

An introduction to the Resource Conservation and Recovery Act (RCRA)

*Sometimes referred to as the Solid
Waste Disposal Act (SWDA)*

(Not to be confused with the Safe Drinking Water Act,
[SDWA])

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Disclaimer:
The views in this presentation are those of the author and
do not necessarily reflect the views or policies of the EPA.

The statutory evolution of what is commonly referred to as “RCRA” (RCRA Section 1002, *et seq.*, 42 U.S. Code § 6901)*

1899 - Rivers and Harbors Act

1965 - Solid Waste Disposal Act

1976 - Resource Conservation and Recovery Act

1980 - Used Oil Recycling Act

1980 - Solid Waste Disposal Act Amendments

1984 - Hazardous and Solid Waste Amendments

1986 - Superfund Amendments and Reauthorization Act

1988 - Medical Waste Tracking Act

1992 - Federal Facilities Compliance Act

1996 - Land Disposal Program Flexibility Act

2005 - Energy Policy Act [Underground Storage Tank Compliance Act]

2012 - Hazardous Waste Electronic Manifest Establishment Act

2016 - Water Infrastructure Improvements for the Nation (WIIN) Act

* This list may not be exhaustive.

Key Subtitles of RCRA

(aka “Subchapters”)

Subtitle A (aka Subchapter I) General Provisions

Subtitle B (aka Subchapter II) Office of Solid Waste; Authorities of the Administrator

Subtitle C (aka Subchapter III) Hazardous Waste Management - RCRA

Sections 3001-3024, 42 U.S.C. §§ 6921-6939g

Subtitle D (aka Subchapter IV) State or Regional Solid Waste Plans –

RCRA Sections 4001-4010, 42 U.S.C. §§ 6941-6949a

Subtitle E (aka Subchapter V) Duties of the Secretary of Commerce in Resource and Recovery

Subtitle F (aka Subchapter VI) Federal Responsibilities

Subtitle G (aka Subchapter VII) Miscellaneous Provisions – RCRA

Sections 7001-7010, 42 U.S.C. §§ 6971-6979b

Subtitle H (aka Subchapter VIII) Research, Development, Demonstration, and Information

Subtitle I (aka Subchapter IX) Regulation of Underground Storage Tanks

– RCRA Sections 9001- 9014, 42 U.S.C. §§ 6991-6991m

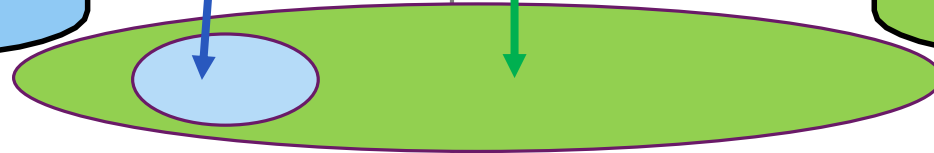
Subtitle J (aka Subchapter X) Demonstration Medical Waste Tracking Program

RCRA Subtitle C – Hazardous Waste

RCRA Subtitle D – Solid Waste

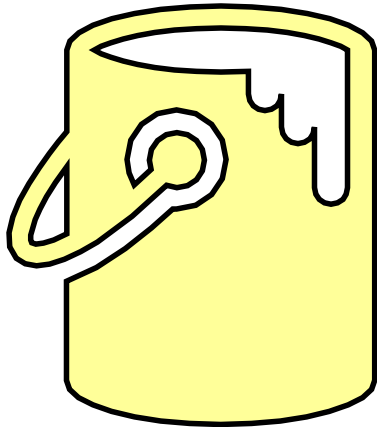


Hazardous Waste is a subset of Solid Waste



RCRA Subtitle G – Miscellaneous Provisions

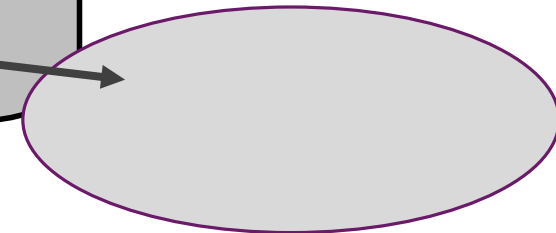
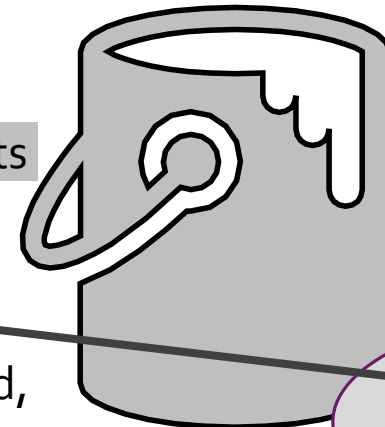
RCRA Subtitle I – Underground Storage Tanks (USTs)



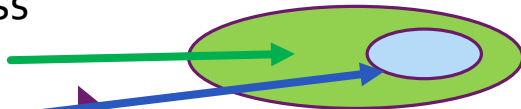
Section 7002, 42 USC § 6972, Citizen suits

Section 7003, 42 USC § 6973, Imminent Hazard

Regulates USTs containing petroleum products or hazardous substances (not wastes). (But, once released, these materials may become "wastes".)



Section 7003 may be used to address solid waste and hazardous waste



RCRA regulates

Wastes solid and hazardous

From cradle to grave.



In US v. White, U.S. District Judge Alan A. MacDonald stated,

“... After reading and rereading the [RCRA] regulations several times, the court recognizes, as do the defendants, that the regulations are in fact dense, turgid, and a bit circuitous...” 766 F. Supp. 873, (E.D. Wash. 1991).



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RCRA Subtitle C – Hazardous Waste

Sections 3001-3024, 42 U.S.C. §§ 6921-6939g

Title 40 of the Code of Federal Regulations

Part 260 – Hazardous Waste Management System: General

Part 261 – Identification and Listing of Hazardous Waste

Part 262 – Standards Applicable to Generators of Hazardous Waste

Part 263 – Standards Applicable to Transporters of Hazardous Waste

Part 264 – Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (TSDs or TSDFs)

Part 265 – Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

Part 266 – Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities

Part 267 – [reserved]

Part 268 – Land Disposal Restrictions

Part 269 – [reserved]

Part 270 – EPA Administered Permit Programs: The Hazardous Waste Permit Program

Part 271 – Requirements for Authorization of State Hazardous Waste Programs

Part 272 – Approved Hazardous Waste Management Programs

Part 273 – Standards For Universal Waste Management

Part 274-277 – [reserved]

Part 278 – Criteria For The Management Of Granular Mine Tailings (CHAT) In Asphalt Concrete And Portland Cement Concrete In Transportation Construction Projects Funded In Whole Or In Part By Federal Funds

Part 279 – Standards For The Management Of Used Oil

RCRA Subtitle D – Solid Waste

Sections 4001-4010, 42 U.S.C. §§ 6941-6949a

Title 40 of the Code of Federal Regulations

Part 239 – Requirements For State Permit Program Determination Of Adequacy

Part 240 – Guidelines For The Thermal Processing Of Solid Wastes

Part 241 – Solid Wastes Used As Fuels Or Ingredients In Combustion Units

Part 242 – [reserved]

Part 243 – Guidelines For The Storage And Collection Of Residential, Commercial, And Institutional Solid Waste

Parts 244-245 – [reserved]

Part 246 – Source Separation For Materials Recovery Guidelines

Part 247 – Comprehensive Procurement Guideline For Products Containing Recovered Materials

Parts 248-253 – [reserved]

Part 254 – Prior Notice Of Citizen Suits

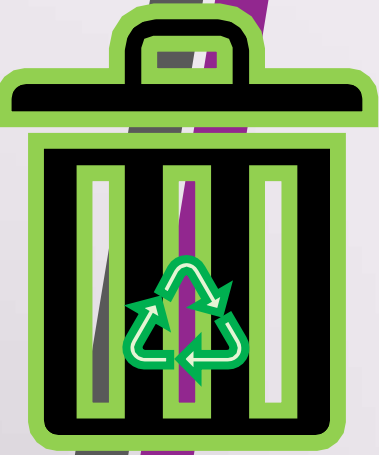
Part 255 – Identification Of Regions And Agencies For Solid Waste Management

Part 256 – Guidelines For Development And Implementation Of State Solid Waste Management Plans

Part 257 – Criteria For Classification Of Solid Waste Disposal Facilities And Practices

Part 258 – Criteria For Municipal Solid Waste Landfills

Part 259 – [reserved]



Wiki commons: landfill compactor



RCRA Subtitle D – Solid Waste

Sections 4001-4010, 42 U.S.C. §§ 6941-6949a

40 CFR Part 257 – Criteria For Classification Of Solid Waste Disposal Facilities And Practices

Subpart A — Classification Of Solid Waste Disposal Facilities And Practices

Subpart B — Disposal Standards For The Receipt Of Very Small Quantity Generator (VSQG) Wastes At Non-municipal Non-hazardous Waste Disposal Units

Subpart C — [Reserved]

Subpart D — Standards For The Disposal Of Coal Combustion Residuals In Landfills And Surface Impoundments

40 CFR Part 258 – Criteria For Municipal Solid Waste Landfills

Subpart A — General

Subpart B — Location Restrictions

Subpart C — Operating Criteria

Subpart D — Design Criteria

Subpart E — Ground-water Monitoring And Corrective Action

Subpart F — Closure And Post-closure Care

Subpart G — Financial Assurance Criteria



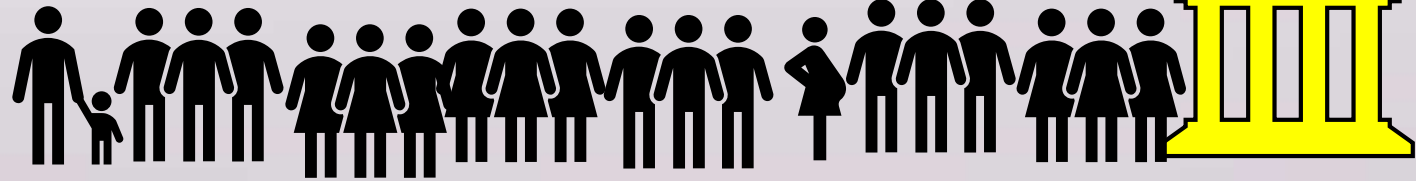
RCRA Section 7002, 42 USC § 6972, Citizen suits

“ . . . **any person may commence a civil action** on his own behalf —

(1)(A) against any person (including (a) the United States, and (b) any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) **who is alleged to be in violation of any permit, standard, regulation, condition, requirement, prohibition, or order** which has become effective pursuant to this chapter; or

(B) against any person, including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution, and including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, **who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment;** or

(2) against the Administrator **where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary** with the Administrator . . . ”



RCRA Section 7003, 42 USC § 6973, Imminent Hazard

(a) Authority of Administrator

Notwithstanding any other provision of this chapter, upon receipt of evidence that the past or present handling, storage, treatment, transportation or disposal of any solid waste or hazardous waste may present an imminent and substantial endangerment to health or the environment, the Administrator may bring suit on behalf of the United States in the appropriate district court against any person (including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility) who has contributed or who is contributing to such handling, storage, treatment, transportation or disposal to restrain such person from such handling, storage, treatment, transportation, or disposal, to order such person to take such other action as may be necessary, or both. A

transporter shall not be deemed to have contributed or to be contributing to such handling, storage, treatment, or disposal taking place after such solid waste or hazardous waste has left the possession or control of such transporter if the transportation of such waste was under a sole [contractual] arrangement arising from a published tariff and acceptance for carriage by common carrier by rail and such transporter has exercised due care in the past or present handling, storage, treatment, transportation and disposal of such waste. The Administrator shall provide notice to the affected State of any such suit. The Administrator may also, after notice to the affected State, take other action under this section including, but not limited to, issuing such orders as may be necessary to protect public health and the environment.

(b) . . .

RCRA Subtitle I – Underground Storage Tanks (USTs)

Sections 9001- 9014, 42 U.S.C. §§ 6991-6991m

Title 40 of the Code of Federal Regulations

Part 280 - Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST)

Subpart A - Program Scope And Installation Requirements For Partially Excluded UST Systems

Subpart B - UST Systems: Design, Construction, Installation And Notification

Subpart C - General Operating Requirements

Subpart D - Release Detection

Subpart E - Release Reporting, Investigation, And Confirmation

Subpart F - Release Response And Corrective Action For UST Systems Containing Petroleum Or Hazardous Substances

Subpart G - Out-of-service UST Systems And Closure

Subpart H - Financial Responsibility

Subpart I - Lender Liability

Subpart J - Operator Training

Subpart K - UST Systems With Field-constructed Tanks And Airport Hydrant Fuel Distribution Systems

Part 281 - APPROVAL OF STATE UNDERGROUND STORAGE TANK PROGRAMS

Part 282 - APPROVED UNDERGROUND STORAGE TANK PROGRAMS

Parts 283-289 – [Reserved]

US Dept. of Energy Photo - Underground Storage Tank Removals Typical Excavation



Some interesting sites:

Marine Shale Processors, Amelia, Louisiana – RCRA Jury Trial (1994)/ BIF permit denial/appeal to 5th Circuit (1996). Settlement announced 1997: <https://www.justice.gov/archive/opa/pr/1997/September97/379enr.html>
Update 2006: <https://www.wafb.com/story/5011522/settlement-to-clean-up-marine-shale-processors-after-16-years/>

JACADS, Johnston Atoll, Pacific Ocean – chemical weapons disposal – VX Nerve Agent – Settlements entered in 2003 and 2004. <http://archives.starbulletin.com/2004/06/01/news/index9.html> and https://archive.epa.gov/epapages/newsroom_archive/newsreleases/841632cc7boe8f64852570d8005e1646.html

The BKK Landfill, West Covina, California – RCRA/CERCLA Prospective Purchaser Agreement/State Superfund lead – ongoing. <https://dtsc.ca.gov/hw-projects/bkk-corporation-landfill/> and <https://sac.media/2018/12/15/a-quick-history-of-the-bkk-dump/>

The Pic N Run gas station, Chinle, Arizona – historic and recent petroleum releases trigger insurance disputes litigated in state, federal and Navajo Nation Tribal Court - RCRA 7003 Order issued in 2009 – ongoing. <https://www.nhnews.com/news/2009/sep/01/epa-orders-chinle-gas-station-to-continue-clean-u/>

Consolidated Tire Recyclers, Mecca California – Imminent and Substantial Endangerment Order Issued 2011. <https://19january2017snapshot.epa.gov/www3/region9/waste/enforcement/consolidated-tire/index.html>

RCRA-related and other handy government resources:

EPA's RCRA website:

<https://www.epa.gov/rcra>

RCRA Online Guidance and Policy Documents:

<https://rcrapublic.epa.gov/rcraonline/>

Searchable Decisions by EPA's Administrative Law Judges:

https://yosemite.epa.gov/oarm/alj/alj_web_docket.nsf/search?OpenForm&View=All+Content+-+Web

Searchable EPA Environmental Appeals Board Decisions:

https://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/Board+Decisions?OpenPage

Federal Registers by year:

<https://www.govinfo.gov/app/collection/FR/>

Regulations.gov (dockets, public comments, etc.):

<https://www.regulations.gov/>

FOIA Online:

<https://foiaonline.gov/foiaonline/action/public/home>