

9477.1986(03)

## RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

FEBRUARY 86

### 6. Liability Requirements

According to §265.147(a)(1)(ii), insurance policies held by owners/operators of hazardous waste facilities must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer in one or more States. Under what circumstances, if any, would an off-shore (foreign) entity be able to provide insurance for a domestic treatment, storage, or disposal facility (TSDF)?

Under Federal RCRA requirements, facilities must be insured by a company that is licensed in one or more States. The company need not be licensed in the State in which the facility is located, unless stricter State regulations require in-State licensing. The facility owner/operator should verify the qualifications of a company by first contacting the insurer about its licenses and then confirming with insurance regulatory authorities of the appropriate State or States.

Regarding the off-shore entity, any captive or alien insurers must meet the above requirements in order to provide insurance satisfying the Subpart H regulations. See SW-961, "Liability Coverage: Requirements for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities: A Guidance manual," dated November 1982 (pages II-3 and G-3).

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