These requirements include standards for hazardous waste determination (40 CFR 262.11), compliance with the manifest (40 CFR 262.20 to 262.23), pretransport procedures (40 CFR 262.30 to 262.34), generator accumulation (40 CFR 262.34), recordkeeping and reporting (40 CFR 262.40 to 262.44), and import/export procedures (40 CFR 262.50 to 262.60). It should be noted that the generator accumulation provisions of 40 CFR 262.34 allow generators to accumulate hazardous wastes without obtaining interim status or a permit only in units that are container storage units or tank systems; the regulations also place a limit on the maximum amount of time that wastes can be accumulated in these units. If these wastes are managed in surface impoundments or other units that are not tank systems or containers, these units are subject to the permitting requirements of 40 CFR 264 and 265, and the generator is required to obtain interim status and seek a permit (or modify interim status or a permit, as appropriate). Also, persons who transport newly identified hazardous wastes will be required to obtain an EPA identification number as described above and will be subject to the transporter requirements set forth in 40 CFR part 263.

E. Facilities Subject to Permitting

1. Facilities Newly Subject to RCRA Permit Requirements

Facilities that treat, store, or dispose of wastes that are subject to RCRA regulation for the first time by this rule (that is, facilities that have not previously received a permit pursuant to section 3005 of RCRA and are not currently operating pursuant to interim status, might be eligible for interim status (see section 3005(e)(1)(A)(ii) of RCRA, as amended). In order to obtain interim status based on treatment, storage or disposal of such newly identified wastes, eligible facilities are required to provide notice under section 3010 and to submit a Part A permit application no later than August 9, 1995. Such facilities are subject to regulation under 40 CFR Part 265 until a permit is issued.

In addition, under section 3005(e)(3), not later than August 9, 1995, land disposal facilities newly qualifying for interim status under section 3005(e)(1)(A)(ii) also must submit a Part B permit application and certify that the facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements. If the facility fails to submit these certifications and a permit application,

interim status will terminate on August 9, 1995.

2. Existing Interim Status Facilities

Pursuant to 40 CFR 270.72(a)(1), all existing hazardous waste management facilities (as defined in 40 CFR 270.2) that treat, store, or dispose of the newly identified hazardous wastes and are currently operating pursuant to interim status under section 3005(e) of RCRA must file an amended Part A permit application with EPA no later than August 9, 1995. By doing this, the facility may continue managing the newly listed wastes. If the facility fails to file an amended Part A application by August 9, 1995, the facility will not receive interim status for management of the newly listed wastes, and may not manage newly identified hazardous wastes until the facility receives either a permit or a change in interim status allowing such activity (40 CFR 270.10(g)).

3. Permitted Facilities

Under regulations promulgated by EPA on September 28, 1988, (see 53 FR 37912), a hazardous waste management facility that has received a permit pursuant to section 3005 of RCRA and is "in existence" as a hazardous waste facility on the date for the newly listed wastes are first subject to regulation, may be eligible to continue managing the new wastes under 40 CFR 270.42(g) while steps necessary to obtain a permit modification to allow the facility to manage the wastes are taken. To continue to manage the newly listed hazardous wastes, eligible facilities must be in compliance with 40 CFR Part 265 requirements with respect to management of the newly listed wastes and submit a Class 1 modification request no later than August 9, 1995. This modification is essentially a notification to the Agency that the facility is handling the waste. As part of the procedure, the permittee must also notify the public within 90 days of submittal to the Agency. See 40 CFR

The permittee must then submit a Class 2 or 3 permit modification to the Agency by 180 days after the effective date of the listing. A Class 2 modification is required if the newly listed wastes will be managed in existing permitted units or in newly regulated tank or container units and will not require additional or different management practices than those authorized in the permit. A Class 2 modification requires the facility owner to provide public notice of the modification request, a 60 day public comment period, and an informal

meeting between the owner and the public within the 60-day period. The Class 2 process includes a "default provision," which provides that if the Agency does not reach a decision within 120 days, the modification is automatically authorized for 180 days. If the Agency does not reach a decision by the end of that period, the modification is permanently authorized. See 40 CFR 270.42(b).

A Class 3 modification is required if management of the newly listed wastes requires additional or different management practices than those authorized in the permit or if newly regulated land-based units are involve. The initial public notification and public meeting requirements are the same as for Class 2 modifications. However, after the end of the 60-day public comment period, the Agency will develop a draft permit modification, open a public comment period of 45 days, and hold a public hearing if requested. There is no default provision for Class 3 modifications. See 40 CFR 270.42(c).

Under 40 CFR 270.42(g)(1)(v), for newly regulated land disposal units, permitted facilities must certify that the facility is in compliance with all applicable 40 CFR Part 265 groundwater monitoring and financial responsibility requirements no later than August 9, 1995. If the facility fails to submit these certifications, authority to manage the newly listed wastes under 40 CFR 270.42(g) will terminate on that date.

4. Units

Units in which newly identified hazardous wastes are generated or managed will be subject to all applicable requirements of 40 CFR 264 for permitted facilities or 40 CFR 265 for interim status facilities, unless the unit is excluded from such permitting by other provisions such as the wastewater treatment tank exclusions (40 CFR 264.1(g)(6) and 265.1(c)(10)), and the product storage tank exclusion (40 CFR 261.4(c)). Examples of units to which these exclusions could never apply include landfills, land treatment units, waste piles, incinerators, and any other miscellaneous units in which these wastes may be generated or managed.

5. Closure

All units in which newly identified hazardous wastes are treated, stored, or disposed after the effective date of this regulation that are not excluded from the requirements of 40 CFR 264 and 265 are subject to both the general closure and post-closure requirements of subpart G of 40 CFR 264 and 265, and