hazardous waste rules. A table summarizing the changes can be found in the *Federal Register*.

EPA withdrawals six of the direct final corrections - [June 4, 2010](#)

EPA stated in that Direct Final rule that if they we received adverse comment on any amendments by May 3, 2010, the affected amendments in the Direct Final rule would not take effect and they would publish a withdrawal in the Federal Register of those specific amendments.

EPA subsequently received adverse comment on four specific amendments:

- 40 CFR 262.34(a) the amendment added language that clarified that paragraph (a) applied to generators of 1000 kg or more of hazardous waste per month;
- 40 CFR 262.34(a)(2) this amendment added the requirement to place accumulation start dates on tanks;
- 40 CFR 262.34(a)(5) this amendment moved the general generator closure requirements to new paragraph (a)(5);
- 40 CFR 266.20(b) this amendment added language that clarified certain land disposal restriction paper work requirements;

Because EPA received adverse comment on these four amendments, they are withdrawing them.

As a result of withdrawing 40 CFR 262.34(a)(5), the related amendment at 40 CFR 262.34(a)(1)(iv)(B) must also be withdrawn because the Agency had deleted the latter part of this particular regulatory citation in the Direct Final rule in an effort to clarify the closure requirements for tanks, containers, drip pads and containment buildings. Also, there was a typographical error related to the entry for EPA hazardous waste No. K107 in the table at 40 CFR 261.32(a). EPA therefore is withdrawing this amendment as well. Thus, EPA is withdrawing six of the original amendments from the March 18, 2010 Direct Final rule.

What does this mean to the regulated community?

These rule changes should not impose additional regulations on the regulated community. They are only intended to correct and clarify the existing hazardous waste rules.

What does this mean to DHWM and/or Ohio EPA?

These rules will not have an impact on Ohio EPA resources. The changes will not increase the hazardous waste universe or number of generators impacted by the hazardous waste rules.

When would the regulatory changes be effective in Ohio?

The rule changes will be effective in Ohio when Ohio EPA adopts them.

These rule changes are considered by U.S. EPA to be neither more nor less stringent than the current standards. Therefore, except for the changes to the manifest rules, since we have an authorized RCRA program, we are not required to adopt the changes. U.S. EPA cannot implement and enforce these rules prior to us adopting and being authorized for the changes.

With regards to the changes to the manifest rules, since Ohio is an authorized state, we

are required to adopt these changes according to 40 CFR 271.4(c). As such, these changes will not be effective in Ohio until adopted by Ohio EPA.

When will Ohio EPA adopt the state version of this rule?

We plan to adopt the changes to the manifest requirements for generators in the summer 2011. We have not yet decided whether to adopt the other rule changes.

Federal Register Notice of Final Direct Rule:

<http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480ac035d>

Withdrawal Notice – June 4, 2010

<http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480afb1>