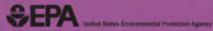


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
Dallas, Texas November 3-7, 2008

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C.15 RCRA Permitting Issues



This module will touch on some general permitting issues from the RCRA perspective.


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Presentation Overview

- High level summary of the RCRA permitting process;
- Major elements of the RCRA permit; and
- Classes of RCRA permit modifications
- Questions and answers



The information provided will cover the various elements of the RCRA permitting process.

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RCRA Permitting Issues


RCRA Permitting Background

- Part of original RCRA legislation;
- Permit requirements are codified in 40 CFR 270;
- Specific operating requirements are codified in 40 CFR Parts 264, 265 and 266; and
- 264 and 266 are for permitted facilities and 265 is for interim status facilities.



In 1980, US EPA promulgated the first of a series of regulations dealing with the management of hazardous waste. These regulations covered a variety of management activities ranging from the generation of hazardous waste through regulation of treatment, storage and disposal (or TSD) facilities. TSD facilities are required to obtain permits from either USEPA or authorized states in order to conduct their activities. These regulations can be found in 40 CFR Part 270. However, the technical standards and operating requirements that each type of TSD facility was required to meet are found in either for CFR 264, 265 or 266. Part 265 regulations are termed “Interim Status” regulations and these were the requirements that all existing TSD facilities were obligated to meet before having their permits issued. As part of the permitting process and afterwards, facilities were and are obligated to meet Part 264 standards which are generally more stringent than the 265 regulations. From a combustion perspective, Parts 264 and 265 regulated incinerators.

Part 266 was not promulgated until early 1990 and established regulations for Boilers and Industrial Furnaces (of BIF units).


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
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RCRA Permits

- The RCRA permit defines the operating standards and requirements for facilities engaged in the treatment, storage and/or disposal of hazardous wastes.
- Exemptions from the permitting process are available to some hazardous waste treatment facilities who meet specific requirements.



Facilities that only generate hazardous waste are not required to obtain RCRA permits. Some forms of waste treatment are also exempt from needing a permit as well. But in general, all hazardous waste treatment, storage and disposal facilities are required to obtain permits under Part 270.


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RCRA Permitting Issues

RCRA Permit Format

- Two major sections of the RCRA Permit:
Part A and Part B
- Part A: Basic information about the facility and hazardous waste management
- Part B: More specific information about facility operations, procedures, waste management and safety/security



The RCRA permitting procedures are divided into two components – a Part A and a Part B Application. The Part A contains very basic information about the facility and what operations occur there. This form is designed for computer input. The Part B can be an extensive document containing a number of different sections that address all aspects of the facility from basic site layout and security, to hazardous waste operations, groundwater protection and historical contamination issues (Corrective Action for solid waste management units).

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
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RCRA Permitting Issues

Public Participation

- Public participation is encouraged
- Permittee is required to fulfill public participation obligations
- Public participation includes:
 - Pre-application meetings
 - Public display of permit documents
 - Public comment and response periods
 - Public hearings and/or meetings




In addition to the regular administrative and technical review that any permit application of this type undergoes, there are specific public participation that is required to be completed as part of the permit application and approval process. These include pre-application meetings, public notice and comment periods and public hearings, all of which need to occur prior to final agency permit decision making. As part of this, facilities need to make their application and any other supporting information, such as maps, available in a public area, like a library, for review.

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
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RCRA Permitting Issues

Permit Modifications

- RCRA permits are site and operationally specific
- Additions, deletions or alterations to permitted activities are subject to regulatory controls
- Changes to business structure, operations, regulations, waste management techniques and waste characteristics may trigger a modification




Most HWC facilities across the US have had at least one RCRA permit issued for their activities. Many have gone through multiple revisions of their RCRA permit. Since the permits themselves are very specific, modifications must be incorporated into the permit. There are different levels of permit modifications to address these changes.

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
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Permit Modifications

- Not all changes are treated equally
- The degree or nature of the addition, deletion or alteration of a permitted activity will have a bearing on how the modification is administratively managed



Simpler changes, like a company name, have more streamlined permit modification procedures, more extensive changes, necessarily require a more complex process.


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
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Permit Modifications

- There are three basic situations defining the need to modify a permit
 1. Permit modification at the request of the permittee
 2. Permit modification at the request of EPA (modification, revocation or reissuance)
 3. Termination of the permit



Permit modifications can be characterized three different ways, those that are requested by the facility, those that the agency seeks to implement and the termination of a permit.

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
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Permit Modifications

- There are three classes of permit modifications:
 - Class 1
 - Class 2
 - Class 3
- Identified in Appendix I to 40 CFR 270.42




Permit modifications are separated into Classes – 1, 2 and 3, with Class 1 changes being more simple or those associated with complying with other regulations (such as Subpart EEE) and Classes 2 and 3 which cover more extensive changes as specifically defined in Appendix I to 40 CFR 270.42.

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
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Permit Modifications

- Class 1 and 2 modifications do not substantially alter existing permit conditions or significantly affect facility operations




Class 1 and 2 modifications generally do not affect compliance or facility operations.

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
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Permit Modifications

- Examples of Class 1 modifications:
 - Routine changes
 - Correction of typographical errors
 - Upgrading procedures and recordkeeping documentation
 - Equipment replacement-in-kind



This slide provides a general list of changes that might qualify as Class 1 Modifications.

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Permit Modifications

- Examples of Class 2 modifications:
 - Changes to emergency procedures
 - Changes to certain operating limits such as feed rates
 - Physical changes to the boiler/industrial furnace/incinerator
 - Changes to inspection or recordkeeping requirements



This slide summarizes examples of Class 2 Permit Modifications.

Permit Modifications

- Class 3 modifications address major modifications that significantly alter the operations of the facility; examples include:
 - Substantial increases in operating rates
 - Major physical changes to the unit
 - Certain changes to waste feed streams (POHC)




Class 3 permit modifications cover more extensive changes that a facility may make.

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Permit Modifications

- Public Participation:
 - Class 1-Notify the facility's mailing list
 - Class 2-Notice published in local newspaper, 60-day public comment period and a public meeting
 - Class 3-All public participation requirements including the pre-application meeting
- Requirements may vary by state!



From a public involvement perspective, the three classes of permit modifications also have differing levels of requirements, which also can be more stringent at the state level.

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Permit Modifications


- Modifications specifically listed in 40 CFR 270.42 Appendix I for BIF and incinerators:

| | |
|-------------------------|---|
| – Class 1 | 1 |
| – Class 1 ^{1*} | 4 |
| – Class 2 | 5 |
| – Class 3 | 5 |

*Class 1¹ modifications require agency preapproval




Section L in Appendix I to 40 CFR 270.42 contains a summary of the different permit modifications that pertain to BIFs and incinerators. This slide indicates the number of different types of modifications listed in this table.

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
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Permit Modifications

- What if the change I want to make is not listed in Appendix I?
 - Submit the modification as a Class 3 modification, or
 - Request approval as a Class 1 or Class 2




If the changes that are planned for a facility are not specifically listed in Appendix I, there are two basic options for handling these. The first is to presume it needs to be handled as a Class 3 modification and the second is to request approval as either a Class 1 or 2 modifications.

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
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RCRA Permitting Issues

Special Forms of RCRA Permits

- Permit-by-Rule
- Permit for Land Treatment Demonstration
- Emergency Permit
- UIC Well
- Research, Development and Demonstration Permit
- Remedial Action Plan



There are several forms of special permits under RCRA including those listed on this slide. RCRA permits by rule are addressed in a July 21, 1987 Guidance and cover special situations for managing hazardous waste at publicly owned treatment works (POTWs), certain Corrective Action Requirements, ocean disposal and certain underground injection activities. Land Treatment Demonstration projects also have special permit provisions under 270.63. Part 270 also gives EPA the authority under specific circumstances to issue R & D and emergency permits. And finally, facilities implementing corrective action are provided special permit procedures under their RCRA permit.


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
What is Supposed to Happen Post HWC MACT?

- Once HWC MACT FOC is issued, facility and permitting agencies can begin transition process
 - Eliminate duplicative regulation
- HWC MACT provisions of the NOC and regulations will be incorporated into the Title V permit
- Duplicate requirements in the RCRA permit are intended to be removed through typical permit modification



Now, let's focus specifically on HWC facilities and what is supposed to happen as they implement the Subpart EEE requirements. Under some circumstances, a facility might need to obtain an early modification to its RCRA permit specifically to implement provisions of Subpart EEE. This was envisioned by EPA and incorporated into what was originally called the "Fast Track Rule" allowing these specific provisions to be implemented by a facility and the agency through a Class I with prior approval permit modification. At this point, these type of permit modifications should essentially be done, but given the high probability of new MACT standards in the future, this may be a provision that is utilized again in several years.


In general, since Subpart EEE is self implementing and separate from RCRA requirements, facilities will end up implementing two separate but duplicative and possibly overlapping regulatory compliance programs. It is envisioned that long term, facilities should be able to operate under one set of provisions – Subpart EEE as incorporated into a Title V permit and eliminate any duplication under the RCRA permit. This has happened for some HWC facilities, but has not happened for all. The process for eliminating duplicative requirements would begin once the lead agency has issued a Finding of Compliance for the Subpart EEE program. At this point then, Title V incorporation of Subpart EEE would begin and HWC facilities would approach the RCRA permitting authority to seek removal of the duplicative requirements from their RCRA permit. This would be accomplished by identifying which changes in the RCRA would be made and then processing some class of permit modification appropriate to the extent of the changes.

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RCRA Permitting Issues

The RCRA Permit After MACT

- Could eliminate portions of WAP if agency is agreeable
- Could eliminate training requirements as MACT is much more comprehensive
- Won't have the emissions standards, OPL's and AWFCO limits, except
 - For facilities who will pursue the Alternate PM Standard
 - If there are any Omnibus issues EPA or state want
- Could have SSMP if facility opts for that route



Some examples of aspects of a RCRA permit that agencies could consider removing from the RCRA permit are discussed on this slide. Of course the scope of the changes would generally be limited to the HWC and it's operation, not other activities or operations that are not covered by Subpart EEE.

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A Part B Permit Application - After HWC MACT

| Section | Topic | Will it be Needed for Part B Renewals Post MACT? |
|---------|---|--|
| A | RCRA Part A Application | Yes – still need to register the TSD activities |
| B | General Facility Information | Probably |
| C | Waste Analysis Plan | Should be able to write one plan for both |
| D | Process Information and Trial Burn Plan | No – MACT should handle, except for Omnibus issues |
| E | Groundwater Protection Program | Yes |
| F | Procedures to Prevent Hazards | Yes |
| G | Contingency Plan | Yes |
| H | Training Program | Should be able to write one plan for both |
| I | Closure Plan and Financial Assurance | Yes |
| J | Solid Waste Management Units | Yes |
| K | Other Statutory Requirements | Yes |
| M | Subpart AA Process Vents | Yes |
| N | Subpart BB Equipment Leaks | Yes |
| O | Air Emissions Standards | Should move to Title V |



This slide summarizes what the content of a RCRA Part B Permit application might look like after Subpart EEE implementation.