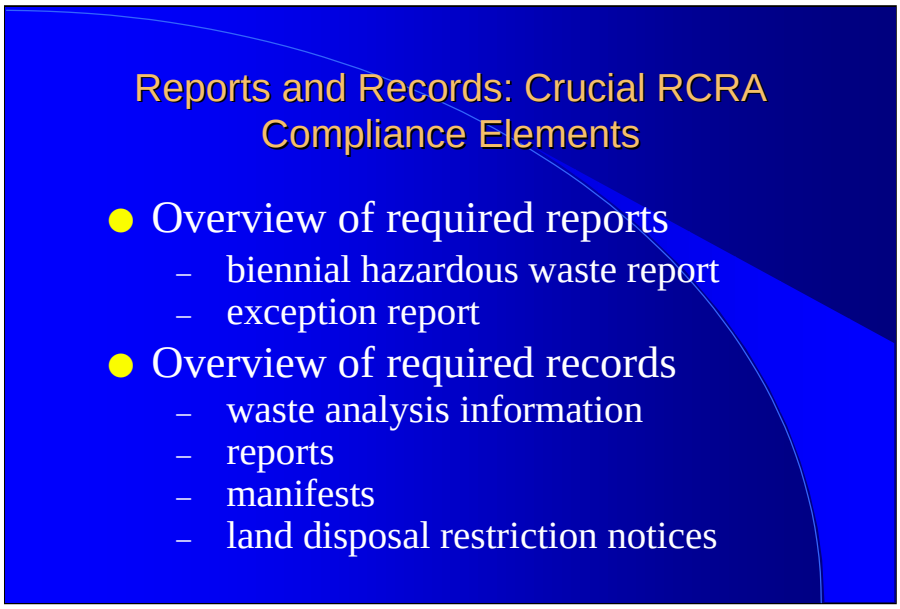
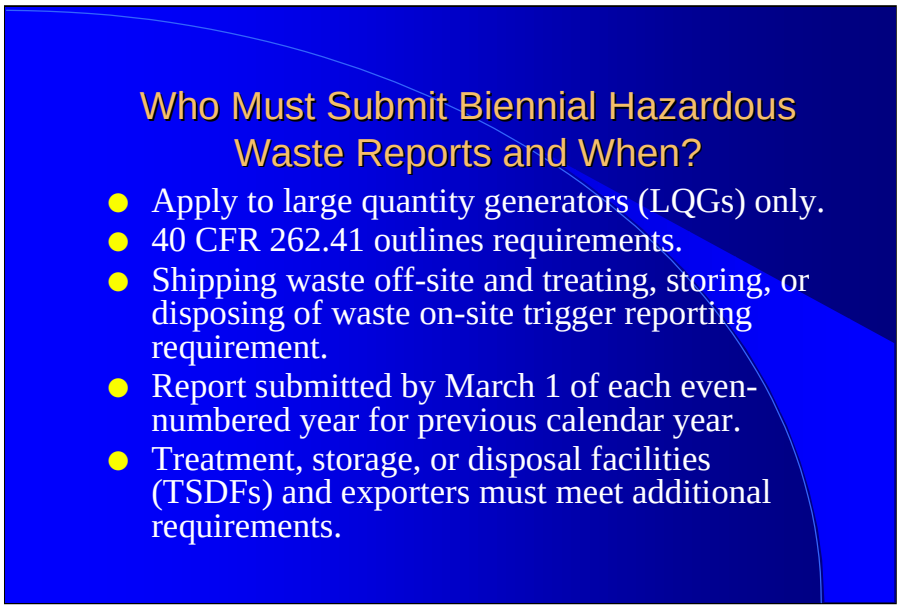
Hazardous waste record keeping and reporting deficiencies are common sources of enforcement actions against federal facilities. Ensuring reports are accurate and submitted on time and maintaining all required records is the cornerstone of an effective hazardous waste compliance program.

The purpose of this module is to provide an overview of important generator, transporter, and treatment, storage, and disposal facility requirements for record keeping and reporting.

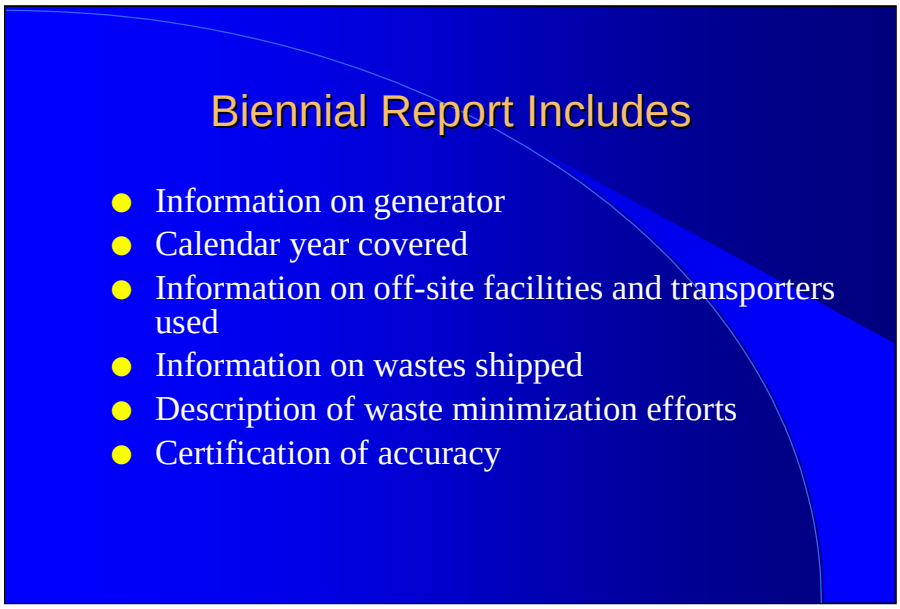


By the end of this module, you should be able to:

1. explain who must submit hazardous waste reports (pages R-3 and R-12),
2. recognize elements of the hazardous waste report (pages R-4 and R-13),
3. explain when an exception report must be filed (pages R-6 and R-7),
4. list records that must be maintained pages (R-3 and R-12), and
5. explain why these records are so important (pages R-15 through R-18).



40 CFR 262.41 imposes specific reporting requirements for generators who ship waste off-site or treat, store, or dispose of waste on-site. Federal regulations require that the reports be submitted biennially. Often states impose more stringent requirements in this area. Annual reporting at the state level is fairly common.



The biennial report must include the following information:

- the EPA identification number, name, and address of the generator;
- the calendar year covered by the report;
- identity of each TSDF to which waste was shipped;
- description, EPA hazardous waste number, DOT hazard class, and quantity of each hazardous waste shipped off-site to a TSDF;
- identity of each transporter used to ship waste;
- description of efforts undertaken during year to reduce volume and toxicity of waste generated;
- description of changes in volume and toxicity actually achieved during the year; and
- the certification signed by the generator or authorized representative.


Manifest Exception Reporting
For Off-Site Shipments
FLAMMABLE
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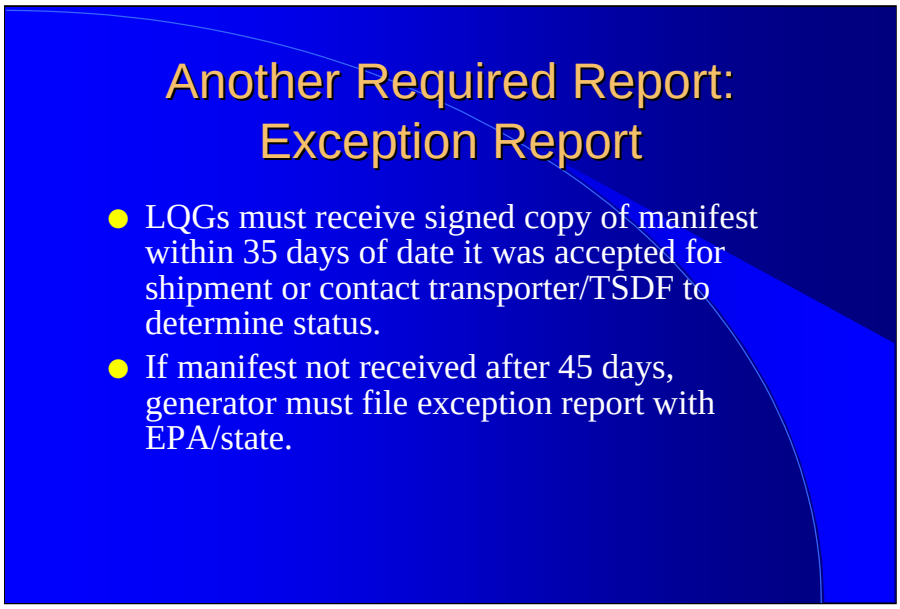
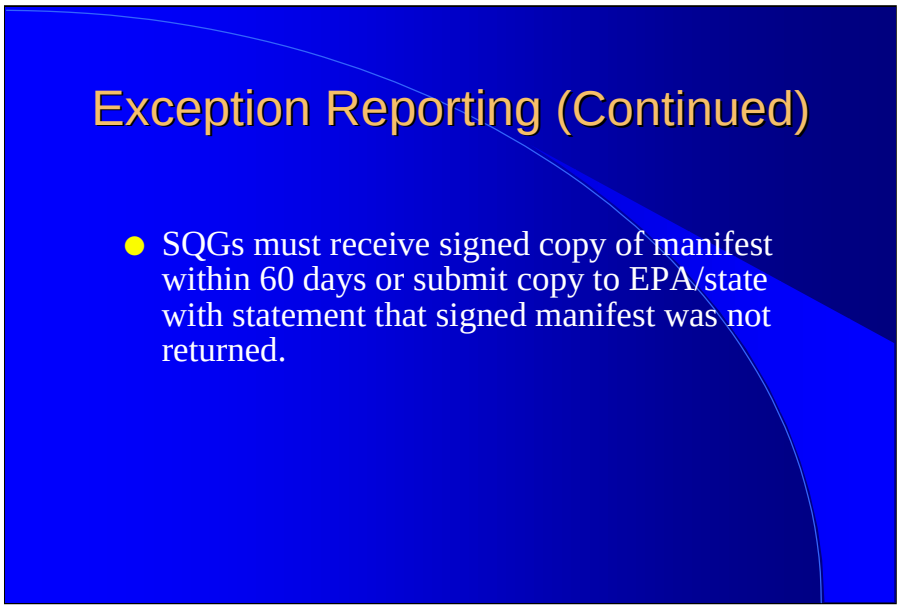


40 CFR 262.42 contains exception reporting requirements. CESQGs are exempt from the requirements (40 CFR 261.5).

LQGs must receive a signed copy of the manifest within 35 days of the date of shipment. If the generator does not receive a copy signed by the TSDF within 35 days, the generator must notify the TSDF and/or transporter to determine the status of the shipment and obtain a copy of the signed manifest. If the generator cannot resolve the issue by 45 days after date of shipment, the generator must file an exception report. The exception report must include a copy of the manifest for which the generator does not have confirmation of delivery and a cover letter signed by the generator explaining efforts to locate the hazardous waste and the results of those efforts.



Requirements differ for SQGs, who have 60 days to receive the manifest. If the SQG does not receive a signed copy in that period, the generator must submit to the EPA Regional Administrator a copy of the manifest with a note indicating that the confirmation of delivery was not received.

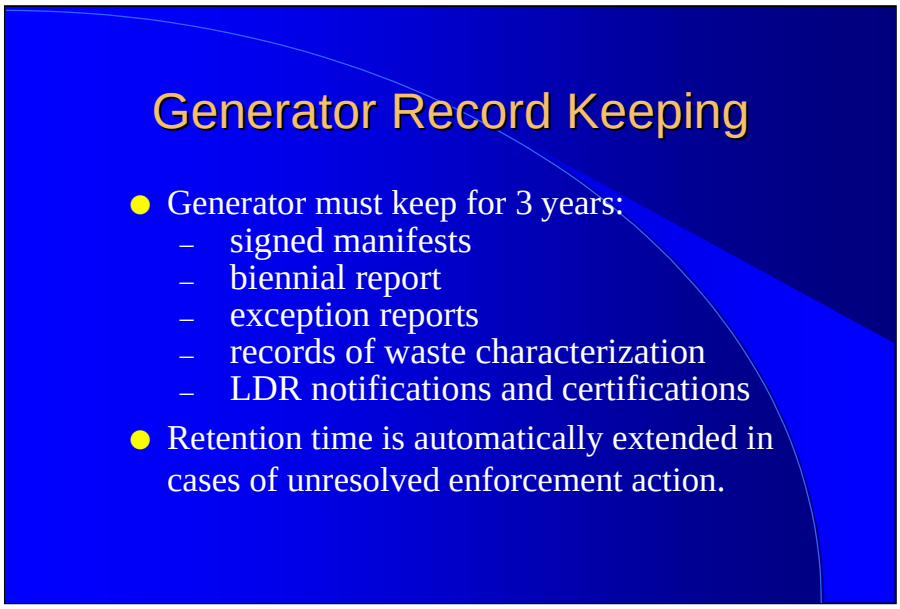
40 CFR 262.11 requires that generators determine if their wastes are hazardous. CESQGs are also subject to this requirement [40 CFR 261.5(g)(1)]. 40 CFR 262.40(c) requires that generators keep records of data used to support the waste determination.

Generators can determine whether wastes are hazardous using testing or process knowledge. Many generator facilities use a combination of waste analysis and process knowledge. They develop waste profiles based on analytical data. The waste profiles are considered representative of the waste streams, provided the process does not change. Retesting the waste to verify that the profile is accurate usually occurs annually, or if the process changes. If you have conducted analyses on your wastes according to the methods specified in 40 CFR 261 (Waste Identification and Listing) and you can account for the waste at every stage in its generation, then proof of compliance with generator standards is relatively straightforward.

In contrast, process knowledge works only insofar as a regulator finds your knowledge of the waste stream to be thorough and your logic in documenting the generation process to be sound. It is very difficult to impose enough control on a waste stream documented only through process knowledge.

Consider, for example, a drum whose contents are alleged to be known, but that is found at an accumulation point where its contents are accessible to employees who are not aware of the waste management process. In this scenario, a regulator may not find the claim of process knowledge to be credible because the uninformed employee may have added waste from some other process to that drum. Therefore, generators typically only use process knowledge with no backup testing for products in their original containers accompanied by Material Safety Data Sheets (MSDSs).

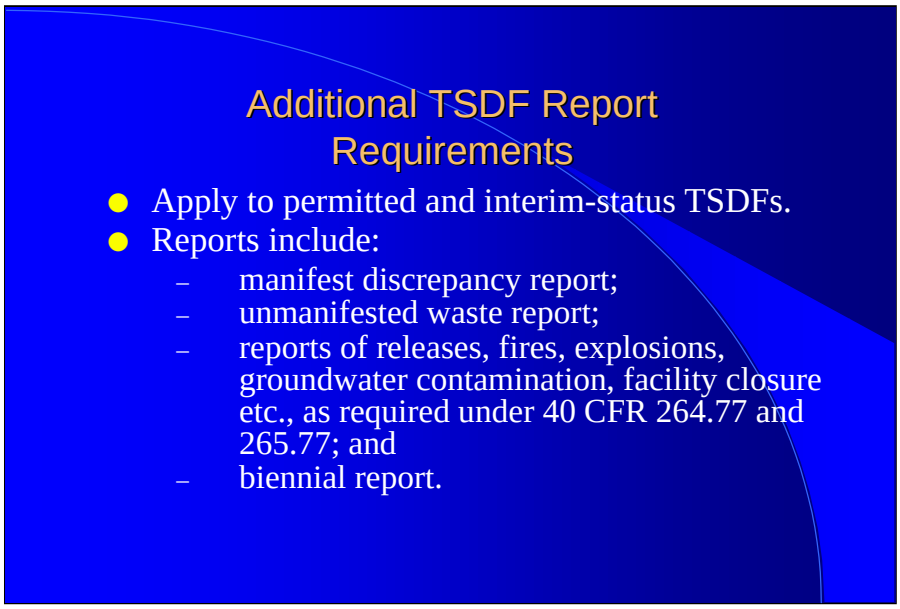
Generator Records That Must Be Maintained



RCRA's record keeping requirements are detailed and specific.

Further, under CERCLA's liability provisions, generators of hazardous waste can be held liable for cleanup of off-site facilities that manage those wastes. Under CERCLA, one generator could be held accountable for all wastes disposed of in a unit that is releasing hazardous substances to the environment. CERCLA's settlement provisions, however, include the possibility of distributing costs of cleanup according to an allocation of responsibility that all potentially responsible parties accept. Developing the initial nonbinding allocation of responsibility depends on availability of information regarding the quantities and types of wastes respective generators sent to the CERCLA site. Therefore, waste management records could be important in the future to help establish the level of responsibility for cleanup of a future CERCLA site. Therefore, it is wise to retain records longer than the required period.

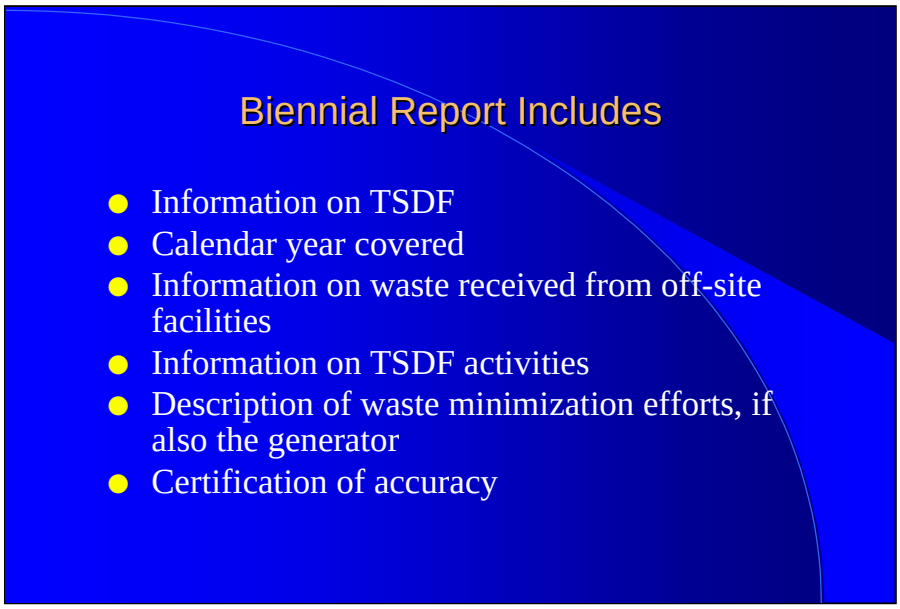
Additional TSDF Records



Interim-status and permitted TSDFs have additional reporting requirements. These requirements are outlined in 40 CFR 265 Subpart E and 40 CFR 264 Subpart E, respectively.

Discrepancy reports are submitted if a significant discrepancy exists between the quantity or type of waste listed on the manifest and the quantity or type of waste the TSDF receives. A significant discrepancy is a deviation in weight greater than 10% or a deviation in piece count (e.g., fewer drums received than listed on the manifest). 40 CFR 264.72 and 265.72 outline these requirements for permitted and interim-status facilities, respectively. The TSDF must contact the generator or transporter (e.g., by telephone) and resolve the discrepancy. If the discrepancy is not resolved within 15 days, the TSDF must submit to the Regional Administrator a letter describing the discrepancy and attempts to resolve it and a copy of the manifest or shipping paper.

The second additional type of report a TSDF may have to prepare is an unmanifested waste report (40 CFR 264.76 and 265.76). Unmanifested waste reports must be filed for shipments received without a manifest, unless a manifest is not required (e.g., waste is from a CESQG).



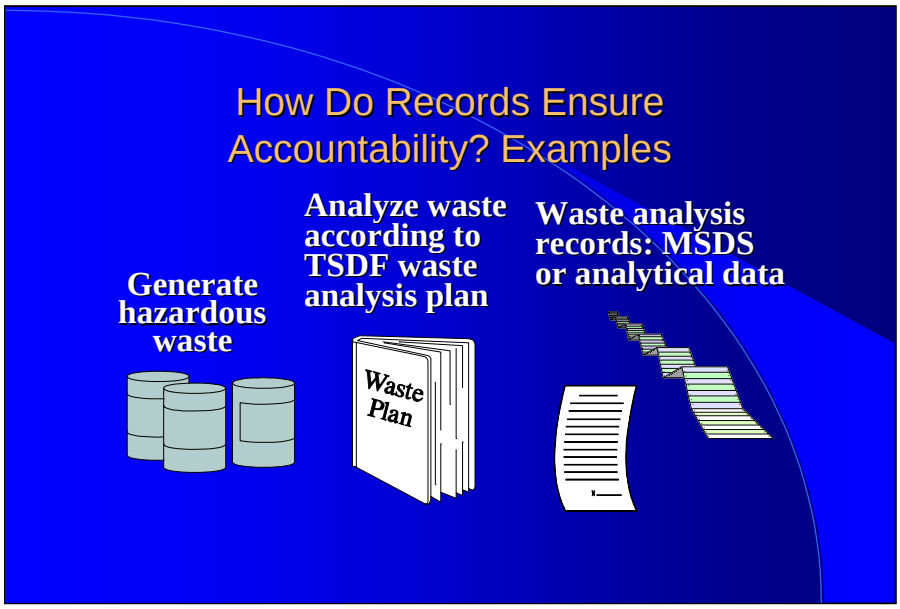
The biennial report must include the following information:

- the EPA identification number, name, and address of the TSDF;
- the calendar year covered by the report;
- identity of each off-site generator from whom waste was received;
- description, EPA hazardous waste number, DOT hazard class, and quantity of each hazardous waste received;
- the method for treatment, storage, or disposal of each waste;
- monitoring data, if required;
- for generators who treat, store, or dispose of waste on-site, a description of efforts taken to reduce volume and toxicity of the waste generated and a description of changes in volume and toxicity of waste actually achieved during the year in comparison to previous years;
- the certification signed by the owner, operator, or authorized representative.

TSDF Record Keeping Includes

- Required records
  - manifests
  - operating record
  - biennial report
- 40 CFR 264.74 and 265.74 states that all records, including plans, must be furnished upon request and made reasonably available.

Record keeping is often viewed as trivial and troublesome. Facilities get “bogged down” in the details of RCRA and lose sight of the “big picture.” These slides illustrate the importance of record keeping in establishing accountability under RCRA. The “big picture” goal of RCRA is protection of human health and the environment. The purpose of RCRA enforcement is to bring facilities into compliance so that the intent of the law, environmental protection, is met. Records and reports provide clear, objective elements of accountability that facilitate assigning responsibility for failure to protect human health and the environment.

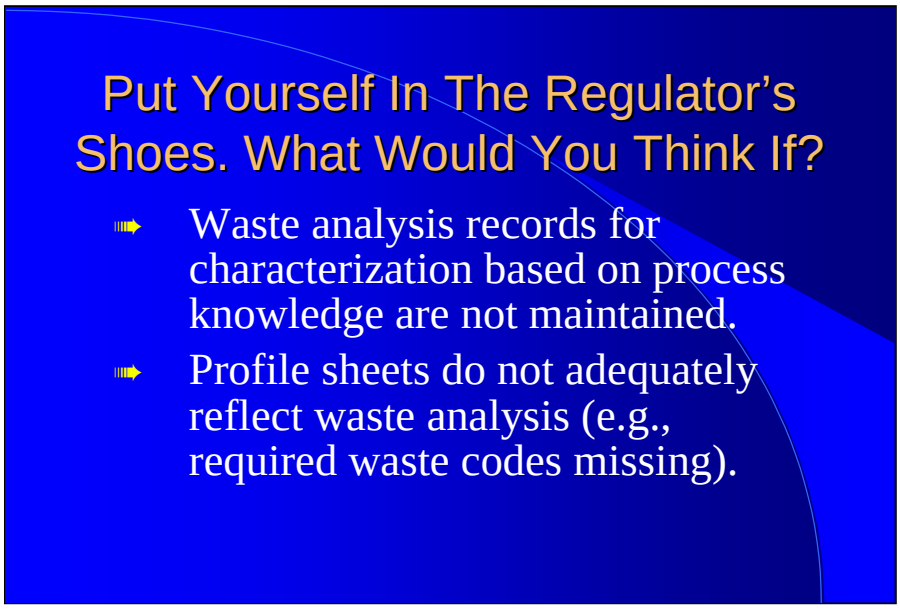


The origin is the generator, who must determine whether his or her wastes are hazardous. If the generating facility also treats, stores, or disposes of the wastes they generate on-site in a permitted unit, the facility must comply with its TSDF waste analysis plan for determining if its wastes are hazardous. This plan has been approved as an adequate approach to characterizing wastes for the TSDF. The plan itself is a required record for the TSDF.

The waste analysis plan can direct use of documents such as MSDSs as a basis for process knowledge or analysis to determine constituents. These records must be retained.

What does the regulator learn from looking at these required documents?

- if the waste analysis is inadequate to determine the hazards in the waste,
- if the waste characterization data do not support the waste codes that have been assigned to the waste, and
- if the wastes do not reflect the wastes actually generated on the facility.



Why are waste analysis records important?

You cannot be certain that wastes are shipped to properly authorized facilities if you do not have adequate waste characterization data. Errors do occur. Without the supporting information, the errors cannot be identified and corrected.

As a result, waste can be shipped to facilities not authorized to manage them. The likelihood of release substantially increases if the facility does not meet RCRA's substantive standards for preventing releases from waste management activities. Knowingly shipping to unauthorized facilities is a criminal violation of RCRA.

Even if a waste is shipped to a hazardous waste management facility, your installation's responsibilities under the LDR program cannot be met without accurately identifying all applicable waste codes.

These records directly relate to protection of human health and the environment by ensuring accurate representation of wastes so they can be managed in facilities that are designed and maintained to minimize releases of hazardous wastes.

Can These Be Detected Through Records?

- Off-site contractor changed data without reporting change to generator (biennial report therefore inaccurate).
- Hazardous waste shipped off-site as nonhazardous.

Summary

- Administrative requirements document responsibility and effective *or* improper waste management.
- Generator reports include biennial and exception reports.
- TSDF reports include biennial, unmanifested waste, discrepancy, and special reports.
- Records and reports are more than just a nuisance requirement! They establish accountability.