



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

11/7/06

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

**MEMORANDUM**

Subject: Scope of Compliance with Part 265 Provisions for Large Quantity Generators

From: Matt Hale, Director  
Office of Solid Waste

A handwritten signature in blue ink that reads "Matt Hale".

To: RCRA Division Directors  
Regions 1 – 10

I'd like to clarify an issue that recently re-emerged pertaining to the scope of compliance with the Part 265 provisions for large quantity generators (LQGs) complying with the 90-day generator accumulation provisions and for which a RCRA permit or interim status is not required for other units at the facility. In accumulating hazardous wastes in tanks, containers, drip pads or containment building units, 40 CFR 262.34 (a)(4) requires large quantity generators to comply with, among other provisions, 40 CFR 265.16, and 40 CFR Part 265, Subparts C and D. However, Part 265 pertains to interim status hazardous waste treatment, storage and disposal facilities – not just accumulation units. Therefore, in complying with the above mentioned Part 265 requirements, clarification has been sought as to whether LQGs must address only the 90-day accumulation units, or also address other units at the facility that are exempt from Subtitle C regulation or units for which these provisions do not apply. For example, must an LQG, as part of complying with 40 CFR Part 265, Subpart D (Contingency Plan and Emergency Procedures), develop a contingency plan only for its 90-day accumulation units, or must it also address other units that are exempt from Subtitle C regulation or units for which these provisions do not apply?

The scope of compliance with the Part 265 requirements for LQGs set forth in 40 CFR 262.34(a)(4) is on units accumulating hazardous wastes. Thus, in order to comply with the Part 265 requirements referenced in 262.34(a)(4), LQGs only need to address those tanks, containers, drip pads or containment buildings that accumulate hazardous wastes and are subject to the 90-day generator accumulation provision. As an example, when developing a contingency plan, LQGs would only need to develop the plan for those 90-day accumulation units involving the on-site management of hazardous waste.

As with other parts of the RCRA regulations, states may be more stringent than the federal program. Therefore, the Regions should check with their states should this issue arise.

Should you have any questions on this subject, please contact Jim O'Leary at (703) 308-8827 or [oleary.jim@epa.gov](mailto:oleary.jim@epa.gov).

cc: Tom Kennedy, Association of State and Territorial Solid Waste Management Officials (ASTSWMO)