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(ii) An owner or operator shall demonstrate the performance of each flare in accordance with the requirements specified in § 265.1033(e).

(iii) For a performance test conducted to meet the requirements of paragraph (c)(5)(i) of this section, the owner or operator shall use the test methods and procedures specified in § 265.1034(c)(1) through (c)(4).

(iv) For a design analysis conducted to meet the requirements of paragraph (c)(5)(i) of this section, the design analysis shall meet the requirements specified in § 265.1035(b)(4)(iii).

(v) The owner or operator shall demonstrate that a carbon adsorption system achieves the performance requirements of paragraph (c)(1) of this section based on the total quantity of organics vented to the atmosphere from all carbon adsorption system equipment that is used for organic adsorption, organic desorption or carbon regeneration, organic recovery, and carbon disposal.

(6) If the owner or operator and the Regional Administrator do not agree on a demonstration of control device performance using a design analysis then the disagreement shall be resolved using the results of a performance test performed by the owner or operator in accordance with the requirements of paragraph (c)(5)(iii) of this section. The Regional Administrator may choose to have an authorized representative observe the performance test.

(7) The closed-vent system and control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in 40 CFR 265.1033(f)(2) and 40 CFR 265.1033(k). The readings from each monitoring device required by 40 CFR 265.1033(f)(2) shall be inspected at least once each operating day to check control device operation. Any necessary corrective measures shall be immediately implemented to ensure the control device is operated in compliance with the requirements of this section.

[59 FR 62935, Dec. 6, 1994, as amended at 61 FR 4915, Feb. 9, 1996; 61 FR 59989, Nov. 25, 1996; 62 FR 64667, Dec. 8, 1997]

§ 265.1089 Inspection and monitoring requirements.

(a) The owner or operator shall inspect and monitor air emission control equipment used to comply with this subpart in accordance with the applicable requirements specified in § 265.1085 through § 265.1088 of this subpart.

(b) The owner or operator shall develop and implement a written plan and schedule to perform the inspections and monitoring required by paragraph (a) of this section. The owner or operator shall incorporate this plan and schedule into the facility inspection plan required under 40 CFR 265.15.

[61 FR 59990, Nov. 25, 1996]

§ 265.1090 Recordkeeping requirements.

(a) Each owner or operator of a facility subject to requirements in this subpart shall record and maintain the information specified in paragraphs (b) through (j) of this section, as applicable to the facility. Except for air emission control equipment design documentation and information required by paragraphs (i) and (j) of this section, records required by this section shall be maintained in the operating record for a minimum of 3 years. Air emission control equipment design documentation shall be maintained in the operating record until the air emission control equipment is replaced or otherwise no longer in service. Information required by paragraphs (i) and (j) of this section shall be maintained in the operating record for as long as the waste management unit is not using air emission controls specified in §§ 265.1085 through 265.1088 of this subpart in accordance with the conditions specified in § 265.1080(d) or § 265.1080(b)(7) of this subpart, respectively.

(b) The owner or operator of a tank using air emission controls in accordance with the requirements of § 265.1085 of this subpart shall prepare and maintain records for the tank that include the following information:

(1) For each tank using air emission controls in accordance with the requirements of § 265.1085 of this subpart, the owner or operator shall record:

(i) A tank identification number (or other unique identification description as selected by the owner or operator).

(ii) A record for each inspection required by § 265.1085 of this subpart that includes the following information:

(A) Date inspection was conducted.

(B) For each defect detected during the inspection: The location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of § 265.1085 of this subpart, the owner or operator shall also record the reason for the delay and the date that completion of repair of the defect is expected.

(2) In addition to the information required by paragraph (b)(1) of this section, the owner or operator shall record the following information, as applicable to the tank:

(i) The owner or operator using a fixed roof to comply with the Tank Level 1 control requirements specified in § 265.1085(c) of this subpart shall prepare and maintain records for each determination for the maximum organic vapor pressure of the hazardous waste in the tank performed in accordance with the requirements of § 265.1085(c) of this subpart. The records shall include the date and time the samples were collected, the analysis method used, and the analysis results.

(ii) The owner or operator using an internal floating roof to comply with the Tank Level 2 control requirements specified in § 265.1085(e) of this subpart shall prepare and maintain documentation describing the floating roof design.

(iii) Owners and operators using an external floating roof to comply with the Tank Level 2 control requirements specified in § 265.1085(f) of this subpart shall prepare and maintain the following records:

(A) Documentation describing the floating roof design and the dimensions of the tank.

(B) Records for each seal gap inspection required by § 265.1085(f)(3) of this subpart describing the results of the seal gap measurements. The records shall include the date that the measurements were performed, the raw data obtained for the measurements, and the calculations of the total gap sur-

face area. In the event that the seal gap measurements do not conform to the specifications in § 265.1085(f)(1) of this subpart, the records shall include a description of the repairs that were made, the date the repairs were made, and the date the tank was emptied, if necessary.

(iv) Each owner or operator using an enclosure to comply with the Tank Level 2 control requirements specified in § 265.1085(i) of this subpart shall prepare and maintain the following records:

(A) Records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” under 40 CFR 52.741, appendix B.

(B) Records required for the closed-vent system and control device in accordance with the requirements of paragraph (e) of this section.

(c) The owner or operator of a surface impoundment using air emission controls in accordance with the requirements of § 265.1086 of this subpart shall prepare and maintain records for the surface impoundment that include the following information:

(1) A surface impoundment identification number (or other unique identification description as selected by the owner or operator).

(2) Documentation describing the floating membrane cover or cover design, as applicable to the surface impoundment, that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in § 265.1086(c) of this subpart.

(3) A record for each inspection required by § 265.1086 of this subpart that includes the following information:

(i) Date inspection was conducted.

(ii) For each defect detected during the inspection the following information: The location of the defect, a description of the defect, the date of detection, and corrective action taken to

repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of § 265.1086(f) of this subpart, the owner or operator shall also record the reason for the delay and the date that completion of repair of the defect is expected.

(4) For a surface impoundment equipped with a cover and vented through a closed-vent system to a control device, the owner or operator shall prepare and maintain the records specified in paragraph (e) of this section.

(d) The owner or operator of containers using Container Level 3 air emission controls in accordance with the requirements of § 265.1087 of this subpart shall prepare and maintain records that include the following information:

(1) Records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure" under 40 CFR 52.741, appendix B.

(2) Records required for the closed-vent system and control device in accordance with the requirements of paragraph (e) of this section.

(e) The owner or operator using a closed-vent system and control device in accordance with the requirements of § 265.1088 of this subpart shall prepare and maintain records that include the following information:

(1) Documentation for the closed-vent system and control device that includes:

(i) Certification that is signed and dated by the owner or operator stating that the control device is designed to operate at the performance level documented by a design analysis as specified in paragraph (e)(1)(ii) of this section or by performance tests as specified in paragraph (e)(1)(iii) of this section when the tank, surface impoundment, or container is or would be operating at capacity or the highest level reasonably expected to occur.

(ii) If a design analysis is used, then design documentation as specified in 40 CFR 265.1035(b)(4). The documentation shall include information prepared by the owner or operator or provided by

the control device manufacturer or vendor that describes the control device design in accordance with 40 CFR 265.1035(b)(4)(iii) and certification by the owner or operator that the control equipment meets the applicable specifications.

(iii) If performance tests are used, then a performance test plan as specified in 40 CFR 265.1035(b)(3) and all test results.

(iv) Information as required by 40 CFR 265.1035(c)(1) and 40 CFR 265.1035(c)(2), as applicable.

(v) An owner or operator shall record, on a semiannual basis, the information specified in paragraphs (e)(1)(v)(A) and (e)(1)(v)(B) of this section for those planned routine maintenance operations that would require the control device not to meet the requirements of § 265.1088 (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this subpart, as applicable.

(A) A description of the planned routine maintenance that is anticipated to be performed for the control device during the next 6-month period. This description shall include the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods.

(B) A description of the planned routine maintenance that was performed for the control device during the previous 6-month period. This description shall include the type of maintenance performed and the total number of hours during those 6 months that the control device did not meet the requirements of § 265.1088 (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this subpart, as applicable, due to planned routine maintenance.

(vi) An owner or operator shall record the information specified in paragraphs (e)(1)(vi)(A) through (e)(1)(vi)(C) of this section for those unexpected control device system malfunctions that would require the control device not to meet the requirements of § 265.1088 (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this subpart, as applicable.

(A) The occurrence and duration of each malfunction of the control device system.

(B) The duration of each period during a malfunction when gases, vapors, or fumes are vented from the waste management unit through the closed-

vent system to the control device while the control device is not properly functioning.

(C) Actions taken during periods of malfunction to restore a malfunctioning control device to its normal or usual manner of operation.

(vii) Records of the management of carbon removed from a carbon adsorption system conducted in accordance with § 265.1088(c)(3)(ii) of this subpart.

(f) The owner or operator of a tank, surface impoundment, or container exempted from standards in accordance with the provisions of § 265.1083(c) of this subpart shall prepare and maintain the following records, as applicable:

(1) For tanks, surface impoundments, or containers exempted under the hazardous waste organic concentration conditions specified in § 265.1083(c)(1) or § 265.1083(c)(2)(i) through (c)(2)(vi) of this subpart, the owner or operator shall record the information used for each waste determination (e.g., test results, measurements, calculations, and other documentation) in the facility operating log. If analysis results for waste samples are used for the waste determination, then the owner or operator shall record the date, time, and location that each waste sample is collected in accordance with applicable requirements of § 265.1084 of this subpart.

(2) For tanks, surface impoundments, or containers exempted under the provisions of § 265.1083(c)(2)(vii) or § 265.1083(c)(2)(viii) of this subpart, the owner or operator shall record the identification number for the incinerator, boiler, or industrial furnace in which the hazardous waste is treated.

(g) An owner or operator designating a cover as "unsafe to inspect and monitor" pursuant to § 265.1085(l) or § 265.1086(g) of this subpart shall record in a log that is kept in the facility operating record the following information: The identification numbers for waste management units with covers that are designated as "unsafe to inspect and monitor," the explanation for each cover stating why the cover is unsafe to inspect and monitor, and the plan and schedule for inspecting and monitoring each cover.

(h) The owner or operator of a facility that is subject to this subpart and to the control device standards in 40 CFR part 60, subpart VV, or 40 CFR part 61, subpart V, may elect to demonstrate compliance with the applicable sections of this subpart by documentation either pursuant to this subpart, or pursuant to the provisions of 40 CFR part 60, subpart VV or 40 CFR part 61, subpart V, to the extent that the documentation required by 40 CFR parts 60 or 61 duplicates the documentation required by this section.

(i) For each tank or container not using air emission controls specified in §§ 265.1085 through 265.1088 of this subpart in accordance with the conditions specified in § 265.1080(d) of this subpart, the owner or operator shall record and maintain the following information:

(1) A list of the individual organic peroxide compounds manufactured at the facility that meet the conditions specified in § 265.1080(d)(1).

(2) A description of how the hazardous waste containing the organic peroxide compounds identified in paragraph (i)(1) of this section are managed at the facility in tanks and containers. This description shall include the following information:

(i) For the tanks used at the facility to manage this hazardous waste, sufficient information shall be provided to describe for each tank: A facility identification number for the tank; the purpose and placement of this tank in the management train of this hazardous waste; and the procedures used to ultimately dispose of the hazardous waste managed in the tanks.

(ii) For containers used at the facility to manage these hazardous wastes, sufficient information shall be provided to describe: A facility identification number for the container or group of containers; the purpose and placement of this container, or group of containers, in the management train of this hazardous waste; and the procedures used to ultimately dispose of the hazardous waste handled in the containers.

(3) An explanation of why managing the hazardous waste containing the organic peroxide compounds identified in paragraph (i)(1) of this section in the tanks and containers as described in

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paragraph (i)(2) of this section would create an undue safety hazard if the air emission controls, as required under §§ 265.1085 through 265.1088 of this subpart, are installed and operated on these waste management units. This explanation shall include the following information:

(i) For tanks used at the facility to manage these hazardous wastes, sufficient information shall be provided to explain: How use of the required air emission controls on the tanks would affect the tank design features and facility operating procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the tanks; and why installation of safety devices on the required air emission controls, as allowed under this subpart, will not address those situations in which evacuation of tanks equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.

(ii) For containers used at the facility to manage these hazardous wastes, sufficient information shall be provided to explain: How use of the required air emission controls on the containers would affect the container design features and handling procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the containers; and why installation of safety devices on the required air emission controls, as allowed under this subpart, will not address those situations in which evacuation of containers equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.

(j) For each hazardous waste management unit not using air emission controls specified in §§ 265.1085 through 265.1088 of this subpart in accordance with the provisions of § 265.1080(b)(7) of this subpart, the owner and operator shall record and maintain the following information:

(1) Certification that the waste management unit is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified

under 40 CFR part 60, part 61, or part 63.

(2) Identification of the specific requirements codified under 40 CFR part 60, part 61, or part 63 with which the waste management unit is in compliance.

[61 FR 59990, Nov. 25, 1996, as amended at 62 FR 64667, Dec. 8, 1997; 71 FR 40276, July 14, 2006]

§ 265.1091 [Reserved]

Subpart DD—Containment Buildings

SOURCE: 57 FR 37268, Aug. 18, 1992, unless otherwise noted.

§ 265.1100 Applicability.

The requirements of this subpart apply to owners or operators who store or treat hazardous waste in units designed and operated under § 265.1101 of this subpart. The owner or operator is not subject to the definition of land disposal in RCRA section 3004(k) provided that the unit:

(a) Is a completely enclosed, self-supporting structure that is designed and constructed of manmade materials of sufficient strength and thickness to support themselves, the waste contents, and any personnel and heavy equipment that operate within the units, and to prevent failure due to pressure gradients, settlement, compression, or uplift, physical contact with the hazardous wastes to which they are exposed; climatic conditions; and the stresses of daily operation, including the movement of heavy equipment within the unit and contact of such equipment with containment walls;

(b) Has a primary barrier that is designed to be sufficiently durable to withstand the movement of personnel and handling equipment within the unit;

(c) If the unit is used to manage liquids, has:

(1) A primary barrier designed and constructed of materials to prevent migration of hazardous constituents into the barrier;

(2) A liquid collection system designed and constructed of materials to