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**NARPM Presents...RCRA for RPMs**

Sponsored by: EPA Office of Superfund Remediation and Technology Innovation

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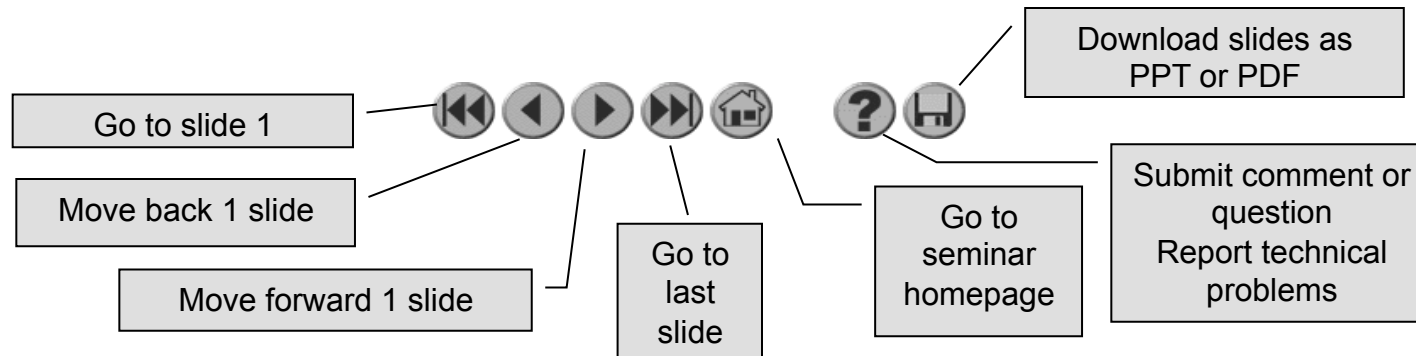
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# Module 1: RCRA Overview



# Why RCRA Requirements are Important to RPMs

- ◆ Define what are hazardous and non-hazardous wastes
- ◆ Establish many action-specific applicable or relevant and appropriate requirements (ARARs) for on-site waste management
- ◆ Establish applicable requirements for off-site waste management
- ◆ Affect your strategy and costs for characterizing, treating, storing, and disposing wastes generated during response actions

# Overview of RCRA

- ◆ Enacted in 1976 to address problems with improper management of solid and hazardous waste
- ◆ Goals:
  - Protect human health and environment from hazards posed by waste disposal
  - Conserve energy and natural resources through recycling and recovery
  - Reduce the amount of waste generated
  - Ensure wastes are properly managed

# Statutory Framework of RCRA

- ◆ Amended the Solid Waste Disposal Act
- ◆ Major amendments have included the:
  - Hazardous and Solid Waste Amendments of 1984 (HSWA)
  - Federal Facilities Compliance Act of 1992 (FFCA)
  - Land Disposal Program Flexibility Act of 1996
- ◆ Includes 10 subtitles; created three major regulatory programs
  - Solid waste (Subtitle D)
  - Hazardous waste (Subtitle C)
  - Underground storage tanks (Subtitle I)

# **Regulatory Framework for Implementing Subtitle C of RCRA**

- ◆ Subtitle C provides the statutory framework for the hazardous waste regulatory program
- ◆ EPA is authorized to issue regulations on hazardous waste identification, management, and corrective action
- ◆ Regulations are set forth in 40 CFR Parts 260-279

# Applicability of State Hazardous Waste Laws and Regulations

- ◆ States may be delegated authority to implement RCRA requirements
- ◆ Regulations promulgated by EPA under RCRA and HSWA authorities have different effective dates in authorized states
- ◆ If the state is authorized, the state's RCRA regulations are applicable
- ◆ Other state environmental laws and regulations may be applicable to non-hazardous wastes





## Module 2: Hazardous Waste Determination



# Hazardous Waste Determination Basics

- ◆ An issue that almost always must be addressed during CERCLA responses
- ◆ A prerequisite for RCRA applicability
- ◆ The basic process involves four steps
- ◆ Answer three questions first
- ◆ Be careful of words or terms with special definitions



# Major Regulations Used to Identify Hazardous Waste

- ◆ Exclusions from definition of solid waste
- ◆ Definition of solid waste
- ◆ Exclusions from definition of hazardous waste
- ◆ Definition of hazardous waste
- ◆ Variances and rule-making petitions

# Exclusions From the Definition of Solid Waste

- ◆ Congress and EPA have excluded certain materials from regulation under RCRA by not defining them as “solid waste”
- ◆ A list of materials excluded from RCRA regulation is set forth in 40 CFR 261.4(a)



# The Definition of Solid Waste

- ◆ The definition of solid waste is set forth in 40 CFR 261.2
- ◆ Solid wastes are “discarded” materials
- ◆ “Discarded” includes materials that are:
  - “Abandoned”
  - Recycled in certain ways
  - Considered “inherently waste-like”
  - “Military Munitions”

# Exclusions From the Definition of Hazardous Waste

- ◆ Congress and EPA have excluded certain solid wastes from the definition of hazardous waste
- ◆ A list of solid wastes excluded from RCRA regulation is set forth in 40 CFR 261.4(b)



# Definition of Hazardous Waste

## 40 CFR 261.3

- ◆ Includes solid waste that:
  - Is listed as hazardous waste by EPA (“listed waste”)
  - Exhibits any of four characteristics of hazardous waste (“characteristic hazardous waste”)
  - Is a mixture of solid waste and a listed hazardous waste (“mixture rule”)
  - Is derived from the treatment, storage, or disposal of other hazardous waste (“derived-from rule”)

# Listed Hazardous Wastes

- ◆ Wastes from non-specific sources (40 CFR 261.31, F-codes)
- ◆ Wastes from specific sources (40 CFR 261.32, K-codes)
- ◆ Discarded commercial chemical products (40 CFR 261.33, P- and U-codes)

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# Listed Hazardous Wastes

- ◆ Differences between listed and characteristic hazardous wastes
- ◆ Determination whether a waste is listed at CERCLA sites
- ◆ Basis for listing wastes
- ◆ Acutely hazardous wastes



# Characteristics of Hazardous Wastes

- ◆ Ignitability (40 CFR 261.21)
- ◆ Corrosivity (40 CFR 261.22)
- ◆ Reactivity (40 CFR 261.23)
- ◆ Toxicity (40 CFR 261.24)
- ◆ Determination whether a waste exhibits any characteristic

# Definition of Hazardous Waste Mixture and Derived-From Rules

- ◆ Legal history
- ◆ Mixture rule
- ◆ Derived-from rule

# The Contained-In Policy

- ◆ Requires contaminated environmental media, such as contaminated soils, to be managed as hazardous waste if it contains listed hazardous wastes or exhibits a characteristic of hazardous waste
  - Is an ARAR at CERCLA responses
- ◆ Occurs on a case-by-case basis
- ◆ Lacks definitive federal guidance or regulations determining appropriate contained-in levels

# Variations and Petitions

- ◆ “Delisting” listed hazardous waste
- ◆ “Contained-out” determination

# Alternative Regulatory Program for Certain Hazardous Wastes

- ◆ “Universal wastes” are hazardous waste subject to an alternative regulatory program set forth in 40 CFR Part 273
- ◆ Universal wastes include:
  - Batteries
  - Pesticides
  - Mercury-containing equipment
  - Lamps



## Module 3: Land Disposal Restrictions



# Land Disposal Restrictions Basics

- ◆ Purpose of the LDRs
- ◆ Definition of land disposal for purposes of the LDRs
- ◆ LDRs “attach” to the hazardous waste at the point of generation





# Land Disposal Restrictions

- ◆ Major regulations involved (40 CFR Part 268):
  - Identification of restricted wastes
  - Determination of treatment standards
  - Prohibitions against dilution and storage
  - Compliance with tracking and recordkeeping requirements
  - Variances and petitions from the LDR treatment standards

# Identification of Restricted Wastes

- ◆ Hazardous wastes subject to the LDR program are identified under 40 CFR Part 268 Subpart C
- ◆ Hazardous wastes subject to the LDR program are referred to as “restricted wastes,” and wastes that cannot be land disposed are called “prohibited wastes”
- ◆ Most hazardous wastes are covered under the LDR program

# Treatment Standards

- ◆ Generators must determine whether the waste must be treated before it can be land disposed
- ◆ Definition of treatment standard
- ◆ Treatment standards are established based on BDAT and expressed in several manners
- ◆ “Treatability groups” and “treatment subcategories”
- ◆ Treatment standards are set forth at 40 CFR Part 268 Subpart D

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# Treatment Standards

- ◆ Universal Treatment Standards (UTS)
- ◆ Treatments standards for Underlying Hazardous Constituents (UHC)
  - Applicable to characteristic hazardous wastes
- ◆ Alternative treatment standards are available for:
  - Lab packs
  - Hazardous debris
  - Contaminated soils



# Determination of Treatment Standards

- ◆ Identify each applicable RCRA hazardous waste code for the waste
- ◆ Determine the waste's treatability group, subcategory (if applicable), and alternative treatment standard (if applicable)
- ◆ Determine the regulated constituents if the waste is F001-F005 and F039
- ◆ Determine if UHCs require treatment for characteristic wastes

# Alternative Treatment Standards for Contaminated Soil

- ◆ Creates a new treatability group: contaminated soils
- ◆ Provides the option of meeting LDR standards for contaminated soil versus the standard established for existing industrial wastes
- ◆ Treatment standard requires that the concentrations of hazardous constituents be reduced by 90 percent, capped at 10 times the UTS

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# Alternative Treatment Standards for Contaminated Soil

- ◆ Measurement of the 90 percent reduction must be consistent with UTS
- ◆ A treatability variance for soils is not required
- ◆ Treatment required for UHCs present at 10 times their respective UTS

# Prohibitions Against Dilution and Storage

- ◆ Dilution prohibition (40 CFR 268.3)
- ◆ Storage prohibition (40 CFR 268 Subpart E)





# Variations and Petitions From the LDR Treatment Standards

- ◆ Treatability variance
- ◆ Alternative treatment method petition
- ◆ No-migration petition
- ◆ Delisting

# Treatability Variance

- ◆ Allowance for treatability variance from treatment standard
- ◆ Requirement that waste be physically or chemically different
- ◆ Applicability to waste mixtures, derived-from residues, and environmental media

# Tips on Treatability Variances

- ◆ Authority to grant a treatability variance is delegated to EPA regional offices
- ◆ No public comment period is required for removal actions, but the variance should be included in the Administrative Record
- ◆ A variance can be a stand-alone document or can be included in an Action Memorandum or Record of Decision
- ◆ A concurrence memorandum issued by the RCRA program usually is required



## Module 4: Common RCRA Requirements for Managing Hazardous Waste On-Site and Off-Site



# On-Site and Off-Site Management of Hazardous Waste

- ◆ Typical RCRA requirements or policies that apply to the on-site management of hazardous waste and hazardous remediation waste, include:
  - Container standards
  - Temporary unit
  - Area of Contamination (AOC)
  - Corrective Action Management Unit (CAMU)
  - Staging pile
  - Reinjection of hazardous ground water
  - Closure and post-closure care requirements
- ◆ Off-site requirements include:
  - Pre-transport standards
  - Manifests
  - EPA identification numbers
  - LDR tracking requirements
  - Biennial reports

# Containers

- ◆ Standards are in 40 CFR Parts 264 and 265 Subpart I
- ◆ Containers must be in good condition, compatible with the waste, closed during storage, and provided with secondary containment
- ◆ Special regulations apply for managing ignitable, reactive, and incompatible wastes
- ◆ Spilled or leaked waste must be removed as needed
- ◆ Residues, remaining containers, liners, bases, and contaminated soil must be decontaminated or removed at closure

# Temporary Unit

- ◆ Accommodates the non-land-based storage of remediation waste
  - Allows alternative standards to requirements for hazardous waste tank systems or containers
- ◆ Time of operation is limited



# Area of Contamination Concept

- ◆ Discrete area of contamination that equates to a single RCRA land-based unit
- ◆ Movement of wastes within an AOC does not trigger LDRs or minimum technology requirements (MTR)
- ◆ AOC concept is only applicable to remediation wastes



# Corrective Action Management Unit

- ◆ A special type of land-based unit created for the management of remediation waste
- ◆ Only certain wastes are eligible for management in CAMUs
- ◆ Design standards for CAMUs where waste will remain after closure include:
  - Liner requirements
  - Caps
  - Corrective action for any releases



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# Corrective Action Management Unit

- ◆ Principal hazardous constituents (PHCs) in wastes must meet treatment standards before placement in a CAMU
- ◆ CAMUs that are used for treatment or storage only are subject to requirements for staging piles
- ◆ A CAMU must be designated in an AM or ROD

# Differences Between an AOC and CAMU

- ◆ Waste may be treated ex-situ and placed in a CAMU
- ◆ A CAMU may be located in an uncontaminated area
- ◆ Wastes may be consolidated in CAMUs from areas not contiguously contaminated
- ◆ The recent CAMU rulemaking does not affect use of AOCs

# Staging Pile

- ◆ A staging pile is a new unit for managing remediation waste created by the HWIR-Media rule
- ◆ Waste managed in a staging pile is not subject to LDRs or MTRs
- ◆ Mixing, sizing, blending, or other physical operations are allowed, but no “treatment”
- ◆ Requirements



# Reinjection of Contaminated Ground Water During Cleanups

- ◆ Underground injection of ground water contaminated with hazardous waste frequently occurs as part of CERCLA response actions
- ◆ Underground injection is defined as “land disposal” for purposes of the LDR program
- ◆ Section 3020 of RCRA addresses the underground injection of hazardous waste in the context of RCRA and CERCLA cleanups



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# Reinjection of Contaminated Groundwater During Cleanups

- ◆ Under EPA policy, reinjected groundwater is exempt from compliance with LDRs provided:
  - It is treated before reinjection (both ex-situ and in-situ)
  - The cleanup is protective of human health and the environment
  - The injection is part of response action under CERCLA 104 or 106 or RCRA corrective action

# Closure and Post-Closure Care Requirements

- ◆ Apply to RCRA hazardous waste management units at facilities that operated under a RCRA permit or interim status (TSDFs)
- ◆ Two approaches to closure:
  - Clean closure
  - Closure with waste in place
- ◆ Post-closure care applies to units that close with waste in place

# Off-site Management of Hazardous Waste

- ◆ RCRA pre-transport regulations
  - Refer to and require compliance with the Department of Transportation (DOT) hazardous material regulations
- ◆ Hazardous Waste Manifest
- ◆ EPA identification numbers
- ◆ LDR tracking requirements
- ◆ Biennial Reports



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