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[Seal]

(2) The following is an example of the certification of acknowledgement which must accompany the trust agreement for a standby trust fund as specified in section 264.147(h) or 265.147(h) of this chapter. State requirements may differ on the proper content of this acknowledgement.

State of _____
County of _____

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

[47 FR 15059, Apr. 7, 1982, as amended at 47 FR 16556, Apr. 16, 1982; 47 FR 17989, Apr. 27, 1982; 47 FR 19995, May 10, 1982; 47 FR 28627, July 1, 1982; 51 FR 16450, May 2, 1986; 51 FR 25354, July 11, 1986; 52 FR 44320, Nov. 18, 1987; 53 FR 33952, Sept. 1, 1988; 57 FR 42836, Sept. 16, 1992; 59 FR 29960, June 10, 1994]

Subpart I—Use and Management of Containers

SOURCE: 46 FR 2866, Jan. 12, 1981, unless otherwise noted.

§ 264.170 Applicability.

The regulations in this subpart apply to owners and operators of all hazardous waste facilities that store containers of hazardous waste, except as § 264.1 provides otherwise.

[*Comment:* Under § 261.7 and § 261.33(c), if a hazardous waste is emptied from a container the residue remaining in the container is not considered a hazardous waste if the container is “empty” as defined in § 261.7. In that event, management of the container is exempt from the requirements of this subpart.]

§ 264.171 Condition of containers.

If a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way

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that complies with the requirements of this part.

§ 264.172 Compatibility of waste with containers.

The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.

§ 264.173 Management of containers.

(a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

(b) A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

[*Comment:* Reuse of containers in transportation is governed by U.S. Department of Transportation regulations including those set forth in 49 CFR 173.28.]

§ 264.174 Inspections.

At least weekly, the owner or operator must inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

[*Comment:* See §§ 264.15(c) and 264.171 for remedial action required if deterioration or leaks are detected.]

§ 264.175 Containment.

(a) Container storage areas must have a containment system that is designed and operated in accordance with paragraph (b) of this section, except as otherwise provided by paragraph (c) of this section.

(b) A containment system must be designed and operated as follows:

(1) A base must underly the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

(2) The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise

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protected from contact with accumulated liquids;

(3) The containment system must have sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination;

(4) Run-on into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in paragraph (b)(3) of this section to contain any run-on which might enter the system; and

(5) Spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system.

[*Comment:* If the collected material is a hazardous waste under part 261 of this Chapter, it must be managed as a hazardous waste in accordance with all applicable requirements of parts 262 through 266 of this chapter. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of section 402 of the Clean Water Act, as amended.]

(c) Storage areas that store containers holding only wastes that do not contain free liquids need not have a containment system defined by paragraph (b) of this section, except as provided by paragraph (d) of this section or provided that:

(1) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation, or

(2) The containers are elevated or are otherwise protected from contact with accumulated liquid.

(d) Storage areas that store containers holding the wastes listed below that do not contain free liquids must have a containment system defined by paragraph (b) of this section:

(1) FO20, FO21, FO22, FO23, FO26, and FO27.

(2) [Reserved]

[46 FR 55112, Nov. 6, 1981, as amended at 50 FR 2003, Jan. 14, 1985]

§ 264.176 Special requirements for ignitable or reactive waste.

Containers holding ignitable or reactive waste must be located at least 15

meters (50 feet) from the facility's property line.

[*Comment:* See § 264.17(a) for additional requirements.]

§ 264.177 Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials (see appendix V for examples), must not be placed in the same container, unless § 264.17(b) is complied with.

(b) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

[*Comment:* As required by § 264.13, the waste analysis plan must include analyses needed to comply with § 264.177. Also, § 264.17(c) requires wastes analyses, trial tests or other documentation to assure compliance with § 264.17(b). As required by § 264.73, the owner or operator must place the results of each waste analysis and trial test, and any documented information, in the operating record of the facility.]

(c) A storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

[*Comment:* The purpose of this section is to prevent fires, explosions, gaseous emission, leaching, or other discharge of hazardous waste or hazardous waste constituents which could result from the mixing of incompatible wastes or materials if containers break or leak.]

§ 264.178 Closure.

At closure, all hazardous waste and hazardous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with hazardous waste or hazardous waste residues must be decontaminated or removed.

[*Comment:* At closure, as throughout the operating period, unless the owner or operator can demonstrate in accordance with § 261.3(d) of this chapter that the solid waste removed from the containment system is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable