



August 24, 2018

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Clean Harbors Environmental Services
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Eastman Chemical Company
Heritage Thermal Services
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Veolia ES Technical Services, LLC

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Civil & Environmental Consultants, Inc.
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Spectrum Environmental Solutions LLC
Strata-G, LLC
SYA/Trinity Consultants
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The Coalition for Responsible Waste Incineration (CRWI) appreciates the opportunity to submit comments on *Clean Water Act Hazardous Substances Spill Prevention; Proposed Action*. 83 FR 29,499, June 25, 2018. CRWI is a trade association comprised of 26 members representing companies that own and operate hazardous waste combustors and companies that provide equipment and services to the hazardous waste combustion industry. CRWI member facilities are subject to a number of regulations considered in this proposed action. In general, CRWI supports EPA's proposed approach that no new requirements are needed. While we cannot speak for other industry groups, any additional regulations for the hazardous waste industry on spill prevention of hazardous substances would be redundant. As such, any additional requirements under the Clean Water Act would increase cost and recordkeeping requirements without any environmental benefits.

As a part of the analysis in this proposed action, the Agency examined a number of federal programs to determine where they established procedures, methods, and other requirements to prevent discharges of hazardous substances from onshore facilities. This is summarized in Table 5 (83 FR 29,511). CRWI believes this is the correct approach to this problem. In this analysis, the Agency states that RCRA TSDs (Treatment, Storage, and Disposal Facilities) meet six of the nine program elements (Table 3, 83 FR 29,504) needed to prevent, contain, or mitigate Clean Water Act hazardous substances discharges. CRWI suggests that RCRA TSD facilities meet all nine of the program elements either based on direct regulatory requirements or requirements that accomplish the same goals as required under the Clean Water Act hazardous substances language. Below is a bulleted list of the requirements for each of these nine elements and what regulations TSDs currently follow that directly address these requirements.

Safety Information

- Requirement – Maintain and review Safety Data Sheets (SDS).
- How current TSDF regulations meet this requirement.
 - While there is no direct requirement under RCRA to maintain SDS for materials managed, TSDFs are required to follow OSHA requirements to have SDSs available for any products that are kept or used at the facility (29 CFR 1910.1200). In addition, the proper operation of a TSDF requires that the facility know and understand the hazards associated with any material handled. This is accomplished with a detailed waste analysis plan that is required under 40 CFR 264.13. As a part of this section of regulations, facilities may include “existing published or documented data on the hazardous waste or on hazardous waste generated from similar processes.” By following these requirements, all TSDFs have a good understanding of the materials that are being handled at their facility. We believe that the proper development and implementation of a waste analysis plan meets the safety information requirements as outlined in Table 3 of the proposed rule.

Hazard Review

- Requirement – review materials and operations at a facility, identify potential CWA HS discharge scenarios, and address them. Examples of resulting hazard mitigation measures could include storage container compatibility, engineering controls (e.g., uninterrupted power source) to address expected weather events, overfill prevention, explosion-proof requirements, and facility security measures.
- How current TSDF regulations meet this requirement.
 - 40 CFR 270.14(b)(11) requires that a facility determine if the facility can reasonably discharge to the waters of the US.
 - Location standards at 40 CFR 264.18 and design and operation requirements at 40 CFR 264.3 include consideration of nearby navigable waterways (includes streams and creeks).
 - Overfill containment requirements for tanks are addressed in 40 CFR 264.194(b)). This includes full capacity of the tank plus rainwater, dike can be earth or concrete, and double walled tanks (40 CFR 264.193).
 - Containment and overfill requirements for containers are found at 40 CFR 264.175 for containers).
 - 40 CFR 264.171 requires the use of suitable containers.
 - Countermeasures for discovering and responding to releases (leak detection system) from tanks are found in 40 CFR 264.193. Tank spill cleanup requirement are found in 40 CFR 264.196.
 - Facility security requirements are in 40 CFR 264.13.

Mechanical Integrity

- Requirement – conduct preventive maintenance inspections, including process equipment and process control equipment, and implement appropriate corrective actions within specified timeframes.

- How current TSDF regulations meet this requirement.
 - General inspection requirements for TSDFs are found at 40 CFR 264.15. In addition, RCRA TSDF regulations have specific inspection requirements for containers (40 CFR 264.174), tanks (40 CFR 264.195), and bulk containers (40 CFR 264.174).
 - These inspections can be self-certified or by a third party (40 CFR 264.192).
 - Integrity testing requirements for tanks can be found at 40 CFR 264.191.

Personnel Training

- Requirement – conduct initial and periodic personnel training for employees and contractors on proper facility operations, including any discharge prevention, mitigation, and response practices.
- How current TSDF regulations meet this requirement.
 - Personnel training requirements can be found at 40 CFR 264.16. In addition, OSHA requires initial HAZWOPER training and annual update training (29 CFR 1910.120).

Incident Investigations

- Requirement – investigate CWA HS discharge causes, identify ways to prevent recurrence, document findings, and implement appropriate corrective actions.
- How current TSDF regulations meet this requirement.
 - Immediately after a release, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release (40 CFR 264.56(g)).
 - 40 CFR 264.56(i) requires documentation in the operating record of every time the contingency plan is implemented.
 - TSDFs employ methods to prevent reoccurrence that include management team investigations of any releases. This is considered as a best management practice. If a release or incident is significant, the permitting authorities will often require an incident investigation. Facilities regulated by OSHA PSM are also required conduct an incident investigation when a significant event occurs (29 CFR 1910.119(m)).

Compliance Audits

- Requirement – review and document compliance with regulatory requirements. This could be an in-house or third-party review.
- How current TSDF regulations meet this requirement.
 - 40 CFR 264.73 requires every TSDF to keep an operating record. This record must include (among other things) summary reports and details of all incidents that required implementing their contingency plan, records and results of all inspections, results of all tests, and corrective actions taken to respond to releases. These records are maintained at the facility and are available for inspection. In addition, facilities are required to

immediately report any releases to the environment to the local authorities or the National Response Center (40 CFR 264.56(d)(2)) and submit a written report to the Regional Administrator within 15 days of an incident (see 40 CFR 264.56(i)).

Secondary Containment

- Requirement – install and maintain secondary containment or diversionary structures to prevent a CWA HS discharge from reaching a waterway. Requirements could include specifications for size requirements, freeboard for precipitation, and imperviousness.
- How current TSDF regulations meet this requirement.
 - Secondary containment requirements for tanks are found at 40 CFR 264.193. These include earth or concrete structures that can hold the full capacity of the tanks plus rainwater. These also include secondary containment for transfer racks.
 - Containment requirements for containers are found at 40 CFR 264.175.

Emergency Response Plan

- Requirement – develop an emergency response plan that includes information and procedures needed in the event of a discharge to mitigate the impacts of the discharge, ensure the safety of responders and facility personnel, and to notify potential receptors.
- How current TSDF regulations meet this requirement.
 - RCRA regulations include an entire Subpart (D) for contingency plans and emergency procedures. These include the preparation of a contingency plan (40 CFR 264.51 and 254.52), appointing an emergency coordinator (40 CFR 264.55), and developing emergency procedures (40 CFR 264.56). In addition, 40 CFR 264.56 requires immediate notification of a release that could threaten human health or the environment.

Coordination with State and Local Responders

- Requirement – coordinate with state and local responders on response and notification procedures prior to a CWA HS discharge.
- How current TSDF regulations meet this requirement
 - TSDFs are required to attempt to make arrangements with local police, fire, and emergency response teams (40 CFR 264.37)

CRWI believes that all of the information provided above shows that TSDFs are already meeting the requirements of the nine elements listed in Table 3. As such, we see no reason to add regulatory requirements. Any additions would only increase the cost for compliance without providing for any environmental benefits.

Thank you for the opportunity to comment on this proposed action. If you have any questions, please contact me at (703-431-7343 or mel@crwi.org).

Sincerely yours,



Melvin E. Keener, Ph.D.
Executive Director

cc: CRWI members
S. Yonce – EPA