Environmental Protection Agency

that is available to me and that I can afford.’’
[70 FR 10817, Mar. 4, 2005]

Subpart C—Pre-Transport Requirements

§ 262.30 Packaging.
Before transporting hazardous waste or offering hazardous waste for trans-
portation off-site, a generator must package the waste in accordance with
the applicable Department of Transportation regulations on packaging under
49 CFR parts 173, 178, and 179.

§ 262.31 Labeling.
Before transporting or offering haz-
ardous waste for transportation off-
site, a generator must label each pack-
age in accordance with the applicable
Department of Transportation regulations on hazardous materials under 49
CFR part 172.

§ 262.32 Marking.
(a) Before transporting or offering haz-
ardous waste for transportation off-
site, a generator must mark each pack-
age in accordance with the applicable
Department of Transportation regulations on haz-
ardous materials under 49
CFR part 172.

§ 262.33 Placarding.
Before transporting hazardous waste or offering hazardous waste for trans-
portation off-site, a generator must
placard or offer the initial transporter
the appropriate placards according to
Department of Transportation regulations for hazardous materials under 49
CFR part 172, subpart F.
[70 FR 35037, June 16, 2005]

§ 262.34 Accumulation time.
(a) Except as provided in paragraphs
d, (e), and (f) of this section, a gener-
ator may accumulate hazardous waste on-site for 90 days or less without a
permit or without having interim stat-
us, provided that:
(i) The waste is placed:
(ii) In containers and the generator complies with the applicable require-
ments of subparts I, AA, BB, and CC of 40
CFR part 265; and/or
(iii) On drip pads and the generator complies with subpart W of 40 CFR part
265 and maintains the following records
at the facility:
(A) A description of procedures that
will be followed to ensure that all
wastes are removed from the drip pad
and associated collection system at
least once every 90 days; and
(B) Documentation of each waste re-
moval, including the quantity of waste
removed from the drip pad and the
sump or collection system and the date
and time of removal; and/or
(iv) In containment buildings and the
generator complies with subpart DD of
40 CFR part 265, has placed its profes-
sional engineer certification that the
building complies with the design
standards specified in 40 CFR 265.1101
in the facility’s operating record no
later than 60 days after the date of ini-
tial operation of the unit. After Feb-
ruary 18, 1993, PE certification will be
required prior to operation of the unit.
The owner or operator shall maintain
the following records at the facility:
(A) A written description of procedures to ensure that each waste volume
remains in the unit for no more than 90
days, a written description of the waste
generation and management practices
for the facility showing that they are
consistent with respecting the 90 day
limit, and documentation that the pro-
cedures are complied with; or
(B) Documentation that the unit is emptied at least once every 90 days.

In addition, such a generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for §§265.111 and 265.114.

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, “Hazardous Waste”; and

(4) The generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with §265.16, and with all applicable requirements under 40 CFR part 268.

(b) A generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in §§261.31 or 261.33(e) in a calendar month, who accumulates hazardous waste or acute hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264, 265, and 267 and the permit requirements of 40 CFR part 270 unless he has been granted an extension to the 90-day period. Such extension may be granted by EPA if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.

(c)(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.31 or §261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status provided that:

(i) Complies with §§265.171, 265.172, and 265.173(a) of this chapter; and

(ii) Marks his containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.

(2) A generator who accumulates either hazardous waste or acutely hazardous waste listed in §261.31 or §261.33(e) in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of this section or other applicable provisions of this chapter. During the three day period the generator must continue to comply with paragraphs (c)(1)(i) and (ii) of this section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(d) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that:

(1) The quantity of waste accumulated on-site never exceeds 6000 kilograms;

(2) The generator complies with the requirements of subpart I of part 265 of this chapter, except for §§265.176 and 265.178;

(3) The generator complies with the requirements of §265.201 in subpart J of part 265;

(4) The generator complies with the requirements of paragraphs (a)(2) and (a)(3) of this section, the requirements of subpart C of part 265, with all applicable requirements under 40 CFR part 268; and

(5) The generator complies with the following requirements:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in paragraph (d)(5)(iv) of this section. This employee is the emergency coordinator.

(ii) The generator must post the following information next to the telephone:

(A) The name and telephone number of the emergency coordinator;
(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and
(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;
(B) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil;
(C) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the National Response Center (using their 24-hour toll free number 800/424–8802). The report must include the following information:

(1) The name, address, and U.S. EPA Identification Number of the generator;
(2) Date, time, and type of incident (e.g., spill or fire);
(3) Quantity and type of hazardous waste involved in the incident;
(4) Extent of injuries, if any; and
(5) Estimated quantity and disposition of recovered materials, if any.

developer. A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:

(1) The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants or contaminants entering F006 or otherwise released to the environment prior to its recycling;
(2) The F006 waste is legitimately recycled through metals recovery;
(3) No more than 20,000 kilograms of F006 waste is accumulated on-site at any one time; and
(4) The F006 waste is managed in accordance with the following:

(i) The F006 waste is placed:
(A) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265; and/or
(B) In tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265, except §§265.197(c) and 265.200; and/or
(C) In containment buildings and the generator complies with subpart DD of
§ 262.34  40 CFR Ch. I (7–1–13 Edition)

40 CFR part 265, and has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility’s operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

(i) A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or

(ii) Documentation that the unit is emptied at least once every 180 days.

(iii) In addition, such a generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for §§265.111 and 265.114.

(iv) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(v) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, “Hazardous Waste;” and

(v) The generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with 40 CFR 265.16, and with 40 CFR 268.7(a)(5).

(h) A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more, may accumulate F006 waste on-site for more than 90 days, but not more than 270 days without a permit or interim status if the generator complies with the requirements of paragraphs (g)(1) through (g)(4) of this section.

(i) A generator accumulating F006 in accordance with paragraphs (g) and (h) of this section who accumulates F006 waste on-site for more than 270 days or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more, or who accumulates more than 20,000 kilograms of F006 waste on-site is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264, 265 and 267, and the permit requirements of 40 CFR part 270 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exemption to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by EPA if F006 must remain on-site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exemption to the accumulation limit may be granted at the discretion of the Regional Administrator on a case-by-case basis.

(j) A member of the Performance Track Program who generates 1000 kg or greater of hazardous waste per month (or one kilogram or more of acute hazardous waste) may accumulate hazardous waste on-site without a permit or interim status for an extended period of time, provided that:

(1) The generator accumulates the hazardous waste for no more than 180 days, or for no more than 270 days if the generator must transport the waste (or offer the waste for transport) more than 200 miles from the generating facility; and

(2) The generator first notifies the Regional Administrator and the Director of the authorized State in writing of its intent to begin accumulation of hazardous waste for extended time periods under the provisions of this section. Such advance notice must include:

(i) Name and EPA ID number of the facility, and specification of when the facility will begin accumulation of hazardous wastes for extended periods of time in accordance with this section; and

(ii) A description of the types of hazardous wastes that will be accumulated for extended periods of time, and the units that will be used for such extended accumulation; and
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(iii) A Statement that the facility has made all changes to its operations, procedures, including emergency preparedness procedures, and equipment, including equipment needed for emergency preparedness, that will be necessary to accommodate extended time periods for accumulating hazardous wastes; and

(iv) If the generator intends to accumulate hazardous wastes on-site for up to 270 days, a certification that a facility that is permitted (or operating under interim status) under part 270 of this chapter to receive these wastes is not available within 200 miles of the generating facility; and

(3) The waste is managed in:

(i) Containers, in accordance with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265 and 40 CFR 264.175; or

(ii) Tanks, in accordance with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265, except for §§265.197(c) and 265.200; or

(iii) Drip pads, in accordance with subpart W of 40 CFR part 265; or

(iv) Containment buildings, in accordance with subpart DD of 40 CFR part 265; and

(4) The quantity of hazardous waste that is accumulated for extended time periods at the facility does not exceed 30,000 kg; and

(5) The generator maintains the following records at the facility for each unit used for extended accumulation times:

(i) A written description of procedures to ensure that each waste volume remains in the unit for no more than 180 days (or 270 days, as applicable), a description of the waste generation and management practices at the facility showing that they are consistent with the extended accumulation time limit, and documentation that the procedures are complied with; or

(ii) Documentation that the unit is emptied at least once every 180 days (or 270 days, if applicable); and

(6) Each container or tank that is used for extended accumulation time periods is labeled or marked clearly with the words “Hazardous Waste,” and for each container the date upon which each period of accumulation begins is clearly marked and visible for inspection; and

(7) The generator complies with the requirements for owners and operators in 40 CFR part 265, with §265.16, and with §265.7(a)(5). In addition, such a generator is exempt from all the requirements in subparts G and H of part 265, except for §§265.111 and 265.114; and

(8) The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants released to the environment prior to its recycling, treatment, or disposal; and

(9) The generator includes the following with its Performance Track Annual Performance Report, which must be submitted to the Regional Administrator and the Director of the authorized state:

(i) Information on the total quantity of each hazardous waste generated at the facility that has been managed in the previous year according to extended accumulation time periods; and

(ii) Information for the previous year on the number of off-site shipments of hazardous wastes generated at the facility, the types and locations of destination facilities, how the wastes were managed at the destination facilities (e.g., recycling, treatment, storage, or disposal), and what changes in on-site or off-site waste management practices have occurred as a result of extended accumulation times or other pollution prevention provisions of this section; and

(iii) Information for the previous year on any hazardous waste spills or accidents occurring at extended accumulation units at the facility, or during off-site transport of accumulated wastes; and

(iv) If the generator intends to accumulate hazardous wastes on-site for up to 270 days, a certification that a facility that is permitted (or operating under interim status) under part 270 of this chapter to receive these wastes is not available within 200 miles of the generating facility; and

(k) If hazardous wastes must remain on-site at a Performance Track member facility for longer than 180 days (or 270 days, if applicable) due to
unforeseen, temporary, and uncontrol-
lable circumstances, an extension to
the extended accumulation time period
of up to 30 days may be granted at the
discretion of the Regional Adminis-
trator on a case-by-case basis.

(1) If a generator who is a member of
the Performance Track Program with-
draws from the Performance Track
Program, or if the Regional Adminis-
trator terminates a generator’s mem-
bership, the generator must return to
compliance with all otherwise applica-
ble hazardous waste regulations as
soon as possible, but no later than six
months after the date of withdrawal or
termination.

(m) A generator who sends a ship-
ment of hazardous waste to a des-
ignated facility with the understanding
that the designated facility can accept
and manage the waste and later re-
ceives that shipment back as a rejected
load or residue in accordance with the
manifest discrepancy provisions of
§264.72 or §265.72 of this chapter may
accumulate the returned waste on-site
in accordance with paragraphs (a) and
(b) or (d), (e) and (f) of this section, de-
pending on the amount of hazardous
waste on-site in that calendar month.
Upon receipt of the returned shipment,
the generator must:

(1) Sign Item 18c of the manifest, if
the transporter returned the shipment
using the original manifest; or
(2) Sign Item 20 of the manifest, if
the transporter returned the shipment
using a new manifest.

[47 FR 1251, Jan. 11, 1982]

EDITORIAL NOTE: For Federal Register ci-
tations affecting §262.34, see the List of CFR
Sections Affected, which appears in the
Finding Aids section of the printed volume
and at www.fdsys.gov.

Subpart D—Recordkeeping and
Reporting

§262.40 Recordkeeping.

(a) A generator must keep a copy of
each manifest signed in accordance with
§262.23(a) for three years or until
he receives a signed copy from the des-
ignated facility which received the
waste. This signed copy must be re-
tained as a record for at least three
years from the date the waste was ac-
cepted by the initial transporter.

(b) A generator must keep a copy of
each Biennial Report and Exception
Report for a period of at least three
years from the due date of the report.

(c) A generator must keep records of
any test results, waste analyses, or
other determinations made in accord-
ance with §262.11 for at least three
years from the date that the waste was
last sent to on-site or off-site treat-
ment, storage, or disposal.

(d) The periods or retention referred
to in this section are extended auto-
matically during the course of any un-
resolved enforcement action regarding
the regulated activity or as requested
by the Administrator.

[45 FR 33142, May 19, 1980, as amended at 48
FR 3981, Jan. 28, 1983]

§262.41 Biennial report.

(a) A generator who ships any haz-
ardous waste off-site to a treatment,
storage or disposal facility within the
United States must prepare and submit
a single copy of a Biennial Report to
the Regional Administrator by March 1
of each even numbered year. The Bien-
nial Report must be submitted on EPA
Form 8700–13A, must cover generator
activities during the previous year, and
must include the following informa-
tion:

(1) The EPA identification number,
name, and address of the generator;

(2) The calendar year covered by the
report;

(3) The EPA identification number,
name, and address for each off-site
treatment, storage, or disposal facility
in the United States to which waste
was shipped during the year;

(4) The name and EPA identification
number of each transporter used during
the reporting year for shipments to a
treatment, storage or disposal facility
within the United States;

(5) A description, EPA hazardous
waste number (from 40 CFR part 261,
subpart C or D), DOT hazard class, and
quantity of each hazardous waste
shipped off-site for shipments to a
treatment, storage or disposal facility
within the United States. This infor-
mation must be listed by EPA identi-
fication number of each such off-site
facility to which waste was shipped.

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