

**HTRW Center of Expertise
Environmental Regulatory
Fact Sheet 02-01**

**Proposed Regulations Regarding Standardized Permits for
Management of Hazardous Waste**

This paper summarizes the October 12, 2001 proposed rule entitled, "Hazardous Waste Management System; Standardized Permit; Corrective Action; and Financial Responsibility for RCRA Hazardous Waste Management Facilities", 66 Federal Register 52191. Comments are due to EPA by December 11, 2001. The Department of Defense intends to submit comments on this proposal. The draft proposed rule can be viewed in its entirety at:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2001_register&docid=01-24204-filed.pdf

PURPOSE OF THE PROPOSED RULE

This proposes requirements for standardized permits for storage or non-thermal treatment of hazardous waste in tanks, containers, or containment buildings. In addition, EPA solicits comments on how permitted facilities can satisfy RCRA corrective action requirements under alternative state cleanup programs and on conclusions in an EPA's Inspector General report regarding financial assurances for hazardous waste and PCB facilities.

BACKGROUND

Currently, each facility desiring a RCRA permit to treat, store, or dispose of hazardous waste must undergo a lengthy process to obtain a site-specific "individual" permit. This involves developing and submitting relatively large amounts of information to the regulatory agency. The Agency performs a detailed review of the information and then either makes a determination that the application is complete or issues a notice of deficiency with a request for additional information. There may be several iterations of reviews and requests for additional information before an application is deemed complete. Once the application is finally complete, then permit writer works to develop specific conditions for the individual permit.

EPA believes that the detailed review involved in issuing an individual permit is still warranted for more complex types of permitted activities such as thermal treatment, land disposal or management of military munitions, but believes there are opportunities to streamline the permitting process for less complicated activities such as storage activities and non-thermal treatment. Therefore, EPA has developed this proposed rule regarding "standardized permits". Under the

standardized permit process, the permitting agency will no longer be involved in a detailed review and approval of design and operating information. Rather, the new regulations in 40 CFR 267 will specify design and performance standards to be met by facilities operating under a standardized permit, and the facility owner/operator will certify compliance with these standards. This is expected to expedite the permitting process without compromising protectiveness.

SUMMARY OF PROPOSED RULE
Applying for a Standardized Permit

The procedural requirements for obtaining a standardized permit will be incorporated into 40 CFR 124.

To apply for a standardized permit, the applicant must submit:

- a notice of intent (NOI) to obtain a standardized permit;
- Part A (EPA form 8700-23) information;
- a summary of a mandated pre-application public meeting;
- documentation regarding compliance with location standards;
- information regarding compliance with other Federal laws;
- information regarding solid waste management units;
- results of a compliance audit;
- certifications regarding compliance with standards in Part 267;
- a compliance schedule if the facility is not in compliance with part 267 standards; and
- a commitment to make information available to the regulators.

The permit drafter would use this information to prepare the standardized permit. The permit will be composed of a uniform portion that would be included in all permits, and a supplemental portion that could be added at the discretion of the regulator to impose site specific conditions. For example, corrective action requirements would be placed in the supplemental portion of the permit.

The following matrix compares the steps in the standardized permit process to the steps in the individual permit process. It illustrates how time can be saved through reduced information submission and review requirements. It also illustrates that public participation requirements are maintained under both types of permit processes.

Step in Permit Process	Standardized Permit	Individual Permit
The facility advertises and conducts a public meeting to discuss potential operations.	Required	Required
Apply for permit	Instead of submitting detailed Part B permit application, submit Notice of Intent and	Submit detailed Part B permit application addressing how each applicable design and

	certification of compliance with design and operating standards in 40 CFR 267.	operating standard in 40 CFR 264 is attained.
Provide public notice of application submittal	Not required	Required
Agency review of application for completeness	Not required	Required
Agency issued notice of deficiency	Not applicable	Applicable when additional information is needed.
Response to notice of deficiency	Not applicable	Applicable
Determination of Application completeness	Not required	Required
Agency makes a tentative permit decision	Required within 120 days of receipt of NOI	No deadline
Agency prepares draft permit	Uses uniform conditions but supplements with additional site specific conditions	Individual conditions incorporated into permit.
Establish administrative record	Required	Required
Provide public notice on draft permit and 45 day comment period.	Required	Required
Public hearing and 30 day notice	May be required	May be required
Make final permit decision and respond to comments	Applicable	Applicable

So via the standardized permit process less information must be submitted for review and approval and the agency must make a tentative permit decision within 120 days. This is expected to significantly shorten the length of time required to obtain a final permit.

Requirements of 40 CFR 267, "Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit"

Regulations proposed in 40 CFR 267 contain the standards with which the facility must comply when operating under a standardized permit. For example, it lists requirements for conducting waste analysis, inspecting waste, responding to emergencies, etc., as well as specific requirements regarding management of waste in containers, tanks, and containment buildings. As part of the permit application process, an audit to assess and document compliance with the 40

CFR 267 requirements must be conducted. Rather than submitting this information to the permitting agency for review and approval, this documentation would be maintained at the site to support the claim that applicable standards have been met. Instead of submitting the information (as is done in the "individual" permit process), the facility owner/operator applying for a standardized permit would certify to the Agency that either (1) the performance standards and waste management unit design requirements of proposed Part 267 are met or (2) if not in compliance, a statement that compliance will be achieved and maintained before the permit is issued. The permit would not be issued until after compliance has been achieved.

For the most part, standards in 40 CFR 267 essentially mirror long-standing requirements found in 40 CFR 264. However, there are some distinctions. Differences include the following:

- Regulations in Part 267 have been conformed to remove requirements for activities that do not qualify for a standardized permit. For example, text specific to land disposal units, which would be found in Part 264, are not mirrored in Part 267.
- Under Part 267, many of the Agency review and approval requirements have been removed and replaced with facility self-assessment and certification.
- "Clean closure" is required for all facilities operating under a standardized permit. If unable to clean close within 180 days of receipt of the last volume of hazardous waste, the facility would be required to obtain an individual post-closure permit.
- The closure plan for facilities operating under a standardized permit must be submitted 180 days before closure commences. Closure plans for individual permits are submitted at the time of permit application.
- All tanks managing free liquids under a standardized permit are required to have secondary containment. Unlike tanks operating under an individual permit, there are no provisions for waivers from the secondary containment requirement. However since they all have secondary containment, they are not required to be annually tested for structural integrity.
- Containment buildings operating under a standardized permit and managing free liquids (other than dust suppressants) must have secondary containment.

Modification of Standardized Permits

EPA proposes two categories of modifications - routine and significant. "Routine changes" equate to Class 1 or Class 2 modifications as listed in 40 CFR 270.42, Appendix I (the permit modification table) and could be implemented without prior approval from the Agency. However information regarding the routine modification must be submitted to the Agency. "Significant changes", on the other hand, are those classified as Class 3 modifications or those which amend conditions in the supplemental (as opposed to uniform) portion of a standardized permit. Before implementing a significant change, approval from the Agency must be obtained. This involves providing public notice of the significant change,

holding a public meeting, and submission of a formal modification request to the Agency for approval.

Individual Permits

Regarding individual permits, EPA proposes the following:

- to allow a facility with an existing individual permits to request conversion to a standardized permit;
- to allow any interested person to petition EPA to prevent a facility from obtaining a standardized permit if just cause for requiring an individual permit is provided; and
- to allow the regulatory agency the discretion to require an individual permit even if the activity is eligible for a standardized permit.

State Authorization

This proposed rule is considered neither more nor less stringent than current standards. Therefore authorized states are not required to modify their programs to adopt these regulations.

CONCLUSION

This rule is expected to improve the permitting process for storage and non-thermal treatment in containers, tanks, and containment buildings conducted by generators of hazardous waste. This rule is expected to benefit the regulated community and is not anticipated to have negative impacts on Department of Defense activities.