

Florida Solid and Hazardous Waste Regulation Handbook: Resource Conservation and Recovery Act (RCRA)¹

Michael T. Olexa, Aaron Leviten, and Kelly Samek²

What Is the Resource Conservation and Recovery Act (RCRA)?

The Resource Conservation and Recovery Act (RCRA) manages all aspects of solid and hazardous wastes. RCRA has separate requirements for

- generators of wastes.
- transporters of wastes.
- owner/operators of facilities for treatment, storage, or disposal of hazardous waste.

The requirements of RCRA include:

- permitting by EPA.
- exhaustive recordkeeping.

The requirements are intended to track the movement and handling of the waste until it reaches final disposal. This is known as the cradle-to-grave approach to monitoring wastes.

How Does RCRA Define Solid Waste?

If none of the exceptions apply, and if the material has been discarded, or has served its useful purpose, it is a solid waste. Waste from agricultural activities is expressly included.

RCRA defines solid waste as including any:

- garbage.
- refuse.
- sludge, or other discarded materials.
- liquids.
- semi-solids.
- contained gaseous materials.

Materials excluded from the definition of solid waste under RCRA include:

1. This is EDIS document FE444, a publication of the Department of Food and Resource Economics, Florida Cooperative Extension Service, UF/IFAS, University of Florida, Gainesville, FL. Published December 2003. Please visit the EDIS website at <http://edis.ifas.ufl.edu>.

2. Michael T. Olexa, Professor in the Department of Food and Resource Economics and Director of the Agricultural Law Center, Florida Cooperative Extension Service, UF/IFAS, University of Florida, Gainesville, FL, and Member of the Florida Bar and Chair of the Agricultural Law Committee of the Florida Bar; Aaron Leviten, Attorney in Orlando and guest lecturer on pesticide litigation at the University of Florida; and Kelly Samek, 2003 graduate of the Levin College of Law at the University of Florida.

- domestic sewage.
- waste from irrigation return flows.
- point source discharges into navigable waters which are permitted for release under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act.

What Can I Do with Solid Waste?

Solid waste may be:

- recycle.
- reused.
- discarded.
- reclaimed.
- stored, depending on its nature.

Many solid wastes may also be hazardous wastes, and therefore subject to other, more restrictive regulations.

Facilities or people that dispose of waste contrary to RCRA solid waste guidelines violate federal law.

How Does RCRA Define Hazardous Waste?

Hazardous waste under RCRA is defined as a solid waste, or combination of solid wastes, with special characteristics. The specific characteristics to which the statute refers are:

- quantity.
- concentration.
- physical, chemical, or infectious characteristics.

These characteristics are important because they show that the waste is hazardous and may cause or significantly contribute to an increase in mortality or serious illness, or pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

What Are the Characteristics of a Hazardous Waste?

To decide what constitutes hazardous waste, EPA also considers a material's characteristics. These characteristics include:

- toxicity.
- ignitability.
- corrosiveness.
- reactivity.

What Materials Are Excluded from This Definition?

Certain materials have been specifically designated as NOT hazardous, including:

- household waste (e.g., kitchen garbage, food scraps, and septic tank wastes)
- solid wastes that are generated by growing or harvesting agricultural crops, or by raising farm animals (including manure), AND that are returned to the soil as fertilizer.
- slight residues in otherwise empty containers.

How Is RCRA Enforced?

EPA is responsible for:

- establishing the criteria for classifying "hazardous wastes".
- listing those wastes to which the statute automatically applies.
- implementing and enforcing RCRA.

RCRA also allows each state to enact its own solid and hazardous waste programs, which the state, instead of EPA, may enforce. Florida is authorized to administer most aspects of RCRA's "base program" for the regulation of solid and hazardous wastes. The "base program" includes all aspects of RCRA that were passed before 1984.

Even though it has delegated permitting authority to the state of Florida, EPA retains broad authority under RCRA. This authority includes requiring tests, inspections or additional monitoring when EPA determines there is an enhanced danger to health or the environment from a generator or treatment facility.

How Does RCRA Regulate Solid and Hazardous Waste?

You do not need a RCRA permit to dispose of solid waste. Solid waste must be disposed of in a place and manner consistent with state law.

Who Is Regulated?

Under RCRA, 3 categories of people are regulated:

1. generators of hazardous waste.
2. transporters of hazardous waste.
3. owner/operators of hazardous waste treatment, storage and disposal facilities.

Owner/operators of facilities that dispose, store, or treat hazardous wastes must obtain a RCRA permit to do so.

Generators and transporters of hazardous wastes:

- may operate without a permit.
- must have an identification number.
- may be required to file reports with EPA at regular intervals, depending upon the quantity and type of hazardous wastes they handle.

What Are the Requirements for Generators?

Generators are defined by RCRA as producers of hazardous waste. EPA requires that generators obtain an identification number before they treat, store, dispose of, or transport their waste. EPA also requires:

- extensive pre-transportation packaging and labeling of waste.

- a manifest record-keeping system which allows the government to account for the waste from the point of its creation to its final disposal.

Generators may accumulate a limited amount of waste on-site for up to 90 days without a permit. After that, EPA may grant a 30-day extension for unforeseen delays in removing the waste. If EPA does not grant the extension, the generator must obtain an owner/operator permit.

EPA requires any generator that produces more than 2200 pounds per month (1000 kilograms per month) of hazardous waste to file a report with the state's Department of Environmental Protection.

Who Is Exempt from the Requirements?

Farmers who dispose of their own pesticides may be exempt from the requirements governing generators. Farmers must comply with the disposal instructions on the pesticide label and triple-rinse each container.

Small quantity generators are also exempt from certain provisions of RCRA. These "conditional exemptions" include:

- rights to accumulate waste on-site for longer periods of time without a permit.
- greater disposal options.

To be a conditionally exempt small quantity generator, you must produce no more than 222 pounds (100 kilograms) of hazardous waste per month.

What Are the Requirements for Transporters of Hazardous Waste?

Transporters of hazardous waste must:

- obtain an identification number from EPA.
- maintain detailed manifest records of all wastes they handle.
- obtain an owner/operator permit if they store waste more than 10 days.

- notify crisis management authorities of any spill and take necessary action to protect public health and environment.
- maintain one million dollars worth of casualty insurance in case of an accidental spillage.
- comply with the requirements under the Hazardous Materials Transportation Authorization Act.

What Are the Requirements for Owner/Operators?

Owner/operators of treatment, storage or disposal facilities must obtain a permit from EPA and the Florida DEP. The only exceptions to this rule are the limited on-site accumulations allowed to generators, the farm pesticide exceptions, and facilities which completely re-use hazardous waste in some type of production process. EPA has established detailed rules for the operation and security of facilities for the treatment, storage, or disposal of hazardous waste. These rules address:

- personnel.
- safety.
- closure.
- virtually every other aspect of maintaining a treatment, storage, or disposal facility.

What Is the Universal Waste Rule (UWR)?

The Universal Waste Rule (UWR) of RCRA was enacted in 1995 to facilitate hazardous waste recycling. The UWR created streamlined regulations that govern the collection and management of certain widely generated wastes, termed universal wastes. Under the rule, EPA exempts universal wastes from the full scope of RCRA's hazardous waste regulations.

What Are Universal Wastes?

Universal wastes share several characteristics. They are:

- frequently generated in settings other than industrial settings.
- generated by a large number of individuals, and present in significant volumes in non-hazardous waste management systems.

Universal wastes specifically mentioned in the rule include:

- batteries.
- mercury-containing thermostats.
- pesticides that have been recalled, suspended, or collected for discarding.

Who Is Regulated under the UWR?

Under the UWR, 4 categories of people are regulated. They include:

1. small quantity handlers who store less than 5000 kilograms of universal waste at any one time.
2. large quantity handlers who store 5000 kilograms or more of universal waste at any one time.
3. transporters who move universal wastes by air, rail, highway, or water.
4. owners or operators of destination facilities who treat, dispose of or recycle universal wastes.

What Are the Requirements for Small Quantity Handlers?

There are several requirements for small quantity handlers under the rule. Small quantity handlers:

- must prevent releases of universal wastes utilizing methods specified by EPA.
- must immediately contain accidental releases.
- must give detailed labeling on all universal waste containers.
- may store universal wastes for up to 1 year.

If a small quantity handler stores universal waste for longer than a year, the handler must establish that

prolonged storage is necessary to facilitate proper recycling, treatment, or disposal. If a small quantity handler stores less than 100 kilograms per month of waste, a conditional exemption may exist from Universal Waste Rule.

In addition, small quantity handlers are prohibited from:

- shipping universal waste off-site unless they send it to another universal waste handler, transporter, destination facility, or foreign country.
- disposing, diluting, or treating universal wastes.

What Are the Requirements for Large Quantity Handlers?

Large quantity handlers must adhere to the same requirements and prohibitions as small quantity handlers with a few additions. They must:

- notify EPA before storing 5000 kilograms or more of universal waste.
- obtain an EPA identification number.
- keep records on the universal wastes they ship and receive.

What Are the Requirements for Transporters of Universal Waste?

Transporters of universal wastes share the same requirements and prohibitions as small quantity handlers with a few exceptions. Under the rule they must:

- store universal wastes for 10 days or less.
- comply with the Department of Transportation's tracking regulations.

If a transporter stores universal waste for longer than 10 days, the transporter must comply with the regulations for both small and large quantity handlers, depending on the amount of waste stored.

What Are the Requirements for Owner/Operators of Destination Facilities?

Owners and operators of destination facilities must comply with RCRA's general hazardous waste regulations. Specifically these individuals must:

- obtain a permit from EPA and DEP.
- notify crisis management authorities in the event of a release.
- maintain detailed records of all universal wastes handled for at least 3 years.

Anyone who is involved in the handling of universal wastes should contact EPA to find out what steps must be taken to comply with the UWR.

How Are Underground Storage Tanks (UST) Regulated?

RCRA regulates underground storage tanks. An underground storage tank is defined as a storage tank and connecting pipes with at least 10 percent of the volume underground. The tanks are regulated if they contain a regulated substance, defined as any hazardous substance regulated under CERCLA. Petroleum is a regulated substance.

Which USTs Are Exempt from Regulation under RCRA?

Certain underground tanks are specifically excluded from regulation under RCRA. These include:

- farm or residential tanks of less than 1100-gallon capacity that are used for storing motor fuel for non-commercial purposes.
- tanks used for storing heating oil for consumptive use on the premises where stored.
- septic tanks.
- surface impoundments, pits, ponds, or lagoons.
- stormwater or wastewater collection systems.

- flow-through process tanks.
- storage tanks situated in an underground area (such as a basement, cellar, mine shaft, or tunnel) if the storage tank is upon or above the surface of the floor.

What Are the Requirements for USTs under RCRA?

If you own a tank that does not meet these exceptions you must:

- notify the appropriate state or local agency of the existence of the tank.
- maintain any required leak detection system.
- maintain records of any required monitoring or leak detection system.
- take the proper corrective action when a leak is detected, including notifying the proper emergency response personnel.
- comply with the requirements to prevent future releases.
- maintain evidence of financial responsibility (insurance) for potential injury to third parties if a leak or release occurs.

What Are the Penalties for UST Violations?

Regulation of underground storage tanks in Florida has been delegated to Florida. However, EPA may impose a penalty in addition to state sanctions.

Failing to comply with either the state or federal RCRA provisions will subject violators to a federal fine of up to \$10,000 per day per tank.

What Are the Penalties for Violating RCRA?

Penalties under RCRA can be quite severe. These include:

- a fine up to \$25,000 per day, per violation of the permit or permit requirements.

- a fine up to \$25,000 per day, per violation of continued non-compliance with RCRA.

Any person who violates RCRA by:

- knowingly transporting, or causing to be transported, hazardous waste to a facility that does not have a permit.
- knowingly omitting material information from documentation or making any false material statement or representation.
- knowingly treating, storing, transporting, or disposing of hazardous waste inconsistent with state or federal RCRA requirements.
- knowingly storing, treating, transporting, or disposing of used oil in violation of any state or federal RCRA requirements will be subject to a fine of up to \$50,000 per day or imprisonment up to 2 years (up to 5 years for certain offenses) or both.

The maximum sentence will be doubled for repeat offenders.

Anyone who knowingly places another in imminent danger of death or serious bodily injury will be subject to a fine of \$250,000 or 15 years imprisonment or both.

Organizations will be subject to a fine of up to \$1,000,000.

Does RCRA Contain a Citizen Suit Provision?

Yes, RCRA authorizes private citizens to bring civil suits to enforce RCRA's provisions against offenders. It also allows citizen suits against federal or state agencies to compel them to properly enforce RCRA.

Acknowledgments

The authors are indebted to the personnel of both state and federal agencies who gave their time and advice in the preparation of this handbook. The authors are also indebted to the following University of Florida personnel for a review and critique of the

first draft of this publication: Dr. Thomas Dean, Pesticide Education Specialist, and Dr. Norman Nesheim, Pesticide Information Coordinator. Special recognition is also due to Mr. Richard Budell of the Office of Agricultural Water Policy of the Florida Department of Agriculture and Consumer Services for providing funds for the development of this handbook.

This handbook is designed to provide an accurate, current, and authoritative summary of the principal Florida laws that directly or indirectly relate to agriculture. It should provide a basic overview of the many rights and responsibilities farmers and farmland owners have under Florida laws. The reader is provided information about these rights and responsibilities and the appropriate contacts for more detailed information. However, the reader should be aware that because the laws, administrative rulings, and court decisions on which this publication is based are subject to constant revision, portions of this publication could become outdated at any time. Many details of cited laws are also left out due to space limitations.

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