

Mary Ann Chance



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FR November 17, 1980, "Hazardous Waste Management System, General and Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities and

EPA Administered Permit Programs: The Hazardous Waste Permit Program" Final amendments to rule.

"Standards for the Management of Specific Wastes and Specific Types of Facilities and EPA Administered Permit Programs: The Hazardous Waste Permit Program" Proposed amendments to rule and request for comments.

re: Elementary Neutralization Units and Wastewater treatment Units.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR PARTS 260, 264, 265 AND 122

(W/ - FRL - 1670.3)

Hazardous Waste Management System; General
and

Standards Applicable to Owners and Operators of
Hazardous Waste Treatment, Storage, and Disposal Facilities
and

EPA Administered Permit Programs:

The Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Final amendments to rule.

SUMMARY: EPA is today promulgating amendments that suspend the applicability of the requirements of Parts 122, 264 and 265 of this Chapter to owners and operators of (1) wastewater treatment tanks that receive, store, and treat wastewaters that are hazardous waste or that generate, store or treat a wastewater treatment sludge which is a hazardous waste where such wastewaters are subject to regulation under Sections 402 or 307(b) of the Clean Water Act (33 U.S.C. 1251 et seq.) and (2) neutralization tanks, transport vehicles, vessels, or containers which neutralize wastes which are hazardous only because they exhibit the corrosivity characteristic under §261.22 of this Chapter or are listed as hazardous wastes in Subpart D of Part 261 of this Chapter only for this reason. Nov 14 8 45 AM '81 Concurrently, under separate action, EPA is

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proposing amendments to Parts 122, 260, 264, 265 and 266, to establish special standards and permits requirements for these owners and operators. The Agency intends to continue the suspension created by this action until special standards and permit requirements for these owners and operators are promulgated in final form.

This suspension is being enacted in order to relieve owners and operators of wastewater treatment and elementary neutralization units from having to comply with requirements which the proposed amendments are designed to modify.

EFFECTIVE DATE: November 19, 1980.

FOR FURTHER INFORMATION CONTACT: Alfred W. Lindsey, Office of Solid Waste, [WH-565], U.S. Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C. 20460, (202) 755-9185.

SUPPLEMENTARY INFORMATION:

I. Reason and Basis for Suspension

On May 19, 1980, EPA promulgated Hazardous Waste Management and Consolidated Permit Regulations (45 FR 33066) under the Resource Conservation and Recovery Act. These regulations, among other things, require owners and operators of facilities who treat or store hazardous wastes to apply for and obtain a RCRA permit (see §122.22) and require existing facilities which have qualified for interim status (see §122.23), to comply with the interim status standards of Part 265. Under these regulations, owners and operators of wastewater treatment facilities that are subject to regulation under the Clean Water Act are required to comply with these RCRA treatment and storage requirements where they treat an influent wastewater that is a hazardous waste or generate

and store or treat a wastewater treatment sludge which is a hazardous waste. In addition, owners and operators of facilities that neutralize waste that is hazardous solely by virtue of its corrosivity are subject to these treatment and storage requirements.

Many persons have questioned the necessity of regulating these wastewater treatment and neutralization facilities under RCRA. In response to these comments, EPA is today proposing, in a separate action, special standards and permit requirements for wastewater treatment and elementary neutralization units. As is more fully detailed in the preamble to this proposal (See FR), the proposed amendments will award owners and operators of these wastewater treatment and neutralization units a permit-by-rule if they comply with certain specified special standards, unless the Regional Administrator terminates eligibility for a permit-by-rule. Accordingly, under this proposal, owners and operators of these wastewater treatment and neutralization units will not have to apply for and obtain individual RCRA permits under Part 122 for these units or comply with the interim status standards of Part 265 applicable to these units.

Unfortunately, the amendments being proposed today cannot be finalized and take effect before November 19, 1980, the date on which the interim status standards and permit requirements of the current regulations take effect. Therefore, unless they are granted a temporary exclusion from regulation, owners and operators of the wastewater treatment and elementary neutralization units covered by the proposed amendments will have to comply, beginning

on November 19, 1980, with requirements that the proposed amendments are designed to modify. Among other things, they will have to develop and submit Part A, of the RCRA permit applications and comply with the interim status standards if they have achieved interim status. In addition, owners and operators of new facilities will have to develop and submit Part A and B, of the RCRA permit application and obtain a RCRA permit before constructing such facilities. The Agency believes that little practical value, and certain unnecessary disruption, will be achieved by causing owners and operators of these facilities to comply with the current requirements, pending final action on the proposed amendments. Indeed, requiring compliance with the current requirements could, to some extent, frustrate the purpose of awarding these owners and operators a permit-by-rule. Consequently, the Agency is today suspending the current regulations insofar as they apply to the wastewater treatment and elementary neutralization facilities covered by today's proposed amendments. The Agency does not believe this suspension will significantly reduce protection of human health and the environment. The duration of the suspension is expected to be short and most of the wastewater treatment and elementary neutralization units affected by the action currently are believed to be complying with the special standards proposed for these units.

II. Amendments

To achieve the above described suspension of current regulations the Agency is today promulgating the following

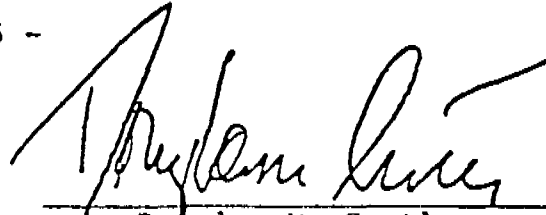
final amendments:

- (1) Section 122.21 (d)(2) is being amended to add owners and operators of wastewater treatment and elementary neutralization units to the list of persons not required to obtain a RCRA permit.
- (2) Sections 264.1 (g) and 265.1 (c) are being amended to add owners or operators of these units to the list of owners or operators to which the requirements of Parts 264 and 265 do not apply.
- (3) The definitions of §§260.10 and 122.3 are being amended by adding definitions for "wastewater treatment unit" and "elementary neutralization unit." These are the same definitions used in the associated amendments being proposed today.

These amendments are being promulgated with an effective date of November 19, 1980. Section 3010 (b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this statutory requirement is to allow persons affected by the regulations sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments being promulgated in this action, the Agency believes that an effective date six months after promulgation would defeat the purposes of these amendments. Consequently, the Agency is making these amendments effective on November 19, 1980.

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Date: NOV 10 1980


Douglas M. Costle
Administrator

Title 40 of the Code of Federal Regulations is amended as follows:

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1. Add the following definitions to §260.10 (a)

(15A) "Elementary neutralization unit" means a device which:

i (A) Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in §261.22 of this Chapter, or are listed in Subpart D of Part 261 of this Chapter only for this reason; and,

ii (B) Meets the definition of tank, container, transport vehicle, or vessel in §260.10 of this Chapter.

(76A) "Wastewater treatment unit" means a device which:

i (A) Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and

ii (B) Receives and treats or stores an influent

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wastewater which is a hazardous waste as defined in §261.3 of this Chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in §261.3 of this Chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in §261.3 of this Chapter; and

- (ii) (3) Meets the definition of tank in §260.10 of this Chapter.

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2. Add the following paragraph to §264.1(g):

(6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in §260.10 of this Chapter.

3. Add the following paragraph to §265.1(c):

(10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in §260.10 of this Chapter.

4. Add the following definitions to §122.3.

"Elementary neutralization unit" means a device which:

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- (i) (7) Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in

§261.22 of this Chapter, or are listed in Subpart D of Part 261 of this Chapter only for this reason; and,

- b (7) Meets the definition of tank, container, transport vehicle, or vessel in §260.10 of this Chapter.

"Wastewater treatment unit" means a device which:

- a (A) Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and
- b (B) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in §261.3 of this Chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in §261.3 of this Chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in §261.3 of this Chapter; and
- c (C) Meets the definition of tank in §260.10 of this Chapter.

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5. Add the following paragraph to §122.21(d)(2):

(vi) Owners and operators of elementary neutralization units or wastewater treatment units as defined in 40 CFR §260.10.

Authority: Secs. 1006, 2002(a), 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924 and 6925).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR PARTS 260, 264, 265, 266 and 122

(WH-FRL - 1670-4)

Hazardous Waste Management System; General

and

Standards Applicable to Owners and Operators of
Hazardous Waste Treatment, Storage, and Disposal Facilities

and

Standards for the Management of Specific Wastes

and Specific Types of Facilities

and

EPA Administered Permit Programs:

The Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency

ACTION: Proposed amendments to rule and request for comments.

SUMMARY: EPA is today proposing, in Part 266 of this Chapter, special standards applicable to owners and operators of (1) wastewater treatment tanks that receive, store, or treat wastewaters that are hazardous waste or that generate, store, or treat wastewater treatment sludges that are hazardous wastes where such wastewaters are subject to regulation under Sections 402 or 307(b) of the Clean Water Act (33 U.S.C. 1251 et seq.) and (2) neutralization tanks, containers, transport vehicles and vessels which neutralize wastes which are hazardous only because they exhibit the corrosivity characteristic under § 261.22 of this Chapter or are listed as hazardous wastes in Subpart D of Part 261 of this Chapter only

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for this reason. EPA also is proposing amendments to enable owners and operators of the above described units to have a permit-by-rule if they comply with the proposed requirements, unless the Regional Administrator terminates eligibility for such permit-by-rule and requires an individual permit. Finally, the Agency is proposing amendments to add new definitions for "elementary neutralization unit" and "wastewater treatment unit."

EPA is proposing these amendments because it believes that wastewater treatment and elementary neutralization units can be effectively regulated under a permit-by-rule approach and because it believes that such an approach offers benefits for both EPA and the regulated community.

DATES: EPA will accept public comments on the proposed amendments until [60 days after date of publication]. Any person may request a hearing on the proposed amendments by filing a request with John P. Lehman, whose address appears below, by [21 days after date of publication]. The request must contain the information prescribed in §260.20(d) of this Chapter

ADDRESSES: Comments on the proposed amendments should be sent to the Docket Clerk, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Requests for hearing should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste, [WH-565], U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should reference Docket No. 3004.

The public docket for this rulemaking is available at: Room 2711B, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays. FOR FURTHER INFORMATION CONTACT: Alfred W. Lindsey, Office of Solid Waste, [WH-565], U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9185.

SUPPLEMENTARY INFORMATION:

I. Reason and Basis for Proposed Amendments

On May 19, 1980, EPA promulgated Hazardous Waste Management and Consolidated Permit Regulations (45 FR 33066) under the Resource Conservation and Recovery Act of 1976, as amended (RCRA). These regulations, among other things, require owners and operators of facilities who treat or store hazardous wastes to apply for and obtain a RCRA permit (see §122.22). They also require existing facilities which have qualified for interim status (see §122.23) to comply with the interim status standards

of Part 265. Owners and operators of wastewater treatment units subject to regulation under the National Pollution Discharge Elimination System (NPDES) or the pretreatment provisions of the Clean Water Act (Sections 402 and 307(b), respectively) are required to comply with these RCRA requirements where they treat an influent wastewater which is a hazardous waste or generate, store or treat a hazardous wastewater treatment sludge. Owners and operators of facilities that neutralize corrosive hazardous wastes are also required to comply with these RCRA requirements.

Many persons have questioned the necessity of regulating these facilities under RCRA. With respect to facilities that treat a hazardous wastewater influent or generate, treat or store a hazardous wastewater treatment sludge, these commenters claim that regulation under the Clean Water Act is sufficient and need not be duplicated or augmented by regulation under RCRA. They also contend that these facilities are typically designed and operated to prevent unregulated releases of hazardous wastes into the environment and therefore do not warrant RCRA regulation. Finally, they point out that application of RCRA regulation to wastewater pretreatment units will significantly delay implementation of EPA's pretreatment program. They note that most pretreatment facilities will be required to begin operation in the next several years and that

many of these facilities will treat a hazardous waste influent or generate, treat or store hazardous waste sludges and therefore will require new RCRA permits. These commenters claim that EPA and the States do not have sufficient resources to issue the 25,000 to 50,000 permits required by owners and operators of these facilities in a timely manner and that this will result in substantial delays in the construction of these facilities.

In the case of neutralization units that treat only corrosive hazardous wastes, other commenters have contended that the applicable RCRA regulatory requirements are more extensive and stringent than necessary to deal with the potential hazards posed by these facilities and the wastes they treat.

EPA has carefully considered these comments and has re-examined its regulations in light of these comments. It has concluded that these facilities pose distinct hazards which require regulation under RCRA. At the same time, it believes that the May 19 regulations can be simplified with respect to these facilities without reducing the human health and environmental protection provided by these regulations.

The Agency believes that wastewater treatment facilities that treat hazardous waste influents or generate, treat or store hazardous waste sludges do pose a potential hazard to

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human health or the environment. Hazardous wastes or constituents thereof may leak or spill from these facilities unless they are properly designed and constructed and are periodically inspected to prevent such occurrences. Persons or livestock may injure themselves if entry into these facilities is not controlled. These facilities may generate toxic mists, fumes, gases, extreme heat or pressure, or cause a fire, explosion or violent reaction if improperly operated. Additionally, hazardous wastes left in these facilities may cause harm if not removed when the facilities are closed.

The Agency believes that these potential hazards should be regulated under RCRA because they are not and cannot be fully regulated under the Clean Water Act. The regulatory controls imposed on wastewater treatment facilities under the NPDES and pretreatment programs of the Clean Water Act focus on control of effluent discharges into surface waters or Publically Owned Treatment Works (POTW) -- not on potential environmental releases of hazardous waste to the land, groundwater, or atmosphere. Although regulation of spills and non-point source releases of wastes or pollutants from these facilities into the environment is available and, to some extent, applied under Section 304(e) and 311 of the Clean Water Act, these controls are essentially limited to prevention of pollutant discharges into surface water and cannot be used to control pollutant

discharges into other parts of the environment.

For these reasons, the Agency has concluded that RCRA regulation of wastewater treatment facilities that treat a hazardous waste influent or generate, treat or store a hazardous wastewater treatment sludge is necessary and justified. At the same time, the Agency is persuaded that RCRA regulation of the potential hazards posed by wastewater treatment units can be accomplished through application of a limited set of special requirements applied through a permit-by-rule. These requirements, which are described below, can be adequately defined in a national regulation and sufficiently understood and implemented by the regulated community so as to avoid the necessity of individually-issued RCRA permits. The Agency is convinced that, without sacrificing environmental protection, this permit-by-rule approach will save the regulated community significant costs in applying for individual RCRA permits and will save EPA (and the States, if they adopt this approach) significant resources in issuing individual RCRA permits. The Agency recognizes that it (and the States) will have limited resources to implement and enforce its RCRA regulations. Consequently, it is anxious to avoid unnecessary resource demands so that its resources can be applied to the highest priority implementation and enforcement activities.

Under the above-described approach, eligible wastewater treatment units would be deemed to have a RCRA permit if they comply with the special requirements established in the regulations.

To implement this approach, the Agency is today proposing amendments to the regulations that (1) establish special requirements for wastewater treatment units in Subpart B of Part 266, a new part under this Chapter, and (2) amend §122.26, 264.1(g) and 265.1(c) to grant owners and operators of these units a permit-by-rule.

The Agency believes that this approach is appropriate for hazardous wastes that are managed or generated in wastewater treatment units (e.g., clarifiers, aeration tanks, and grit chambers). By definition (see §260.10), these units are stationary devices designed to contain waste and constructed primarily of non-earthen materials such as concrete or steel. Because the permit-by-rule approach is confined to such units, the Agency concludes that the special requirements which it proposes to delineate in Part 266 are sufficient to serve the purposes of RCRA regulation. The Agency does not believe that this permit-by-rule approach should be extended to surface impoundments that also may be part of wastewater treatment facilities that treat or store hazardous wastes. The requirements that need to be applied to surface impoundments depend on site-specific and waste-specific factors which cannot be adequately delineated in a national regulation; such requirements are better determined on a case-by-case basis in the development and issuance

of individual permits. For example, in determining whether a surface impoundment needs a liner to prevent releases (leaching) of hazardous wastes into groundwater, the Agency must take into account such site-specific factors as the type and character of the geologic materials underlying the site, the character of the groundwater underlying the site and the compatibility of the liner material with the hazardous waste being treated or stored in the impoundment. Because these requirements cannot easily be incorporated into a permit-by-rule, the Agency is not including surface impoundments within the scope of the proposed amendments.

The Agency recognizes that the special requirements it is proposing to apply to wastewater treatment units may not always be sufficient to serve the regulatory purposes of RCRA. For example, the permit-by-rule requirements being proposed today may not provide adequate environmental protection where treatment of the hazardous wastewater tends to result in the escape of hazardous waste constituents into the atmosphere (e.g., the treatment of highly toxic volatile wastes in open tanks). In addition, the permit-by-rule requirements may not provide adequate environmental protection where the hazardous wastewater is highly toxic. To address such situations, the Agency is including in the proposed amendments to §122.26 a provision which will enable the Agency to terminate eligibility for a permit-by-rule and require an individual RCRA permit where the

requirements of Subpart B of Part 266 are not sufficient to protect human health or the environment. This provision also will enable the Agency to terminate eligibility for a permit-by-rule where the owner or operator fails to comply with the special requirements of Part 266 or is conducting other activities which require him to obtain an individual RCRA permit.

With respect to neutralization tanks, containers, transport vehicles and vessels that treat wastes that are hazardous wastes only because they are corrosive, the Agency is taking the same basic approach. It believes that these units pose the same type of hazards to human health or the environment as discussed above and believes that these potential hazards warrant regulation under RCRA. However, for the reasons cited above, it believes that sufficient RCRA regulation, in most cases, can be achieved through a limited set of requirements applied through a permit-by-rule, as long as the neutralization is carried out in tanks, containers, transport vehicles and vessels as defined in §260.10 and as long as the containers, transport vehicles and vessels are stationary when neutralization occurs. Consequently, the Agency is including so-called "elementary neutralization units" in the coverage of the amendments being proposed today.

II. Proposed New Definitions

As noted above, the Agency is proposing to add the new definitions for "wastewater treatment unit" and "elementary neutralization unit" to §260.10 and §122.3. The proposed definition for wastewater treatment units includes facilities that:

accumulate wastewater treatment sludges that are hazardous wastes; or treat (e.g., dewater, thicken, digest) or store hazardous wastewater treatment sludges; and

(2) are tanks (e.g., clarifiers, grit chambers, digestors) as defined in §260.10; and

(3) are part of a wastewater treatment system, the effluent of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act.

This definition is intended to include all industrial and municipal wastewater and wastewater sludge treatment and storage tanks that are subject to regulation under the NPDES or pretreatment programs of the Clean Water Act.

It covers the clarifiers, aeration tanks, grit chambers and other wastewater treatment tanks of publicly owned treatment works (POTWs) in which hazardous wastewater treatment sludges are generated and stored; the sludge digesters, thickeners, dryers and other sludge processing tanks of POTWs in which hazardous wastewater treatment sludge is treated; and any POTW tanks used for the storage of such sludge. It also covers similar devices in industrial wastewater treatment systems which (1) produce a treated wastewater effluent which is discharged into surface waters or into a POTW sewer system and therefore is subject to the NPDES or pretreatment requirements of the Clean Water Act or (2) produce no treated wastewater effluent as a direct result of such requirements. This definition is not intended to include surface impoundments. Nor is it intended to include wastewater treatment units

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This definition is not intended to include surface impoundments. Nor is it intended to include wastewater treatment units which are not subject to regulation under the Clean Water Act, including systems that are not required to obtain an NPDES permit because they do not discharge a treated effluent. The Agency solicits comments on whether the proposed definition adequately accomplish these intentions and, if not, how it can be modified to better achieve same.

The proposed definition of an elementary neutralization unit includes facilities that:

(1) treat or store wastes that are hazardous wastes only because they exhibit the characteristic of corrosivity defined in §261.22 or are listed as hazardous wastes in Subpart E of Part 261 solely for this reason; and

(2) are tanks, containers, transport vehicles or vessels as defined in §§260.10.

In contrast with the definition for wastewater treatment units, this definition includes transport vehicles, vessels and containers in which corrosive hazardous waste are neutralized in addition to neutralization tanks. Transport vehicles, vessels and containers are being included because comments received by the Agency indicate that corrosive hazardous waste are occasionally neutralized in the vehicle or containers in which they are to be shipped. The Agency recognizes that these devices are efficient ways of managing wastes and believes that the special requirements of Subpart E of Part 260 can adequately guard against the hazards posed by neutralization in such devices. There is one caveat,

however. The special requirements of Part 266 are designed for and, in a practical sense, can only meaningfully be applied to stationary devices. Consequently, rather than expand the Part 266 requirements to accomodate neutralization in non-stationary devices, the Agency is limiting the applicability of the Part 266 requirements (and correspondingly, the entitlement to a permit by rule) to neutralization which occurs in stationary transport vehicles and containers. This is accomplished by §266.10(a), which grants a permit by rule to transport vehicles, vessels or containers used as neutralization devices only to the extent the neutralization occurs in these devices while they remain stationary and before transport of the waste begins.

The proposed definition of elementary neutralization unit is intended to include devices that are either on or off the site at which the corrosive wastes are generated. It is intended to include devices that are commonly considered to be tanks as well as devices such as flumes, gutters, troughs and pipes which are not commonly considered to be tanks, but which nevertheless meet the expansive definition of tank in §260.10. It includes both units that are principally designed to neutralize corrosive wastes and units which achieve this and other waste treatment objectives such as precipitation of waste constituents. It is not, however, intended to include surface impoundments which neutralize corrosive hazardous wastes or facilities that treat or store wastes that are hazardous wastes for reasons other than corrosivity. The Agency solicits comments on the scope of this definition.

III. Proposed Special Requirements for Eligible Wastewater Treatment Units and Elementary Neutralization Units.

As discussed above, the amendments being proposed today include special requirements for eligible wastewater treatment and elementary neutralization units. These are to be included in Subpart B of a new part of this Chapter, Part 266, which will be used in the future to house other special regulatory requirements. The proposed special requirements for wastewater treatment and elementary neutralization units are as follows:

(1) The owner or operator of eligible facilities must obtain an EPA identification number by applying to the Administrator using EPA form 8700-12. This requirement is intended to provide the Agency with a registration of the hazardous waste treatment and storage facilities that are covered by the provisions of these proposed amendments. For owners or operators of existing facilities that notified the Agency during the notification periods that ended on August 18 and October 14, 1980 (notification periods for hazardous wastes identified or listed on May 19 and July 16, 1980, respectively), the Agency has issued or will be issuing EPA identification numbers. Owners or operators of existing facilities that, for one reason or another, did not notify during these notification periods and owners or operators of new facilities must apply for an EPA identification number by completing and submitting EPA Form 8700-12 before they treat, store or generate any hazardous wastes in eligible facilities after November 19, 1980.

(2) The owner or operator of an eligible facility must complete the manifests for hazardous wastes he receives from off-site sources and investigate and report manifest discrepancies and unmanifested shipments. He must also maintain an operating record and submit an annual report with respect to hazardous wastes received from offsite sources. These provisions ensure that the manifest and reporting system remains intact for hazardous wastes transported to off-site treatment and storage facilities.

(3) The owner or operator of an eligible facility must prevent the unknowing entry and minimize the possibility of unauthorized entry of persons or livestock onto the eligible facility. This requirement is intended to prevent or minimize the harm to people or livestock that could result from direct contact with the hazardous wastes handled in these units. It is also intended to reduce the possibility of unauthorized persons tampering with the treatment processes and thereby causing spills, process upsets, or damage to the treatment equipment. Where the eligible facility is located outside a building, the Agency expects that this requirement can be met by providing appropriate fencing and warning signs around the facility. Alternatively, it can be met by fencing off and controlling access to the entire facility at which the unit is located. Where the unit is located in a building, appropriate guard rails and warning signs around the tank will satisfy this requirement. The Agency has purposefully

refrained in this provision from mandating any specific security requirements in order to provide flexibility and avoid imposing requirements which might be inappropriate for the many varied settings in which eligible units are found. The proposed provision, therefore, is expressed as a performance standard, compliance with which is left to the reasonable judgment of the owner or operator of an eligible facility.

(4) The owner or operator of an eligible facility must ensure that the unit is constructed of sturdy leakproof materials (e.g., steel, concrete) and is designed and operated so as to contain the hazardous wastes being treated or stored in the facility and to prevent spills or leaks of such hazardous wastes into or on any land or water during the operating life of the facility. Again, the Agency has avoided setting specific requirements as to types of materials, designs and controls for such units and has opted for a performance standard which leaves the means of compliance to the reasonable judgment of the owner or operator. In monitoring and enforcing compliance with this provision, the Agency will expect the owner or operator of an eligible facility to provide such features as may be necessary to comply with the provision, including freeboard on open tanks and waste inflow shut off devices.

(5) The owner or operator of an eligible unit must periodically inspect the unit for malfunctions, deterioration, or any other conditions that are causing or could cause leaks or spills of the hazardous wastes in the unit. He must also

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develop and maintain a written inspection plan and record those inspections in an inspection log. Finally, he must immediately remedy any equipment malfunctions, equipment and material deterioration or other conditions that are causing or could cause leaks or spills. The intent of this inspection requirement and the previously discussed proposed provision, is obviously to prevent or minimize leaks and spills of hazardous wastes from eligible units. To avoid inflexible requirements, the Agency is again leaving the design of an inspection program to the reasonable judgment of the owner or operator. The Agency expects an inspection plan that is tailored to the type of tank, waste, and situations that can cause leaks or spills.

(6) The owner or operator of an eligible unit must ensure that the treatment or storage of hazardous wastes in the unit is conducted so that it does not cause conditions such as the generation of extreme heat or pressure; fire; explosions; violent reactions; toxic fumes, mists or gases; conditions that damage the structural integrity or equipment of the unit; or conditions that otherwise threaten human health or the environment. The intent of this proposed requirement is to prevent hazards that can result in the management of ignitable, reactive, corrosive and incompatible wastes.

(7) The owner or operator of an eligible facility must remove all hazardous wastes and hazardous waste residuals from the unit at closure. This proposed requirement is meant

to ensure that hazardous wastes are not left in units that are no longer being operated and which are, therefore, probably not being safely managed.

(8) The owner or operator of an eligible unit must notify the Agency in writing of any spills or releases of hazardous wastes from the unit within 15 days after such occurrence. The purpose of this requirement is to provide the Agency with knowledge of situations which may cause substantial hazard to human health or the environment so that EPA can take appropriate action. The Agency would like to make this requirement subject to a rule of reason whereby truly de minimis spills would not be included. Comments are solicited on how this can be accomplished.

All of the foregoing requirements are requirements similar to those that would apply to eligible units if they were subject to the interim status standards of Part 265 of this Chapter. As such, the underlying support for these requirements is provided in the several background documents that support Part 265. These background documents are identified in the preamble to the Part 264 and 265 regulations promulgated on May 19, 1980 (see 45 F.R. 33220) and are available for review at both the EPA headquarters library, Room 2404, Waterside Mall, 401 "M" Street, S.W., Washington, D.C. 20460 and the public docket at the address previously given.

The Agency believes that the foregoing requirements are sufficient to protect human health and the environment. Certain requirements that otherwise would apply under the

interim status standards of Part 265 or the proposed standards of Part 264 are not included because the Agency has concluded that they are, in most cases, not necessary. The major interim status standards not included in the proposed amendments are those requiring personnel training, development and maintenance of a contingency plan, preparation of an annual report, maintenance of an operating record, development of a closure plan, provision of a closure fund or other guarantee (proposed) and maintenance of liability insurance (proposed). The Agency solicits comments on the adequacy of the proposed special requirements and on the desirability of adding requirements it has omitted from its proposal.

IV. Effect of the Proposed Amendments if Finalized in Their Present Form

If the amendments proposed today were finalized in their present form, owners and operators of eligible units would be deemed to have a RCRA permit, unless their eligibility for a permit-by-rule were terminated by the Agency. Accordingly, these owners and operators would not have to obtain an individual RCRA permit for such facilities or comply with the interim status standards in Part 265 of this Chapter.

This relief from the current regulation, however, will not be available until the proposed amendments are finalized--an event which will probably not occur for at least 90 days following today's publication. In the interim, beginning November 19, 1980, owners and operators of eligible units will be technically required to comply with the current regulations, including the requirements that they submit RCRA permit applications

and comply with all of the interim status standards. The Agency recognizes that requiring owners and operators of eligible facilities to comply with the current regulations will cause them to incur unnecessary costs and burdens and will to some extent defeat the purpose of granting them a permit by rule. The Agency, therefore, concurrent with this proposal, is suspending the current regulations insofar as they apply to eligible facilities. The Agency intends to continue this suspension until final action is taken on the amendment proposed today.

V. Effect of The Proposed Amendments
On State Hazardous Waste Programs

The provisions of the proposed amendments, even if finalized in their present form, may not apply to eligible facilities in States which receive interim or full authorization Part 123 of this Chapter. Similarly, today's suspension of the current regulations with respect to eligible facilities may not apply in such States. To obtain interim authorization to conduct its own hazardous waste program in lieu of the Federal program, a State must show that its program is substantially equivalent to the Federal program. To obtain final authorization, it must show that its program is fully equivalent to and consistent with the Federal program and consistent with the programs in other States. In both cases, a State is free to impose more stringent requirements

than those imposed by the Federal program. Consequently, unless States with interim or full authorization independently adopt today's suspension and the reduced set of requirements proposed today, eligible facilities in those States may have to apply for and obtain individual State issued permits and comply with a more stringent set of requirements.

Furthermore, eligible facilities in States which do not seek or obtain interim or final authorization may have to comply with more stringent requirements if such requirements are imposed by the State. This is because a State is free to implement a hazardous waste program paralleling the Federal program and to impose more stringent requirements than the Federal program. Such requirements are not preempted by the Federal requirements.

VI. Environmental, Economic and Regulatory Impacts

The proposed amendments will reduce the economic, reporting and recordkeeping impacts on owners and operators of eligible units by virtue of eliminating, in most cases, the requirements for applying for an individual RCRA permit and by relaxing the interim status standards that otherwise would apply to owners or operators who have obtained interim status. The proposed amendments will also reduce the resource demands on the Agency by reducing the number of individual RCRA permits that otherwise would have to be issued. The Agency believes that these savings can be achieved without significantly reducing the protection of human health and environment.

VII. Conforming Amendment Respecting
Owners and Operators of POTW's

In developing these proposed amendments, the Agency discovered an error in §265.1(c)(3). That provision provides that the requirements of Part 265 do not apply to owners or operators of POTW's which treat, store or dispose of hazardous waste. This exemption is broader than intended. As written, it exempts from Part 265 requirements all hazardous wastes managed by POTW's. The intent of this provision was to exempt from Part 265 requirements only those hazardous wastes delivered to a POTW by truck or rail or through a pipe carrying only industrial wastes (see discussion in the preamble to Parts 264 and 265 at 45 FR 33171-72 and 33176) and to thereby complement the provisions of §122.26(c), which award owners and operators of POTW's accepting such hazardous waste a permit-by-rule. It was not intended to exempt from Part 265 requirements hazardous waste sludges generated in the treatment or storage of such incoming hazardous waste or in the treatment or storage of any incoming domestic sewage mixture (which is not considered a solid waste by virtue of §261.4 and therefore cannot be a hazardous waste).

To correct this error, the Agency is today proposing to amend §265.1(c)(3) so that it exempts only hazardous waste delivered to a POTW by a transportation vehicle or vessel or through a pipe. Although the Agency believes this amendment

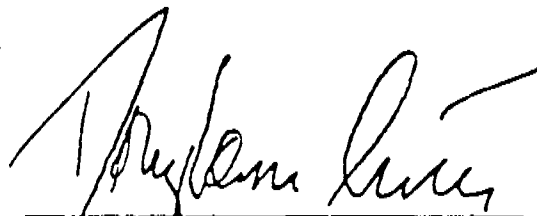
is a technical correction which could be promulgated as a final rule, it is choosing instead, to propose this change. This will allow owners and operators of POTW's, who have read the current regulations literally without referring to the associated preamble language, sufficient time to prepare to implement the Part 265 requirements if and to the extent those requirements apply.

As a consequence of this proposed correction, the other amendments being proposed today, and the provisions of the current regulations, owners and operators of existing POTW's who have obtained interim status will be subject to Part 265 requirements only with respect to hazardous waste sludges which they generate, store, or treat in surface impoundments; treat in drying beds; dispose of in landfills; or otherwise manage in treatment, storage or disposal facilities that are not tanks. Hazardous waste sludges accumulated, treated or stored in wastewater treatment units will be subject to the special permit-by-rule requirements being proposed today. Hazardous waste sludges that are beneficially used or legitimately recycled or reclaimed (e.g., through land farming, composting, or burning for energy recovery) are subject to regulations governing storage and transportation (see §261.6). Hazardous wastes which are mixed with domestic sewage influent are excluded from regulation by §261.4(a)(1)(iii). Finally, hazardous wastes delivered to a POTW by truck, rail or vessel or through a pipe conveying only industrial wastes are subject to the special requirements of

§122.26(c) in lieu of part 265 requirements.

The Agency has discovered a similiar error in §264.1(e). That provision states that the requirements of Part 264 apply to an owner or operator of a POTW which treats, stores or disposes of hazardous waste only to the extent they are included in a RCRA permit by rule granted under Part 122. This provision was intended to exempt from Part 264 requirements only those hazardous wastes delivered to a POTW by truck or rail or through an industrial waste pipe except to the extent that such Part 264 requirements were referenced in §122.26(c). As written, however, this provision goes beyond its intended purpose by exempting from Part 264 requirements all hazardous wastes that might be generated, treated, stored or disposed of by POTW's. To rectify this error, the Agency is today proposing to delete §264.1(e) and to add a new paragraph (7) to §264.1(g) to achieve the limited purposes originally intended. Under this proposed correction, the applicable requirements of Part 264 and Part 122 will apply to the hazardous waste sludges that are generated by POTW's to the extent that these sludges are treated, stored or disposed of in surface impoundments, sludge dry beds, landfills and land treatment facilities. For the same reasons stated above, the Agency is proposing these amendments rather than promulgating them as final technical amendments.

Date: NOV 10 1980



Douglas M. Costle
Administrator, EPA

CERTIFIED TO BE TRUE COPY OF ORIGINAL

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CCR 000040963

It is proposed to amend Title 40 of the Code of Federal Regulations as follows:

1. Add the following definitions to §260.10 (a)

(15A) "Elementary neutralization unit" means a device which:

i (1) Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in §261.22 of this Chapter, or are listed in Subpart D of Part 261 of this Chapter only for this reason; and

ii (2) Meets the definition of tank, container, transport vehicle or vessel in §260.10 of this Chapter.

(76A) "Wastewater treatment unit" means a device which:

i (1) Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and

ii (2) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in §261.3 of this Chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined §261.3 of this Chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in §261.3 of this Chapter; and

iii (3) Meets the definition of tank in §260.10 of this Chapter.

2. Delete paragraph (e) of §264.1 and re-number paragraphs (f) and (g) as (e) and (f).

CCR 000040964

10/13/80
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3. Add the following paragraphs to §264.1(g):

(6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit who is granted a permit-by-rule under §122.26(d) except to the extent that requirements of this Part are referred to in §266.15.

(7) The owner or operator of a POTW with respect to the treatment or storage of hazardous waste which is delivered to the POTW by a transport vehicle or vessel or through a pipe, except to the extent that requirements of this Part are included in a RCRA permit by rule granted under §122.26(c).

4. Revise §265.1(c)(3) to read as follows:

(3) The owner or operator of a POTW with respect to the treatment or storage of hazardous wastes which are delivered to the POTW by a transport vehicle or vessel or through a pipe.

5. Add the following paragraphs to §265.1(c):

(10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit.

6. Add the following definitions to §122.3:

"Elementary neutralization unit" means a device which:

- a (1) Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in §261.22 of this Chapter, or are listed in Subpart D of Part 261 of this Chapter only for this reason; and
- b (2) Meets the definition of tank, container, transport vehicle or vessel in §260.10 of this Chapter.

"Wastewater treatment unit" means a device which:

- a (1) Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and
- b (2) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in §261.3 of this Chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in §261.3 of this Chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in §261.3 of this Chapter; and
- c (3) Meets the definition of tank in §260.10 of this Chapter.

7. Establish the following Part 266.

CCR 000040966

Alan
L. Brown
11/13/82

Part 266 - Standards for the Management of Specific
Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

Subpart A - General

- 266.1 Purpose, scope, and applicability
- 266.2 - 266.9 [Reserved]
Subpart B - Elementary Neutralization and

Wastewater Treatment Units

- 266.10 Applicability
- 266.11 Identification number
- 266.12 Security
- 266.13 Inspections
- 266.14 General operating requirements
- 266.15 Manifest system, recordkeeping and reporting
- 266.16 Closure
- 266.17 Reporting
- 266.18 266.19 [Reserved]

Authority: Secs. 1006, 2002(a), 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924 and 6925).

Subpart A - General

§266.1 Purpose, Scope, and Applicability

(a) The purpose of this Part is to establish minimum national standards which define the acceptable management of certain hazardous wastes and the acceptable practices for certain kinds of hazardous waste management facilities.

(b) The standards in this Part apply, in lieu of the requirements of Parts 264 and 265 of this Chapter, to owners and operators of eligible hazardous waste management facilities.

§266.2 - 266.9 [Reserved]

Subpart B - Elementary Neutralization Units and Wastewater
Treatment Units

§266.10 Applicability

(a) The regulations of this Subpart apply to owners and operators of elementary neutralization units and wastewater treatment units as defined in §260.10 of this Chapter, provided that in the case of elementary neutralization units which are transport vehicles, vessels or containers used to transport the waste after neutralization, neutralization must occur in these units while they remain stationary and before transport of the neutralized waste begins.

[Comment: The requirements of this part are designed for stationary tanks. The Agency wishes, however, to accomodate tank trucks, movable bins and other devices in which corrosive wastes are occasionally neutralized and subsequently transported to treatment, storage, disposal, reuse or recycle facilities. Accordingly, the regulations of this Subpart are made applicable to such transport vehicles, vessels or containers, but only to the extent that neutralization occurs in the transport vehicle or container while it remains stationary and before transportation begins. If the neutralization renders the waste non-hazardous, the subsequent transportation and management of the waste is not subject to regulation under Parts 262 through 264 and Parts 122 through

124 of this Chapter. If the neutralization does not render the waste non-hazardous, the subsequent transportation and management of the waste is subject to such regulation.]

(b) The requirements of this Part do not apply to:

- (1) The owner or operator of an elementary neutralization or wastewater treatment unit located in a State with a RCRA hazardous waste program authorized under Subparts A and B, or Subpart F, of Part 123 of this Chapter.
- (2) The owner or operator of an elementary neutralization or wastewater treatment unit permitted, licensed, or registered by a State to manage municipal or industrial solid waste, if the only hazardous waste the unit treats or stores is subject to the special requirements of §261.5 of this Chapter.
- (3) The owner or operator of an elementary neutralization or wastewater treatment unit which treats hazardous waste, which treatment meets the criteria of §261.6(a)(2) of this Chapter.
- (4) The owner or operator of an elementary neutralization or wastewater treatment unit for which the Regional Administrator has terminated eligibility for a permit-by-rule under 40 CFR 122.26(d)(2).

§266.11 EPA Identification Number

(a) The owner or operator must not treat or store a hazardous waste in an elementary neutralization unit or a wastewater treatment unit without having received an EPA identification number.

(b) An owner or operator who has not received an EPA identification number may obtain one by applying to the Administrator using EPA form 8700-12.

§266.12 Security

(a) The owner or operator must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock into or onto the elementary neutralization or wastewater treatment unit, unless:

(1) Physical contact with the waste contained in the unit will not injure unknowing or unauthorized persons or livestock which may enter the unit, and

(2) Disturbance of the waste or equipment by the unknowing or unauthorized entry of persons or livestock into or onto the unit will not cause a violation

(b) of the requirements of this Subpart.
[Reserved]

§266.13 Inspections

(a) The owner or operator must inspect the elementary neutralization or wastewater treatment unit for malfunctions and deterioration, operator errors, and discharges which may be causing--or may lead to--(1) unauthorized release of hazardous waste to

the environment or (2) a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

- (b) (1) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as tank walls and pumps) that are important to preventing environmental or human health hazards.
- (2) He must keep this schedule at the facility.
- (3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) which are to be looked for during the inspection (e.g., inoperative pump, leaking fitting, heavy corrosion).
- (4) The frequency of inspection may vary for the items on the schedule. It should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if any deterioration or malfunction or operator error goes undetected between inspections.
- (5) The owner or operator must remedy any deterioration or malfunction of equipment or structures detected in an inspection. This must be done on a schedule which ensures that the problem does not lead to an environmental or

human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(6) The owner or operator must record inspections in an inspection log. He must keep these records for at least three years from the date of inspection. At the minimum, these records must include the date and time of each inspection, the name of the inspector, a recording of the observations made, and the date and nature of any repairs or other remedial actions taken as a result of inspection observations.

§266.14 General Operating Requirements

(a) The owner or operator of an elementary neutralization or wastewater treatment unit must ensure that the treatment process conducted in the unit does not:

- (1) Generate extreme heat or pressure, fire or explosion, or violent reaction;
- (2) Produce uncontrolled toxic mists, fumes, or gases in sufficient quantities to threaten human health;
- (3) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosion;
- (4) Damage the structural integrity of the tank or equipment containing the waste; or
- (5) Through like means threaten human health or the environment.

(b) Hazardous wastes or treatment reagents must not be placed in an elementary neutralization or wastewater treatment

unit if they could cause the unit or any of its equipment to rupture, leak, abnormally corrode, or otherwise fail before the end of its intended life.

(c) An elementary neutralization or wastewater treatment unit must be constructed of sturdy, leakproof material and must be designed, constructed and operated so as to prevent hazardous wastes from being spilled or leaked into or on any land or water during the operating life of the unit.

§266.15 Manifest System, Recordkeeping and Reporting

The owner or operator must comply with the following requirements with respect to hazardous wastes he receives from off-site sources:

- a (1) §264.71, Use of manifest system;
- b (2) §264.72, Manifest discrepancies;
- c (3) §264.73(a) and (b)(1), Operating record;
- d (4) §264.75, Annual report; and,
- e (5) §264.76, Unmanifested waste report.

§266.16 Closure

At closure, the owner or operator of an elementary neutralization or wastewater treatment unit must remove all hazardous waste and hazardous waste residues from the unit.

§266.17 Reporting

Within 15 days after any spill or leakage of hazardous waste from an elementary neutralization or wastewater treatment unit, the owner or operator of the unit must submit a written report to the Regional Administrator which contains the following information:

- a (1) Name, address, and telephone number of the owner or operator;
- b (2) Name, address, and telephone number of the facility;
- c (3) Date, time, and nature of the incident;
- d (4) Name and quantity of material(s) involved;
- e (5) The extent of injuries, if any;
- f (6) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
- g (7) Estimated quantity and disposition of recovered material that resulted from the incident.

§266.18 - 266.19 [Reserved]

5. Add the following paragraphs to §122.26:

(d) Elementary Neutralization or Wastewater Treatment Units.

(1) The owner and operator of an elementary neutralization unit or a wastewater unit, if he complies with the requirements of 40 CFR Part 266, Subpart B, unless he is required to have an individual permit under paragraph (d)(2) of this section.

(2) The Regional Administrator, after providing opportunity for a public hearing, may terminate eligibility for a permit-by-rule under this section and require an owner and operator of an elementary neutralization unit or a wastewater treatment unit

to apply for and obtain an individual RCRA permit under this Part, if:

- (i) The owner or operator violates any condition of 40 CFR Part 266, Subpart B;
- (ii) The owner or operator is conducting other activities which require him to obtain an individual RCRA permit; or
- (iii) The Regional Administrator determines that the requirements of 40 CFR part 266, Subpart B are not sufficient to protect human health or the environment and that additional requirements under 40 CFR part 264 are required to provide such protection.