

## § 265.340

(c) The sorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers in accordance with §265.17(b).

(d) Incompatible wastes, as defined in §260.10 of this chapter, must not be placed in the same outside container.

(e) Reactive waste, other than cyanide- or sulfide-bearing waste as defined in §261.23(a)(5) of this chapter, must be treated or rendered non-reactive prior to packaging in accordance with paragraphs (a) through (d) of this section. Cyanide- and sulfide-bearing reactive waste may be packaged in accordance with paragraphs (a) through (d) of this section without first being treated or rendered non-reactive.

(f) Such disposal is in compliance with the requirements of 40 CFR part 268. Persons who incinerate lab packs according to the requirements in 40 CFR 268.42(c)(1) may use fiber drums in place of metal outer containers. Such fiber drums must meet the DOT specifications in 49 CFR 173.12 and be overpacked according to the requirements in paragraph (b) of this section.

[46 FR 56596, Nov. 17, 1981, as amended at 55 FR 22686, June 1, 1990; 57 FR 54461, Nov. 18, 1992; 71 FR 40276, July 14, 2006]

## Subpart O—Incinerators

SOURCE: 46 FR 7680, Jan. 23, 1981, unless otherwise noted.

### § 265.340 Applicability.

(a) The regulations of this subpart apply to owners and operators of hazardous waste incinerators (as defined in §260.10 of this chapter), except as §265.1 provides otherwise.

(b) *Integration of the MACT standards.*  
(1) Except as provided by paragraphs (b)(2) and (b)(3) of this section, the standards of this part no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of part 63, subpart EEE, of this chapter by conducting a comprehensive performance test and submitting to the Administrator a Notification of Compliance under §§63.1207(j) and 63.1210(d) of this chapter documenting compliance with

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the requirements of part 63, subpart EEE, of this chapter.

(2) The MACT standards do not replace the closure requirements of §264.351 or the applicable requirements of subparts A through H, BB and CC of this part.

(3) Section 265.345 generally prohibiting burning of hazardous waste during startup and shutdown remains in effect if you elect to comply with §270.235(b)(1)(i) of this chapter to minimize emissions of toxic compounds from startup and shutdown.

(c) Owners and operators of incinerators burning hazardous waste are exempt from all of the requirements of this subpart, except §265.351 (Closure), provided that the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain any of the hazardous constituents listed in part 261, appendix VIII, of this chapter, and such documentation is retained at the facility, if the waste to be burned is:

(1) Listed as a hazardous waste in part 261, subpart D, of this chapter solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both; or

(2) Listed as a hazardous waste in part 261, subpart D, of this chapter solely because it is reactive (Hazard Code R) for characteristics other than those listed in §261.23(a) (4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone; or

(3) A hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under part 261, subpart C, of this chapter; or

(4) A hazardous waste solely because it possesses the reactivity characteristics described by §261.23(a) (1), (2), (3), (6), (7), or (8) of this chapter, and will not be burned when other hazardous wastes are present in the combustion zone.

[47 FR 27533, June 24, 1982 and 50 FR 666, Jan. 4, 1985, as amended at 50 FR 49203, Nov. 29, 1985; 56 FR 7208, Feb. 21, 1991; 64 FR 53075, Sept. 30, 1999; 67 FR 6816, Feb. 13, 2002; 70 FR 59575, Oct. 12, 2005]