Session 2 Who Needs a Permit

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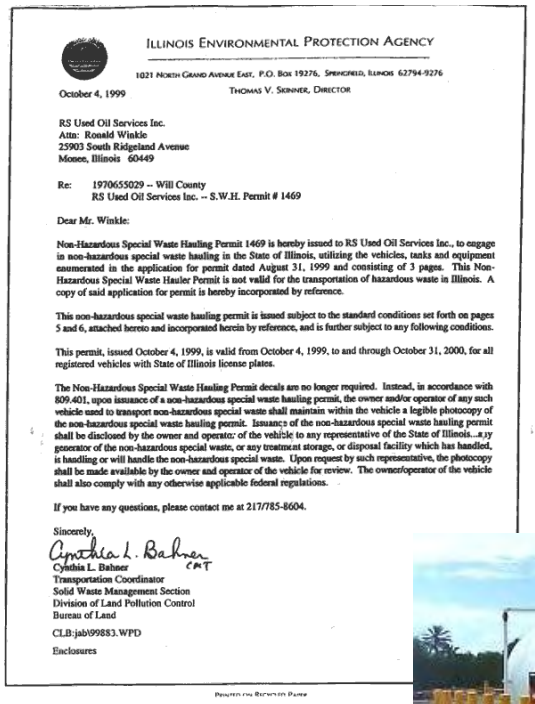
Session 2 Agenda:
"Who Needs a Permit?" and Regulatory Requirements

- Permit applicability
- Permit exemptions
- Types of permits
- Permitting process
- Standardized permits



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276

Thomas V. Skinner, Director

October 4, 1999

RS Used Oil Services Inc.
Attn: Ronald Winkle
25903 South Ridgeland Avenue
Monee, Illinois 60449

Re: 1970655029 -- Will County
RS Used Oil Services Inc. -- S.W.H. Permit # 1469

Dear Mr. Winkle:

Non-Hazardous Special Waste Hauling Permit 1469 is hereby issued to RS Used Oil Services Inc., to engage in non-hazardous special waste hauling in the State of Illinois, utilizing the vehicles, tanks and equipment enumerated in the application for permit dated August 31, 1999 and consisting of 3 pages. This Non-Hazardous Special Waste Hauler Permit is not valid for the transportation of hazardous waste in Illinois. A copy of said application for permit is hereby incorporated by reference.

This non-hazardous special waste hauling permit is issued subject to the standard conditions set forth on pages 5 and 6, attached hereto and incorporated herein by reference, and is further subject to any following conditions.

This permit, issued October 4, 1999, is valid from October 4, 1999, to and through October 31, 2000, for all registered vehicles with State of Illinois license plates.

The Non-Hazardous Special Waste Hauling Permit decals are no longer required. Instead, in accordance with 809.401, upon issuance of a non-hazardous special waste hauling permit, the owner and/or operator of any such vehicle used to transport non-hazardous special waste shall maintain within the vehicle a legible photocopy of the non-hazardous special waste hauling permit. Issuance of the non-hazardous special waste hauling permit shall be disclosed by the owner and operator of the vehicle to any representative of the State of Illinois...any generator of the non-hazardous special waste, or any treatment storage, or disposal facility which has handled, is handling or will handle the non-hazardous special waste. Upon request by such representative, the photocopy shall be made available by the owner and operator of the vehicle for review. The owner/operator of the vehicle shall also comply with any otherwise applicable federal regulations.

If you have any questions, please contact me at 217/785-8604.

Sincerely,

Cynthia L. Bahner CAT
Transportation Coordinator
Solid Waste Management Section
Division of Land Pollution Control
Bureau of Land

CLB:jab\99883.WPD

Enclosures

The permitting process is extensive

RCRA requires a permit for the treatment, storage, and disposal of any hazardous waste as identified or listed in 40 CFR §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 or before November 19, 1980, operate under interim status until a final permit decision is made

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

The following entities are exempt from permitting requirements

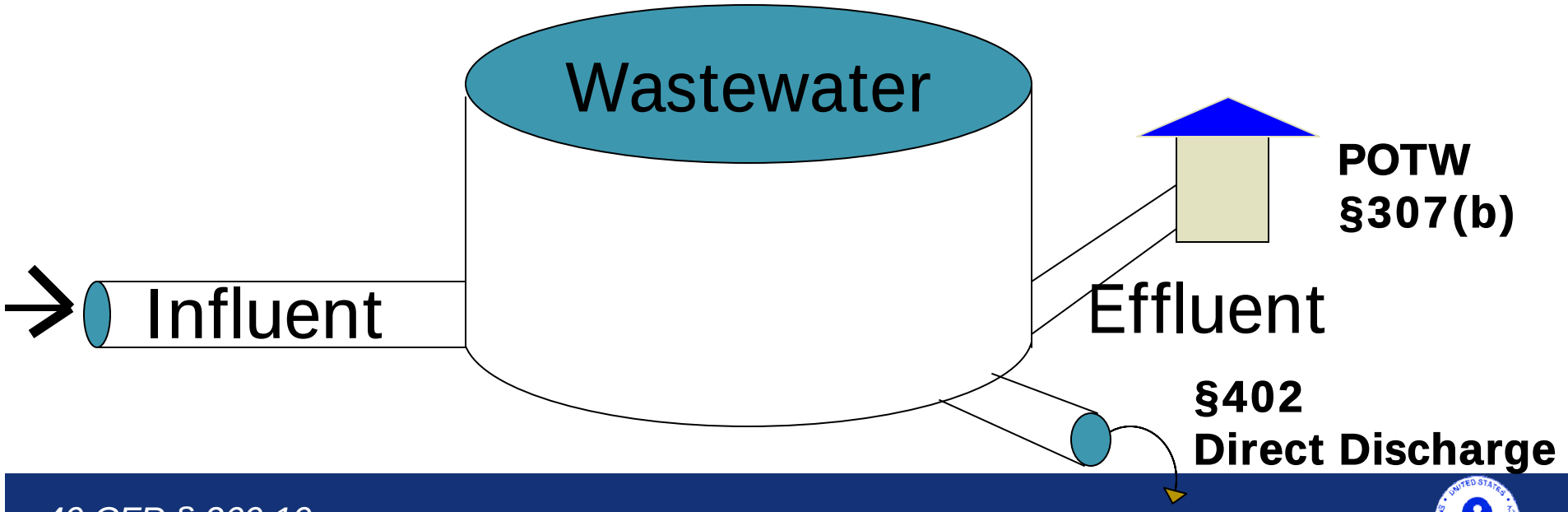
- Large or small quantity generators accumulating waste on site for less than 90 days or 180 days, respectively
- Large or small quantity generators that treat waste in tanks or containers, provided all regulatory provisions are met
- Farmers disposing of their own (hazardous) pesticides on site
- Owners or operators of totally enclosed treatment facilities, wastewater treatment units (e.g., tanks), and elementary neutralization units

"Excluded" Units

- Which ones?
  - Waste Water Treatment Units (WWTU)
  - Elementary Neutralization Unit (ENU)
  - Totally Enclosed Treatment Units (TETU)
- Why?
  - No permits
  - No unit standards

Wastewater Treatment Unit (WWTU)

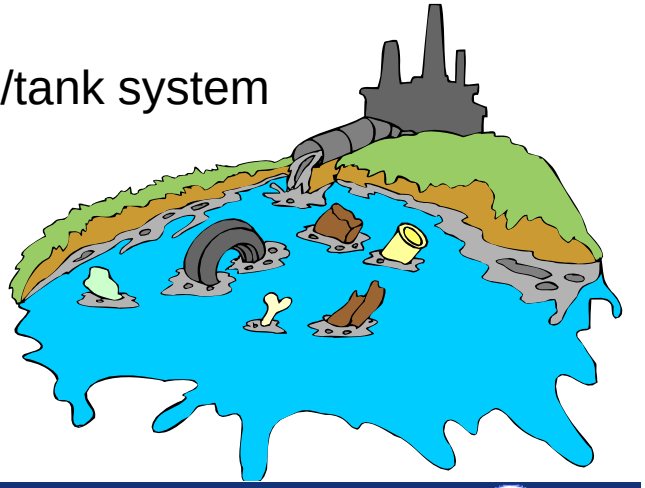
- Subject to regulation under the Clean Water Act (CWA)
- Treats or stores wastewater or sludge
- Meets the definition of tank or tank system



40 CFR § 260.10

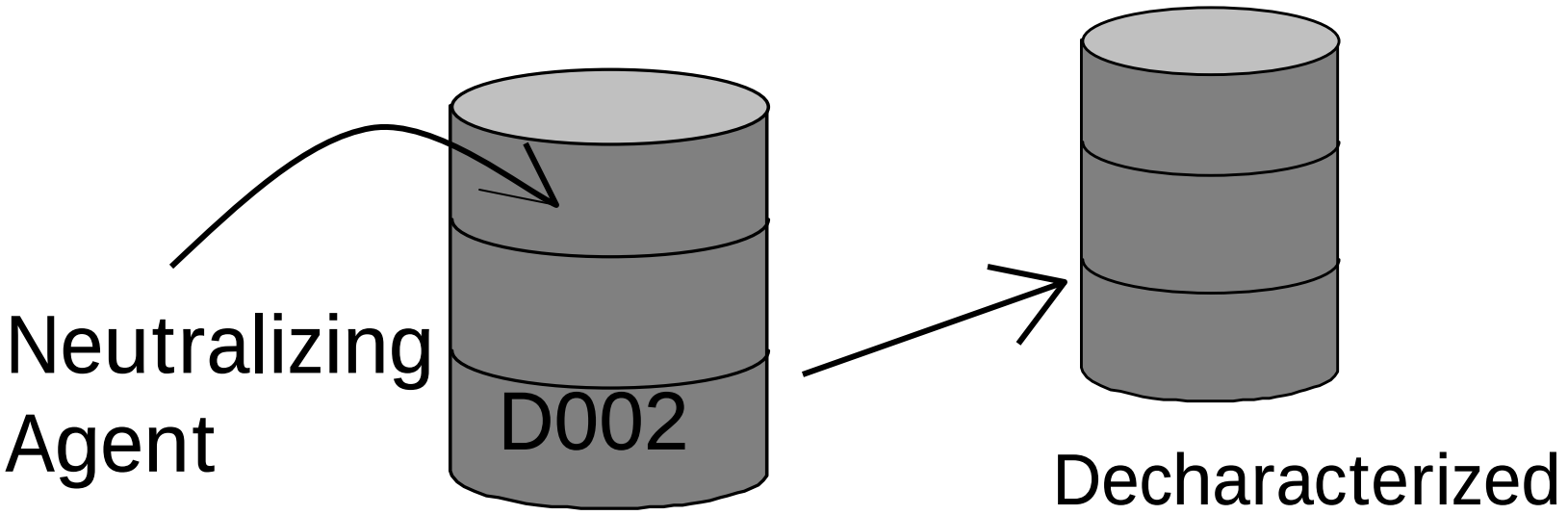
WWTU – Key Concepts

- Exemption applies to the unit, **not** the waste
- Waste managed immediately upon generation in a WWTU is **not** included in quantity determinations
- Count wastes that go into or come out of WWTU if they are subject to "substantive regulation" 40 CFR 261.5(c)(2)
- Tank must be dedicated for use with an on-site wastewater treatment facility
- WWTU could be any unit that meets definition of tank/tank system



Elementary Neutralization Unit (ETU)

- Used to neutralize D002 Wastes or corrosive-only listed wastes
- Meets the definition of tank, tank system, container, transport vehicle or vessel

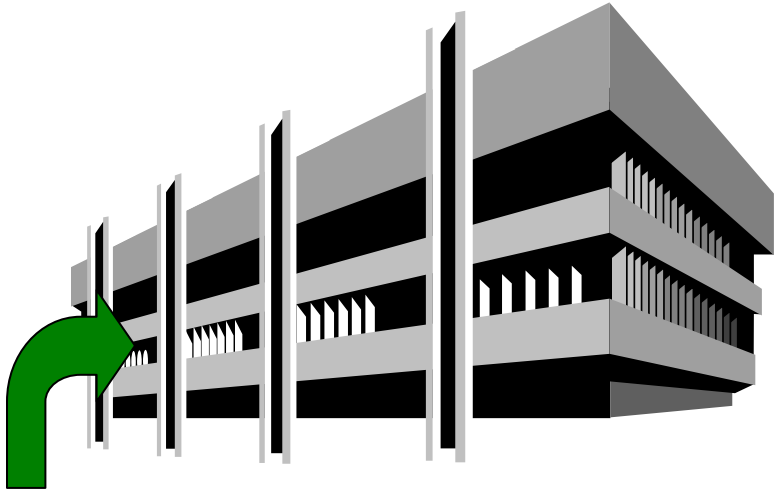


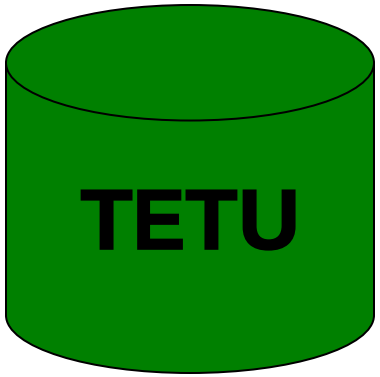
ENU – Key Concepts

- Corrosive-only waste
- Exemption applies to the unit, **not** the waste
- Unit exemption due to low-risk treatment
- Waste managed immediately upon generation in an ENU is not included in hazardous waste quantity determinations
- Count wastes that go into or come out of WWTU if they are subject to “substantive regulation” 40 CFR 261.5(c)(2)
- Tanks, tank systems, containers, transport vehicles or vessels qualify as ENUs

Totally Enclosed Treatment Facility/Unit (TETU)

- Treats hazardous waste
- Connected to industrial production process
- Prevents release of hazardous waste

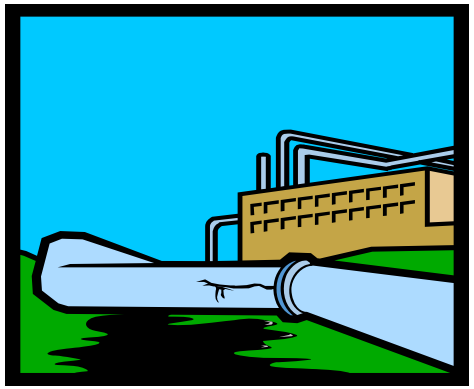


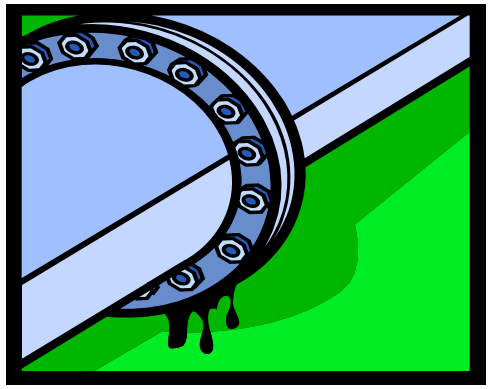


Industrial production facility

Effluent

TETU – Key Concepts





- TETU must be totally enclosed on all sides
  - Unit may have valves or vents if they prevent releases
- If unit leaks, it is no longer exempt
- Waste managed immediately upon generation in an ENU is not included in hazardous waste quantity determinations
- Count wastes if they are subject to “substantive RCRA regulation” when they exit the unit

The following entities are also exempt from permitting requirements

- Transporters storing manifested wastes at a transfer facility for less than ten 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 (CESQG) waste
  - Generate up to 220 pounds (100 kg) of waste in any calendar month
- Persons engaged in Superfund on-site cleanups and RCRA §7003 cleanups

There are several different types of permits

- Treatment, storage, and disposal permits
  - 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 to comply, respectively, with this requirement
- Research, development, and demonstration permits
- Post-closure permits
- Temporary permits
- Emergency permits
- Others

In potentially dangerous situations, States can forego the normal permitting process and issue emergency or temporary permits

- When there is an "imminent and substantial endangerment to human health and the environment," a temporary (i.e., 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

40 CFR § 270.61

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 draft permits that are enforced while the facility is being tested
- Final permit may be modified based on trial results

Some states have tried to abbreviate the application process for facilities that need to be permitted under two or more statutes

- States issue 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

The permitting process involves many steps

Public's Role	*Facility's Role*	*Agency's Role*
	1. Pre-application meeting	
	2. Prepare two-part application • Form required for everyone (Part A) • Facility-specific data (Part B)	
		3. Receipt and review of application
		4. Public notice of administratively complete application
		5. Notice of Deficiency (if applicable)
		6. Preparation of first draft
7. Public comments		
		8. Final permit decision

40 CFR § 270

The permitting process involves many steps (cont.)

- Pre-application public meeting
  - Notify public (e.g., newspaper, signs, and broadcast) of intent to apply for a permit
- Part A permit application submitted
  - Permitting agency notifies the public using facility mailing list that the application has been received
- Existing facilities are allowed at least six months from the date of request to submit the Part B permit application
- For new facilities, the Part A and Part B permit application must be submitted together

The permitting process involves many steps (cont.)

- There are required contents, but 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)
  - Most facilities use the RCRA Application Checklist as a guide to organize permit application information to ensure completeness
- 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 (cont.)

1. Draft permit
   - Includes conditions based on the application (should be reviewed by compliance monitoring, risk assessment, enforcement, geology, and engineering staff)
   - Includes certain sections of the application (e.g., contingency plan, waste analysis plan)
   - Includes corrective action requirements (may be reviewed by Water Division staff)

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

3. Public notice
   - Administrative completeness
   - Intent to issue (or deny) the permit
   - Public comment period
   - Opportunity for public hearing

Public Notification Requirements

- Examples
  - Class 1 - Minor Modification

    Change in owner or operational control of facility
  - Class 2 - Minor/Major Modification

    Requires public participation
  - Class 3 - Major Modification

    Requires public participation, especially if there is significant public concern
  - Temporary Authorizations

    Class 2 and Class 3 modifications
  - Agency initiated modifications

    Requires the same notice as permittee requested modifications (*40 CFR § 270.41)*

The permitting process involves many steps (cont.)

- Comment period is typically 45 days, but can be extended if public hearing does not occur within 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
  - Draft Response to Comments
  - Issue Final Decision Document

The permitting process involves many steps (cont.)

- Opportunity to appeal permit
- Negotiate to resolve any issues (Permit Appeal Resolution [PAR])
- If unsuccessful, follow process in 40 CFR Part 124
  - Petition regulatory agency to review permit conditions
  - Withdraw permit and prepare new draft permit addressing portions under review by regulatory agency
    - New draft permit proceeds through public comment, public hearing
    - Any permit portions not withdrawn continue to apply
- Administrative record
  - Paper trail supporting agency findings
  - Includes any appeals or other legal actions
  - Includes all documents and transmittal letters

Commonly encountered problems in the permitting process

- Quality and completeness of Part B - Late and deficient Part B Procedure
  - Step 1: If the facility fails to respond to an NOD and revise the application to include required information, issue letter to inform the facility that if the appropriate information is not received, an Intent to Deny will be issued
  - Step 2: Issue 3008 Order (or State equivalent) with penalties or terminate interim status, call for closure and deny permit
- Public hearings
- Size of applications can often be cumbersome and overwhelming
- Federal maximum length of permit is 10 years

Standardized Permit

- What is it?
  - A general permit for TSDFs that generate waste and manage waste on site in tanks, containers, and/or containment buildings
    - Thermal treatment and land disposal activities are not included
  - Allows facilities to obtain and modify permits more easily
- Final Rule announced September 8, 2005
  - Federal Register Volume 70, No. 173, pages 53419-53478
- Final Rule Effective October 11, 2005

Standardized Permit (cont.)

- Consists of two parts
  - Uniform portion contains applicable Part 267 requirements
  - Supplemental portion (if warranted) addresses site-specific issues such as corrective action
- Advantages
  - Cost savings to facilities and the permitting agency

    (e.g., reducing time involved to prepare and review large applications)
  - Streamlining and reduction in paperwork
  - Streamlining permit process for owner/operators

Standardized Permit (cont.)

- Ensuring compliance?
  - Permitting agency reviews owner/operator certifications
  - Compliance with terms and conditions determined through inspections
  - Checklists will be available via Internet
  - Draft RCRA Model Standardized Permits for tanks, containers, and containment buildings, available at:

    http://www.epa.gov/epaoswer/hazwaste/permit/epmt/toolperm.htm

Standard Conditions

- Final Rule (§267.12-267.1108)
  - Similar to Part 264 requirements
  - Material does not need to be submitted with application
  - Records must be maintained at facility and available for review