Hazardous Waste Incinerator Backlog
Factsheet

Background

Since early 2021, hazardous waste incinerators have experienced backlogs in their ability to process all the material leading some to inform customers that they would no longer accept material.

Why is there a hazardous waste incinerators backlog?

Incinerators were backlogged in due to a number of factors including:

- **Winter Storms** – Severe winter storms in February, 2021 led to widespread power outages which set hazardous waste incinerators in Texas, Oklahoma and Arkansas weeks behind schedule.
- **Labor shortages** – Employees impacted by COVID resulted in reduced incineration throughput and nationwide driver shortages have exacerbated transportation issues.
- **Cement kiln's shutdowns** – Cement kilns are often used to backstop incineration capacity. In 2021, many cement kilns shutdown for scheduled maintenance concurrent with increased demands.
- **More waste generated** – The booming economy resulted in increased waste generation requiring incineration.
- **More waste entering market** – A large in-house incinerator was shutdown in August 2021 adding more than 30,000 tons per year to the commercial incineration market.

Not temporary

In August 2021, EPA issued a memorandum[1] in response to what the agency considered a "temporary backlog" "limited in both duration and in scope" of hazardous waste incinerator capacity across the United States. If the situation persisted beyond March 2022, EPA stated that it would no longer meet the criterion that the condition is temporary. In August 2022, EPA recognized that the backlog was ongoing by posting that the August 2021 memo continues to be in effect.

[1] Office of Resource Conservation and Recovery (2021) *Regulatory Options for Addressing the Temporary Backlog of Containerized Hazardous Waste Needing Incineration*, https://rcrapublic.epa.gov/rcraonline/details.xhtml?rcra=14939

What compliance issues result from this backlog?

To comply with RCRA, large quantity generators (LGQ) must transport any hazardous waste off-site for treatment and disposal within 90 days and small quantity generators (SQG) must do so within 180 days. For LQGs and SQGs generating non-creditable hazardous waste pharmaceuticals, RCRA imposes a one-year accumulation time limit, and provides no means to request and receive an extension. Given the backlog, generators have limited treatment and disposal options, and EPA can assess penalties of up to $109,024 per day for violations of RCRA.

How are regulators providing relief from these requirements?

EPA's August 2021 memo reminds states and EPA regions that existing regulations allow generators to request storage time limit extensions of up to 30 days. Recognizing that the backlog could last longer than 30 days, EPA also states that there are no limits to the number of 30 extensions that can be granted. This August 2021 memo does not apply to non-creditable hazardous waste pharmaceuticals.

Do time extensions solve generator problems?

No. HWI members recognize that many generators do not have the storage capacity to continue to accumulate hazardous waste indefinitely. And, as discussed above, EPA does not provide for extensions to the one-year accumulation time limit for hazardous waste pharmaceuticals. Given that the backlog is not temporary, HWI members are working with EPA to develop a more permanent solution.

Further, even with time extensions, neither Very Small Quantity Generators (VSGQ) or SQGs received any relief from EPA on the amount that can be stored. With an extensive and ongoing backlog in incinerator capacity, compliance issues may arise.

Last, EPA has not acknowledged potential implications related to managing hazardous waste pharmaceuticals subject to 40 CFR 266 Subpart P.

How to navigate the incineration backlog

Hazardous waste generators affected by delays should adhere to the following:

- Minimize to the extent possible hazardous waste generation
- Account for existing and anticipated hazardous waste ensuring adequate space for storing the material
- Plan ahead understanding that it may take more time for material to be transported off-site
- Work with regulators to seek extensions to storage times