

An Example of the Importance of Regulatory Flexibility for Small Business

Connecticut Fat, Oil and Grease Disposal

In 2004, the Connecticut Department of Environmental Protection (DEP) issued permit requirements that all restaurants, diners and food preparation businesses of any size install exterior fat, oil and grease (FOG) disposal systems. The state was responding to complaints from municipal waste water authorities that eating places were disposing of FOG with their wastewater leading to costly clogs in public systems.

Rather than seek the input of the affected businesses, DEP adopted the permit requirements under emergency rulemaking provisions of Connecticut state law. The permit requirements included provisions that would require all food service establishments to install outdoor, in-ground grease trap/interceptor systems within three years of enactment of the rule.

Given the potential impact of the new requirements on church kitchens, coffee shops, hospitals, school kitchens and other very small establishments, Connecticut businesses petitioned the agency for a public hearing under the state Administrative Procedure Act. Both the business community, led by the Connecticut Restaurant Association (CRA), and DEP estimates found that the rule would affect over 10,000 Connecticut businesses. CRA estimated that the permit mandates would cost business \$100 million to \$200 million to purchase and install the equipment and another \$75 million over three years for on-going maintenance.

As a result of input from the regulated community, DEP was able to draft a final rule that achieved its environmental objectives while greatly reducing the burden on Connecticut small businesses. Three major revisions were incorporated into the final permit:

- Businesses were given more time to comply, doubling the time from January 1, 2008 to July 1, 2011. The extended compliance deadline will help more businesses learn about the rules and absorb the cost of equipment and controls.
- The mandate for an outside passive grease trap was eliminated by making interior automatic grease recovery units (AGRU) equivalent to outside passive grease interceptors as a means to control FOG and allowing the selection of either unit to be made by the business. The installed cost of AGRU systems range from \$2,800 to \$3,300 per facility. Exterior systems can range from \$8,000 to \$40,000.
- Local authorities were allowed to grant a waiver from the treatment requirements of the general permit when the business' discharge is small and is likely to have minimal FOG quantities due to the nature of the food prepared.

The Connecticut business community is still concerned with the burdensome nature of some aspects of the new grease rules, but recognizes the flexibility that was accomplished through the dialogue with the Connecticut DEP.