

US EPA ARCHIVE DOCUMENT

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 124 and 270

[FRL-5319-4 RIN 2050-AD97]

RCRA Expanded Public Participation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing new regulations under the Resource Conservation and Recovery Act (RCRA). The new regulations will improve the process for permitting facilities that store, treat, or dispose of hazardous wastes by providing earlier opportunities for public involvement in the process and expanding public access to information throughout the permitting process and the operational lives of facilities.

EFFECTIVE DATE: June 11, 1996.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC) located at 1235 Jefferson Davis Highway, Arlington VA. The Docket Identification Number is F-95-PPCF-FFFFF (the docket number for the proposed rule is F-94-PPCP-FFFFF). The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, the public must make an appointment by calling (703) 603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$.15/page. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 1-800-424-9346 or TDD 1-800-553-7672 (hearing impaired). In the Washington metropolitan area, call 703-412-9810 or TDD 703-412-3323.

For more detailed information on specific aspects of this rulemaking, contact Patricia Buzzell, Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (703) 308-8632, email address buzzell.tricia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Internet Access

An abstract and fact sheet on this rule are available on the Internet. Follow these instructions to access the information electronically:

Gopher: gopher.epa.gov

WWW: <http://www.epa.gov>

Dial-up: (919) 558-0335.

From the main EPA Gopher menu, select: EPA Offices and Regions/Office of Solid Waste and Emergency Response (OSWER)/Office of Solid Waste (RCRA)/Hazardous Waste/Permits and Permitting.

FTP: ftp.epa.gov

Login: anonymous

Password: Your Internet address

Files are located in /pub/gopher/OSWRCRA

>>>> The preamble has not been included in this file. <<<<

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations, is amended as follows:

>>>> Part 9 (OMB Approvals Under the Paperwork Reduction Act) has not been included because it is not required as part of a State's Hazardous Waste Program. <<<<

PART 124 -- PROCEDURES FOR DECISIONMAKING

1. The authority citation for part 124 continues to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.; Safe Drinking Water Act, 42 U.S.C. 300(f) et seq.; Clean Water Act, 33 U.S.C. 1251 et seq.; and Clean Air Act, 42 U.S.C. 1857 et seq.

2. Subpart B is amended by adding text to read as follows:

Subpart B -- Specific Procedures Applicable to RCRA Permits

Sec.

124.31 Pre-application public notice and meeting.

124.32 Public notice requirements at the application stage.

124.33 Information repository.

Subpart B -- Specific Procedure Applicable to RCRA Permits

§ 124.31 Pre-application public meeting and notice.

(a) Applicability. The requirements of this section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units over which EPA has permit issuance authority. The requirements of this section shall also apply to RCRA part B applications seeking renewal of permits for such units, where the renewal application is proposing a significant change in facility operations. For the purposes of this section, a "significant change" is any change that would qualify as a class 3 permit modification under 40 CFR 270.42. For the purposes of this section only, "hazardous waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271. The requirements of this section do not apply to permit modifications under 40 CFR 270.42 or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) Prior to the submission of a part B RCRA permit application for a facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(c) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under paragraph (b) of this section, and copies of any written comments or materials submitted at the meeting, to the permitting agency as a part of the part B application, in accordance with 40 CFR 270.14(b).

(d) The applicant must provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant must maintain, and provide to the permitting agency upon request, documentation of the notice.

(1) The applicant shall provide public notice in all of the following forms:

(i) A newspaper advertisement. The applicant shall publish a notice, fulfilling the requirements in paragraph (d)(2) of this section, in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Director shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Director determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.

(ii) A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in paragraph (d)(2) of this section. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.

(iii) A broadcast media announcement. The applicant shall broadcast a notice, fulfilling the requirements in paragraph (d)(2) of this section, at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Director.

(iv) A notice to the permitting agency. The applicant shall send a copy of the newspaper notice to the permitting agency and to the appropriate units of State and local government, in accordance with § 124.10(c)(1)(x).

(2) The notices required under paragraph (d)(1) of this section must include:

(i) The date, time, and location of the meeting;

(ii) A brief description of the purpose of the meeting;

(iii) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

(iv) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

(v) The name, address, and telephone number of a contact person for the applicant.

§ 124.32 Public notice requirements at the application stage.

(a) Applicability. The requirements of this section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units over which EPA has permit issuance authority. The requirements of this section shall also apply to RCRA part B applications seeking renewal of permits for such units under 40 CFR 270.51. For the purposes of this section only, "hazardous waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271. The requirements of this section do not apply to permit modifications under 40 CFR 270.42 or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) Notification at application submittal.

(1) The Director shall provide public notice as set forth in § 124.10(c)(1)(ix), and notice to appropriate units of State and local government as set forth in § 124.10(c)(1)(x), that a part B permit application has been submitted to the Agency and is available for review.

(2) The notice shall be published within a reasonable period of time after the application is received by the Director. The notice must include:

(i) The name and telephone number of the applicant's contact person;

(ii) The name and telephone number of the permitting agency's contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

(iii) An address to which people can write in order to be put on the facility mailing list;

(iv) The location where copies of the permit application and any supporting documents can be viewed and copied;

(v) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and

(vi) The date that the application was submitted.

(c) Concurrent with the notice required under § 124.32(b) of this subpart, the Director must place the permit application and

any supporting documents in a location accessible to the public in the vicinity of the facility or at the permitting agency's office.

§ 124.33 Information repository.

(a) Applicability. The requirements of this section apply to all applications seeking RCRA permits for hazardous waste management units over which EPA has permit issuance authority. For the purposes of this section only, "hazardous waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271.

(b) The Director may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Director shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Director determines, at any time after submittal of a permit application, that there is a need for a repository, then the Director shall notify the facility that it must establish and maintain an information repository. (See 40 CFR 270.30(m) for similar provisions relating to the information repository during the life of a permit).

(c) The information repository shall contain all documents, reports, data, and information deemed necessary by the Director to fulfill the purposes for which the repository is established. The Director shall have the discretion to limit the contents of the repository.

(d) The information repository shall be located and maintained at a site chosen by the facility. If the Director finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the Director shall specify a more appropriate site.

(e) The Director shall specify requirements for informing the public about the information repository. At a minimum, the Director shall require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

(f) The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the Director.

The Director may close the repository at his or her discretion, based on the factors in paragraph (b) of this section.

PART 270 -- EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

1. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

2. Section 270.2 is amended by revising the definition for "Facility mailing list" to read as follows:

§ 270.2 Definitions.

* * * * *

"Facility mailing list" means the mailing list for a facility maintained by EPA in accordance with 40 CFR 124.10(c)(1)(ix).

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3. Section 270.14 is amended by adding paragraph (b)(22) to read as follows:

§ 270.14 Contents of part B: General requirements.

* * * * *

(b) * * *

(22) A summary of the pre-application meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under § 124.31(c).

4. Section 270.30 is amended by adding paragraph (m) to read as follows:

§ 270.30 Conditions applicable to all permits.

* * * * *

(m) Information repository. The Director may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in 40 CFR 124.33(b). The

information repository will be governed by the provisions in 40 CFR 124.33(c) through (f).

5. Section 270.61(b)(5) introductory text is amended by removing the reference § 124.11(b) and adding in its place § 124.10(b).

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6. In § 270.62, paragraphs (b)(6) through (10) are redesignated as paragraphs (b)(7) through (11), and new paragraph (b)(6) is added as follows:

§ 270.62 Hazardous waste incinerator permits.

* * * * *

(b) * * *

(6) The Director must send a notice to all persons on the facility mailing list as set forth in 40 CFR 124.10(c)(1)(ix) and to the appropriate units of State and local government as set forth in 40 CFR 124.10(c)(1)(x) announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Director has issued such notice.

(i) This notice must be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the permitting agency.

(ii) This notice must contain:

(A) The name and telephone number of the applicant's contact person;

(B) The name and telephone number of the permitting agency's contact office;

(C) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

(D) An expected time period for commencement and completion of the trial burn.

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7. Paragraph (d) of § 270.62 is revised as follows:

§ 270.62 Hazardous waste incinerator permits.

* * * * *

(d) For the purpose of determining feasibility of compliance with the performance standards of § 264.343 of this chapter and of determining adequate operating conditions under § 264.345 of this chapter, the applicant for a permit for an existing hazardous waste incinerator must prepare and submit a trial burn plan and perform a trial burn in accordance with § 270.19(b) and paragraphs (b)(2) through (b)(5) and (b)(7) through (b)(10) of this section or, instead, submit other information as specified in § 270.19(c). The Director must announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of paragraph (b)(6) of this section. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under § 270.19(a) are exempt from compliance with 40 CFR 264.343 and 264.345 and, therefore, are exempt from the requirement to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in paragraph (b)(7) of this section, with part B of the permit application. If completion of this process conflicts with the date set for submission of the part B application, the applicant must contact the Director to establish a later date for submission of the part B application or the trial burn results. Trial burn results must be submitted prior to issuance of the permit. When the applicant submits a trial burn plan with part B of the permit application, the Director will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

8. In § 270.66, paragraphs (d) (3) through (5) are redesignated as paragraphs (d) (4) through (6), and new paragraph (d)(3) is added to read as follows:

§ 270.66 Permits for boilers and industrial furnaces burning hazardous waste.

* * * * *

(d) * * *

(3) The Director must send a notice to all persons on the facility mailing list as set forth in 40 CFR 124.10(c)(1)(ix) and to the appropriate units of State and local government as set forth in 40 CFR 124.10(c)(1)(x) announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Director has issued such notice.

(i) This notice must be mailed within a reasonable time period before the trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the permitting agency.

(ii) This notice must contain:

(A) The name and telephone number of applicant's contact person;

(B) The name and telephone number of the permitting agency contact office;

(C) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

(D) An expected time period for commencement and completion of the trial burn.

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9. Paragraph (g) of § 270.66 is revised as follows:

§ 270.66 Permits for boilers and industrial furnaces burning hazardous waste.

* * * * *

(g) Interim status boilers and industrial furnaces. For the purpose of determining feasibility of compliance with the performance standards of § 266.104 through 266.107 of this chapter and of determining adequate operating conditions under § 266.103 of this chapter, applicants owning or operating existing boilers or industrial furnaces operated under the interim status standards of § 266.103 of this chapter must either prepare and submit a trial burn plan and perform a trial burn in accordance with the requirements of this section or submit other information as specified in § 270.22(a)(6). The Director must announce his or her intention to approve of the trial burn plan in accordance with the timing and distribution requirements of paragraph (d)(3) of this section. The contents of the notice must include: the name and telephone number of a contact person at the facility;

the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time periods during which the trial burn would be conducted. Applicants who submit a trial burn plan and receive approval before submission of the part B permit application must complete the trial burn and submit the results specified in paragraph (f) of this section with the part B permit application. If completion of this process conflicts with the date set for submission of the part B application, the applicant must contact the Director to establish a later date for submission of the part B application or the trial burn results. If the applicant submits a trial burn plan with part B of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the Director.

[FR Doc. 95-29896 Filed 12-8-95; 8:45 am]
BILLING CODE 6560-50-P