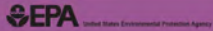


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
Dallas, Texas November 3-7, 2008

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C.2 RCRA Omnibus Provision




This module will summarize the background and purpose of the RCRA Omnibus Provision.

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Omnibus Provision to Protect Human Health and the Environment


- Regional or State permit writers must determine on a site-specific basis what, if any, additional permit conditions are necessary to assure that these additional risks are not above acceptable levels.
 - Multi-pathway site-specific risk assessments provide the information and logical decision-making process needed in making such determinations. 

The "omnibus" provision is a RCRA permitting requirement to protect human health and the environment

Under Section 3005 of Resource Conservation and Recovery Act (RCRA), Regional or State permit writers must determine on a site-specific basis what, if any, additional permit conditions are necessary to assure that these additional risks are not above acceptable levels.

This is necessary because the RCRA performance standards for hazardous waste combustors do not directly address indirect (food-chain) exposures

Multi-pathway site-specific risk assessments provide the information and logical decision-making process needed in making such determinations.


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
RCRA Hazardous and Solid Waste Amendments (HSWA)

- Some hazardous waste management practices have the potential to pose threats to human health and the environment that are not specifically addressed by the RCRA regulations.
- HSWA increased the authority of EPA when writing permits by creating the **Omnibus Provision**.



The Hazardous and Solid Waste Amendments increased the authority of EPA when writing permits by creating the Omnibus Provision.

This increase in authority was deemed necessary b/c some some hazardous waste management practices have the potential to pose threats to human health and the environment are not specially addressed by RCRA regulations.


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
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Omnibus Authorization and Codification

- Authorized by Congress under Section 3005(c)(3) of the RCRA.
- Codified at 40 CFR § 270.32(b)(2).
 - “each permit issued under Section 3005 of this act shall contain terms and conditions....necessary to protect human health and the environment.”
- Authorizes EPA to include conditions in a RCRA permit that are needed to assure protection of Human Health and the Environment 

The Omnibus Provision was authorized by Congress under Section 3005(c)(3). It was codified at 40 CFR 270.32(b)(2). 270.32(b)(2) states that each permit issued under Section 3005 of the act must contain terms and conditions necessary to protect human health and the environment.

The provision authorizes EPA to include conditions in the RCRA permit needed to assure protection of human health and the environment.

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
Invocation of Omnibus

- Whenever a facility owner/operator is seeking a new permit, reissue of an expiring permit, or when existing permits are reopened for modification (in appropriate circumstances).
- More stringent control
 - Metals
 - HCl
 - PICs.



The Omnibus Provision can be invoked whenever a facility owner/operator is seeking a new permit, reissue of an expiring permit or when existing permits are reopened for modification.

The provision results in more stringent control of metals, HCl, and products of incomplete combustion.


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
Additional Performance Standards

- EPA may require compliance with additional performance standards by virtue of the **Omnibus Authority**.
- Allows EPA to incorporate additional terms and conditions into a facility's permit as necessary to protect human health and the environment even though the terms are not specifically mandated by the RCRA regulations.
 - Established priorities for combustion facilities



EPA can require compliance with additional performance standards through the Omnibus Provision.


It allows EPA to incorporate additional terms and conditions into permits, as necessary, to protect human health and the environment, even though the terms are not specifically mandated by RCRA.

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
**Authority to Require Information
Additional Permit Conditions**

- 40 CFR Section 270.10(k)
 - EPA may require a permit applicant to submit the information necessary to establish protective permit conditions under the omnibus authority
 - Could include a site-specific risk assessment or the supporting information to conduct a site-specific risk assessment.



Under 40 CFR 270.10(k), EPA can require a permit applicant to submit information necessary to establish a protective permit conditions under RCRA authority.

This could include a site-specific risk assessment or just the information necessary to conduct a site-specific risk assess.


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
Site-Specific Risk Assessment (SSRA)

- Site-specific risk assessments, incorporating direct and indirect exposures, are to be considered on a case-by-case basis during the combustion unit's permitting process.
- If a site-specific risk assessment shows that additional protection should be afforded to the surrounding environment, EPA can include the necessary permit conditions and limitations in the permit pursuant to the omnibus authority.



Site-specific risk assessments, that incorporate direct and indirect exposures are considered on a case-by-case basis as part of the permitting process.

In the event that a site-specific risk assessment shows that additional protection needs to be afforded the surrounding environment, EPA can include the necessary permit conditions and limitation in the permit pursuant to the Omnibus Authority.


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
Comprehensive SSRAs Not Always Necessary

- Conduct of comprehensive SSRA not the only way to address Omnibus Provision.
 - Case-by-case consideration of Omnibus obligation
 - Inhalation only SSRA with more conservative target risk and hazard goals have been accepted for certain low capacity facilities.
 - Focused (on a limited number of Chemicals) have been accepted for others.



Comprehensive (direct and indirect) SSRAs are not the only way to address the omnibus requirement. Rather, EPA considers its omnibus obligation on a case-by-case basis.

For example, at certain low-capacity facilities, inhalation-only risk estimates (with a carcinogenic risk target of 10^{-7} , and a noncancer hazard quotient of 0.01) have been accepted. In another case, EPA required only D/F and Hg risk assessment.


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
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Documentation of Basis for Additional Permit Conditions

- 40 CFR Sections 124.7 through 124.9
 - Any decision to add permit conditions based on a site-specific risk assessment must be documented in the administrative record for each facility, and the implementing agency must explain the basis for the additional conditions.



Sections 124.7 through 124.9 require that if additional conditions are added to a permit based on a SSRA, the bases for the additional permit conditions must be documented in the administrative record.

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How Does This Relate to Standards under MACT?

- It doesn't – they are driven by separate laws and regulations
 - MACT does not supersede any RCRA requirement
 - Omnibus permit conditions will reside in RCRA Permit
 - MACT ultimately will end up in Title V
- MACT standards are strictly technology based
 - Ultimately, EPA is charged with doing a residual risk analysis under MACT to assess whether standards are adequately protective




So, how does the Omnibus Provision relate to MACT? The answer is that it does not. They are driven by separate laws and regulations.

Omnibus permit conditions will reside in RCRA Permit
MACT ultimately will end up in Title V

MACT standards are strictly technology based and were promulgated under joint authority of RCRA and the Clean Air Act.

Ultimately, EPA is charged with doing a residual risk analysis under MACT to assess whether standards are adequately protective


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RCRA Omnibus Provision


MACT Standards Do Not Supersede Omnibus Provision

- Promulgation of the MACT standards does not duplicate, supersede, or otherwise modify the omnibus authority or its applicability to hazardous waste combustors.
- Pursuant to the omnibus authority, the RCRA permitting authority has the responsibility to supplement the MACT standards as necessary, on a site-specific basis, to ensure adequate protection under RCRA.



The MACT standards don't duplicate, supersede, or otherwise modify the omnibus authority.

Pursuant to the omnibus authority, the RCRA permitting authority has the responsibility to supplement the MACT standards as necessary, on a site-specific basis, to ensure adequate protection under RCRA.


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What's the End Result

- Same sources will end up being permitted under two programs, unless consolidation can somehow occur
 - Typically two separate agency programs
 - Separate inspections and compliance assurance staff
 - Duplicative compliance programs at facility
 - Potential for double jeopardy for facility



The end result is that the same sources will end up being permitted under two programs, unless consolidation occurs.

Because of this, there is the potential for double jeopardy as the compliance programs are duplicative.

Consolidation can occur if the facility voluntarily incorporates all necessary risk-based provisions into their MACT NOC, which is subsequently incorporated into their Title V permit. Nevertheless, every facility will always “end up being permitted under two programs”, because all HWCs facilities remain RCRA-regulated facilities.