RCRA Permit Training
EPA Region 4—Frankfort, KY
July 20-23, 2004
SESSION 10

RCRA PERMIT TRAINING:

WHO NEEDS A PERMIT & REGULATORY REQUIREMENTS
Session 10 Agenda:
Who Needs a Permit & Regulatory Requirements

- Permit Applicability
- Permit Exemptions
- Types of Permits
- Permitting Process

Permitting process is extensive—permits can take several years to review and approve
Permit Applicability

RCRA requires a permit for the treatment, storage, and disposal of any hazardous waste as identified or listed in 40 CFR Part 261

- Owners or operators of facilities that treat, store, or dispose of hazardous waste must obtain an operating permit under Subtitle C of RCRA

- Treatment, storage or disposal facilities (TSDFs) in existence on November 19, 1980, operate under interim status until a final permit decision is made

- New TSDFs (those that were not in operation before November 19, 1980) are ineligible for interim status and must receive a RCRA permit before construction can commence

40 CFR §270.1(c)
The following entities are exempt from the permitting requirements

- Large quantity generators accumulating waste on site for less than 90 days
- Small quantity generators who accumulate waste on site for less than 180 days
- Farmers disposing of their own (hazardous) pesticides on site
- Owners or operators of totally enclosed treatment facilities, wastewater treatment units (tanks) and elementary neutralization units
The following entities are exempt from the permitting requirements (continued)

- Transporters storing manifested wastes at a transfer facility for less than 10 days
- Persons engaged in containment activities during an immediate response to an emergency
- Owners or operators of solid waste disposal facilities handling only conditionally exempt small quantity generator waste
- Persons engaged in Superfund on-site cleanups and RCRA §7003 cleanups
There are several different types of permits

- Treatment, storage, and disposal permits
  - RCRA permits issued for treatment, storage, and disposal units
  - HSWA requires facilities to correct releases to all media, thus interim status facilities or facilities permitted prior to HSWA, are required to include provisions in their Part B Permit application or to revise their permit, respectively, to comply with this requirement

- Research, development, and demonstration permits

- Post-closure permits
Types of Permits

In potentially dangerous situations, EPA can forego the normal permitting process

- EPA can issue emergency permits

- When there is an "imminent and substantial endangerment to human health and the environment," a temporary (90 days or less) emergency permit can be issued to a:
  - Non-permitted facility for the treatment, storage, or disposal of hazardous waste
  - Permitted facility for the treatment, storage, or disposal of hazardous waste not covered by its existing permit
EPA has tried to abbreviate the application process for facilities that need to be permitted under two or more statutes

- EPA issues permits under a number of different laws, and in some instances, the requirements of one statute's permitting regulations are quite similar to those in RCRA

- Permit-by-rule
  - Ocean disposal barges or vessels
  - Injection wells
  - Publicly owned treatment works

40 CFR §270.60
Facilities have special requirements for trial burn and land demonstration permits

- Land treatment facilities and incinerators must go through a trial period during which their ability to perform properly under operating conditions is tested.

- Owners or operators of these two types of facilities are required to obtain temporary permits that are enforced while the facility is being tested.

- Final permit may be modified based on trial results.
The permitting process involves many steps

**Public’s Role**
1. Preapplication meeting

**Facility’s Role**
2. Prepare two-part application
   - Form required for everyone (Part A)
   - Facility-specific data (Part B)

**EPA’s Role**
3. Receipt and review of application
4. Preparation of first draft
6. Final permit decision
The permitting process involves many steps (continued)

- Pre-application public meeting
  - Notify public (newspaper, signs, or broadcast) of intent to apply for a permit

- Part A permit application submitted
  - Permitting agency notifies public using facility mailing list that application received

- Existing facilities, allowed at least six months from the date of request to submit Part B permit application

- For new facilities, Part A and Part B Permit application submitted together
The permitting process involves many steps (continued)

- No required format for the Part B, however the Part A is a specific form that must be filled out properly (EPA Form 8700-23)

- Same permit process also used for closure and post-closure permits

- Notice of Deficiencies (NOD) issued

- NOD response evaluation

- Part B application approved or denied
The permitting process involves many steps (continued)

- **Draft Permit**
  - Includes conditions based on the application (should be reviewed by enforcement staff)
  - Includes certain sections of the application (contingency plan, waste analysis plan)
  - Includes corrective action requirements

- **Fact sheet or Statement of Basis**
  - Explains the principal facts and technical issues considered when preparing the draft permit

- **Public Notice**
  - Intent to issue (or deny) the permit
  - Public comment period
  - Opportunity for public hearing
The permitting process involves many steps (continued)

- Usually 45 days to comment, can be extended if public hearing not within the 45 days
- Public hearings must be announced 30 days prior to being held
- The Agency evaluates public comments and decides to:
  - Issue permit
  - Deny permit
- Agency must respond to all comments
The permitting process involves many steps (continued)

- Opportunity to appeal permit
- Negotiate to resolve any issues
- If unsuccessful, follow process in Part 124
- Administrative record
  - Paper trail supporting agency findings
  - Includes any appeals or other legal actions
Commonly encountered problems in the permitting process

- Quality and completeness of Part B
- Constant negotiations
- Public hearings
- Size of applications can often be cumbersome and overwhelming

- The permitting process is quite extensive and can last years:
  - Land disposal permit – 4 years
  - Incineration permit – 3 years
  - Storage or treatment permit – 2 years