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Introduction to:

Permits and Interim Status
(40 CFR Part 270)

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PERMITS AND INTERIM STATUS

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1. INTRODUCTION

Owners/operators of facilities that treat, store, or dispose of hazardous waste must obtain an operating permit, as required by Subtitle C of the Resource Conservation and Recovery Act (RCRA). Permits are an essential part of the RCRA Subtitle C program to regulate hazardous wastes. They define the conditions and requirements that apply to treatment, storage, and disposal facilities (TSDFs), ensuring that hazardous waste is treated, stored, and disposed of safely and in a controlled manner. This module presents an overview of the RCRA permitting process and the requirements that apply to TSDFs operating under interim status until a permit is issued. The regulations governing the permit process are found in 40 CFR Parts 124 and 270.

When you have completed this module, you will be able to describe the RCRA permitting process. Specifically, you will be able to:

- List the types of waste management activities that do and do not require a permit
- Locate the definitions in the CFR for "existing hazardous waste facility" and "new hazardous waste facility"
- Identify the CFR sections relevant to Part A and Part B permit information requirements and briefly describe the difference between them
- Outline the steps in the process from interim status to receipt of a permit
- Cite the CFR sections pertaining to permit duration and modifications
- Identify the differences among permit modification classes
- List the special forms of permits
- List the permit-by-rule applications
- State the eligibility requirements for interim status and the conditions for termination of interim status
- List the conditions for changes during interim status.

Use this list of objectives to check your knowledge of this topic after you complete the training session.

2. REGULATORY SUMMARY

RCRA §3005 authorizes and creates the foundation for issuing RCRA permits to TSDFs. The regulations implementing this statutory section are found in Part 270. Permits are issued by EPA, authorized states, or both. In this module, "EPA" should be read to include both EPA Regional Offices and states authorized for purposes of granting permits. Permits give TSDF owners/operators legal authority to treat, store, or dispose of hazardous waste. A RCRA permit is site-specific and can cover one or more units. The operating requirements for TSDFs are found in Parts 264/265. Part 264 applies to facilities that have received permits. Facilities that have not yet received a permit to operate must comply with the self-implementing interim status standards of Part 265. The administrative procedures that apply to the permitting process, including procedures for issuing, modifying, revoking, reissuing, or terminating permits, are found in Part 124.

This module covers the permitting process and requirements in Part 270. Part 270 is divided into seven subparts:

- General Information (Subpart A)
- Permit Application (Subpart B)
- Permit Conditions (Subpart C)
- Changes to Permits (Subpart D)
- Expiration and Continuation of Permits (Subpart E)
- Special Forms of Permits (Subpart F)
- Interim Status (Subpart G).

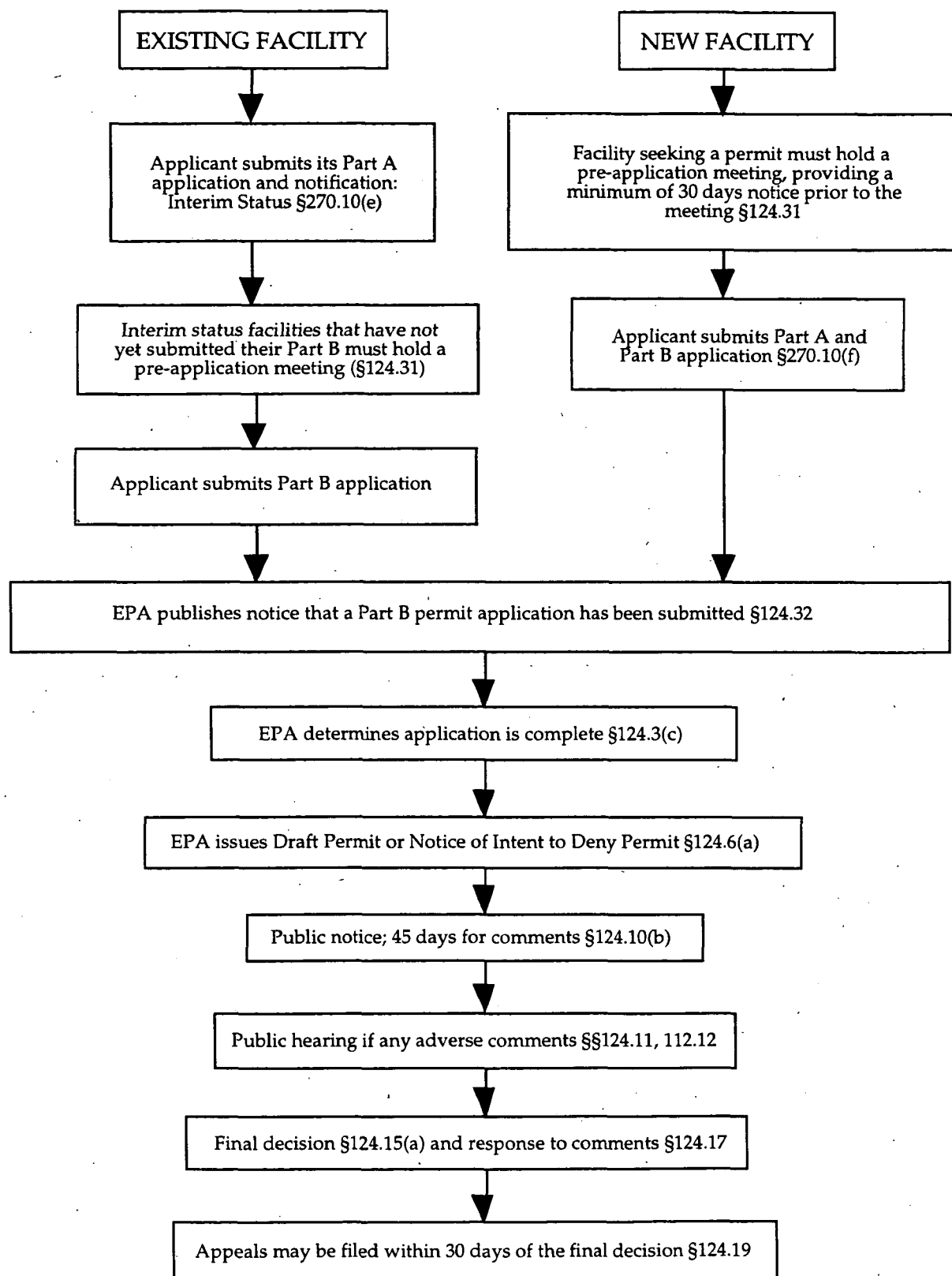
2.1 OVERVIEW OF THE RCRA PERMIT PROGRAM

A permit establishes the site-specific administrative and technical standards to which a TSDF must adhere in order to legally manage hazardous waste. A lengthy permit application and review process ensures that each site receives specific analysis concerning hazardous waste management at that location. Everything from the area's climate to the soil conditions to the types of buildings can affect the facility's permit. The following discussion outlines the procedures and the requirements for a facility to obtain a permit under Part 270.

APPLICATION PROCESS

RCRA permitting procedures depend on the type of facility (e.g., treatment, storage, or disposal) and whether the facility is (1) in existence when it becomes subject to Subtitle C regulation, or (2) a new facility seeking to begin managing hazardous waste. Figure 1 outlines the major steps in the permit application process. As Figure 1 indicates, public notices and hearings are a regular part of the permitting process. The regulations governing the administrative procedures for permitting are found in Part 124 and the application content and submittal dates are found in §270.10.

Figure 1
MAJOR STEPS IN THE PERMIT PROCESS



SCOPE OF PART A AND PART B APPLICATIONS

Owners/operators of facilities that fall under the permitting regulations are required to submit a comprehensive permit application covering all aspects of the design, operation, and maintenance of the facility. This gives EPA valuable information which will ensure compliance with Subtitle C regulations through the development of a facility-specific permit. Permits are written to address the specific geography of the facility, the types of hazardous waste management units, and specific wastestreams that will be managed at the facility. The permit application is divided into Part A and Part B.

Part A

The Part A permit application is submitted on a designated form: Form 8700-23. The basic Part A information requirements are presented in §§270.13(a) through (n). Examples of Part A information include:

- Activities conducted by the applicant which require the owner/operator to obtain a permit under RCRA
- Name, mailing address, and location of the facility
- Up to four standard industrial classification (SIC) codes which best describe facility activities
- Descriptions of the processes to be used for treating, storing, and/or disposing of hazardous waste and the design capacity of these items or units
- Identification of the hazardous wastes listed or designated under Part 261 to be managed at the facility
- List of all permits received or applied for under other regulatory programs
- Topographic map of the facility.

Part B

Part B information is submitted in narrative form. It includes general information requirements for all hazardous waste management facilities, as well as unit-specific information. The Part B information requirements presented in §§270.14 through 270.27 reflect the standards promulgated in Part 264. These information requirements are necessary in order for EPA to determine compliance with the Part 264 standards. Section 270.14(b) lists the general information requirements that all hazardous waste management facilities must submit in the Part B permit application, including:

- General description of the facility
- Chemical and physical analyses of the wastes to be handled at the facility
- Copy of the waste analysis plan
- Description of the security procedures and copy of the inspection schedule
- Copy of the contingency plan required
- Description of procedures, structures, or equipment used at the facility to prevent releases to the environment
- Description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible waste
- Facility location information such as proximity to a seismic area or a 100-year floodplain.

Owners/operators are required to provide information regarding the placement of hazardous waste and any resultant releases (§§270.14(c) and (d)). These regulations are designed to prevent or remediate releases into the environment from land-based hazardous waste management units and solid waste management units (SWMUs). This information is then used as part of the corrective action process (see the module entitled Corrective Action).

Owners/operators must also submit unit-specific information for each hazardous waste management unit at the facility. Sections 270.15 through 270.27 correspond to Part 264, Subparts I through X, AA, BB, CC, DD, and Part 266, Subpart H. For example, if a TSDF manages hazardous waste in containers, the owner/operator must provide a description of the container storage containment design and sketches to demonstrate compliance with the 50-foot buffer zone requirement of §264.176.

Existing Hazardous Waste Management Facilities

For hazardous waste management facilities already in existence on the effective date of statutory or regulatory amendments that cause the facility or unit to become regulated, the requirement to apply for a permit is satisfied by submitting only Part A of the permit application until the date the permitting agency sets for submitting Part B of the application (§270.1(b)).

The timely submission of notification under RCRA §3010 and the Part A application qualifies owners/operators of existing hazardous waste management units or facilities for interim status.

Land disposal facilities qualifying for interim status must submit a Part B application and certify compliance with all applicable groundwater monitoring and financial responsibility requirements within 12 months of the date the facility first becomes subject to regulation (§270.73(d)). For other types of facilities qualifying for interim status or for other types of "existing" facilities, the Part B permit application should be submitted in accordance with §§270.73(c)-(g) or when requested by EPA. EPA will give at least six months' notice when requesting a Part B permit application (§270.10(e)(4)). Applicants may submit a Part B voluntarily at any time. Interim status facilities must comply with Part 265 until the Part B permit is drafted and approved.

New Hazardous Waste Management Facilities

Owners/operators of facilities that wish to begin managing hazardous waste for the first time (new hazardous waste management facilities) must receive a RCRA permit before the facility is allowed to treat, store, or dispose of hazardous waste. Section 270.1(b) states that owners and operators of new hazardous waste management facilities must submit Parts A and B of the permit application at least 180 days before physical construction of the facility is expected to commence, although it typically takes several years to issue a permit. Physical construction cannot commence until the permit is issued.

PERMIT CONDITIONS

Part 270, Subpart C, lists the conditions that apply to all RCRA permits. These conditions are either incorporated expressly into the permit or are included by regulatory citations. Section 270.30 defines the conditions that apply to all RCRA permits:

- The permittee must comply with all conditions of the permit, except when an emergency permit issued under §270.61 authorizes noncompliance
- The permittee must reapply if the permittee is to continue a regulated activity after the existing permit expires
- The permittee may not use as a defense for noncompliance that the only way to maintain compliance with the permit was to halt or reduce the permitted activity
- The permittee must take all reasonable steps to minimize adverse impacts on human health and the environment
- The permittee must ensure proper operation and maintenance of the facility
- The permit may be modified, revoked and reissued, or terminated for cause

- The permit does not convey any property rights to the permittee
- The permittee must provide any relevant information requested
- The permittee must allow the facility to be inspected
- The permittee must conduct appropriate sampling, and retain results of all monitoring
- The permittee must comply with the reporting requirements of §270.30(1)
- The permittee, when required by EPA, must establish and maintain an information repository.
- The permittee must sign and certify applications, reports, or information submitted

Section 270.32(b)(2) contains an important provision which allows permits issued under RCRA §3005 to contain additional terms necessary to protect human health and the environment. This is known as the omnibus provision. It allows the Agency to establish appropriate conditions in a permit that are in addition to the standards in Part 264 (RCRA §3005(c)).

Another important component in Part 270, Subpart C, is the establishment of a compliance schedule under §270.33. A schedule of compliance may be written into a permit when a facility is out of compliance with any portion of RCRA Subtitle C or other regulations. These regulations allow EPA to establish a schedule with interim and final dates and require reporting to ensure the progress of a particular activity. For instance, the provisions in §270.33 allow the Agency to develop a corrective action schedule in the permit. As discussed previously, units in which hazardous waste was placed are required to be identified. If corrective action steps need to be taken, §270.33 can be used to establish the schedule of activities.

CHANGES TO PERMITS

Part 270, Subpart D, establishes the steps necessary to make changes to a permit. The procedures for making changes to a permit will vary depending on whether the Agency or the owner/operator is initiating the change. The five basic situations for changing a permit after issue are:

- Permit modification at the request of the permittee
- Permit modification at the request of the permitting agency
- Revocation and reissue of the permit
- Transfer of the permit
- Termination of the permit.

The procedures for each of these actions are discussed below.

Facility-Initiated Permit Modifications

Section 270.42 contains the regulations that apply to the modification of a permit at the request of the permittee. There are three classifications of permit modifications (Classes 1, 2, and 3) that correspond to the degree the permit will be modified.

Appendix I to §270.42, entitled Classification of Permit Modification, describes the type of permit modification necessary to change a permit provision when there is a transfer of a permit or the permittee requests a permit modification. For all modifications, the permittee submits information to EPA that describes the exact change to be made to the permit conditions, identifies whether the modification is a Class 1, 2, or 3, and provides the applicable permit application information. Class 1 and 2 permittee-requested modifications do not substantially alter existing permit conditions or significantly affect the overall operation of a facility. Class 1 covers routine changes, such as changing typographical errors, upgrading plans and records maintained by the facility, or replacing equipment. Class 2 modifications address common or frequently occurring changes needed to maintain a facility's ability to manage a waste safely or to conform with new regulatory requirements. Class 3 changes cover major modifications that substantially alter the facility or its operations, such as the management of different wastes that require different designs or management practices.

Prior Agency approval is not required for most Class 1 modifications, although an asterisk in Table 1 indicates a Class 1 change that does require Agency approval (see §270.42(a)). For both Class 2 and Class 3 modifications, Agency approval is required, and a process similar to the permitting process is followed.

For a modification not explicitly listed in Appendix I, the permittee may submit a Class 3 modification or request a determination by EPA that the modification be reviewed and approved as a Class 1 or 2 modification (§270.42(d)). Section 4 of this module provides an example of this.

According to §270.42(g), newly regulated wastes and units at fully permitted facilities do not qualify for interim status. Instead, the permittee follows the permit modification process in this section. First, a Class 1 modification is submitted by the date on which the waste or unit becomes subject to the new requirements. The permittee must be in compliance with the applicable standards of Parts 265 and 266. If a Class 2 or 3 modification is required, the permittee must also submit a complete permit modification request within 180 days after the effective date of the rule that subjected the waste or unit to Subtitle C management. Finally, for all land disposal units that are newly regulated, the permittee must certify that the unit is in compliance with all applicable requirements of Part 265 for groundwater monitoring and financial responsibility 12 months after the effective date of the rule.

Agency-Initiated Permit Modifications

There are two types of EPA-initiated changes to permits: modification of a permit or revocation and reissue of a permit. The Agency may modify a permit if: (1) there have been alterations or additions to the facility; (2) there is new information that was not available at the time of permit issue; (3) new statutory or regulatory requirements were promulgated; or (4) the Agency has cause to initiate a compliance schedule under §270.33. The Agency may also modify a land disposal facility's permit during the permit's five-year review. The Agency may either modify a permit or revoke and reissue a permit if there is a change in ownership. If there is cause for termination under §270.43, EPA may follow the procedures in Part 124 to revoke a permit.

Termination of Permits

Section 270.43 provides the means for the termination of a permit during its term, or for denying a permit renewal application. According to §270.43, either step can take place if there is:

- Noncompliance by the permittee
- or
- Failure to disclose all relevant facts or a misrepresentation of any relevant facts
- or
- Determination that a permitted activity endangers human health and the environment.

The applicable Part 124 administrative procedures or state procedures need to be followed when terminating a permit.

EXPIRATION AND CONTINUATION OF PERMITS

Part 270, Subpart E, specifies the requirements for the duration of permits and the conditions under which an expiring permit can continue. RCRA permits are effective for a fixed term which is not to exceed 10 years (§270.50(a)). EPA, however, can issue a permit for less than the full allowable term. Section 270.50(d) requires EPA to review permits for land disposal facilities five years after the date of permit issue or reissue. The permit can be modified at that time, if necessary.

Section 270.51 lists the conditions under which EPA can extend an expiring or expired permit. For example, an expired permit can be continued when the permittee has submitted an application for a new permit and the Agency has not

issued a new permit before the expiration date of the previous permit, provided the delay of the reissue was through no fault of the permittee.

2.2 SCOPE OF THE RCRA PERMIT

A RCRA permit is required for facilities conducting treatment, storage, and/or disposal of hazardous waste. A permit defines operating requirements and various provisions specific to the needs of the permit applicant depending on the treatment, storage, or disposal activities being conducted at the facility. Section 270.1(c) lists the various types of permits.

On the other hand, some hazardous waste treatment, storage, or disposal activities or facilities do not require a permit. The following discussion addresses the activities that do not require a permit and specific exclusions from permit requirements. It also discusses Part 270, Subpart F, entitled Special Forms of Permits.

SPECIFIC EXCLUSIONS FROM PERMIT REQUIREMENTS

In a few narrowly defined cases, a facility that would otherwise be considered to be treating, storing, or disposing of hazardous waste is not required to obtain a RCRA permit. These exceptions are listed in §270.1(c)(2) and include:

- Generators who accumulate hazardous waste on-site for less than the time periods provided in §262.34
- Farmers who dispose of pesticide hazardous waste from their own use as provided in §262.70
- Persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded by §261.4 or §261.5
- Owners/operators of totally enclosed treatment facilities as defined in §260.10
- Owners/operators of elementary neutralization units or wastewater treatment units as defined in §260.10
- Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of §262.30 at a transfer facility for a period of 10 days or less
- Persons adding absorbent material to hazardous waste in a container (as defined in §260.10) and persons adding waste to absorbent material in a container (provided that these actions occur at the time the waste is first placed in the container and comply with §§264.17(b), 264.171, and 264.172)

- Universal waste handlers and transporters managing wastes subject to regulation under 40 CFR Part 273
- Owners/operators performing treatment or containment activities taken during immediate response to a discharge of a hazardous waste, an imminent and substantial threat of a discharge of a hazardous waste, or a discharge of a material which when discharged becomes a hazardous waste.

POST-CLOSURE PERMITS

Owners/operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to §265.115) after January 26, 1983, must have post-closure permits, unless the owner/operator demonstrates closure by removal and decontamination as provided under §§270.1(c)(5) and (6) (§270.1(c)). If a post-closure permit is required, the permit must address applicable Part 264 groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements. The denial of a permit for the active life of a hazardous waste management facility does not affect the requirement to obtain a post-closure permit under this section.

UNIT AND FACILITY PERMITS

EPA may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all units at the facility (§270.1(c)(4)). This means that a facility may be permitted on a unit-specific basis, rather than as a whole facility.

PERMIT-AS-A-SHIELD

Compliance with a RCRA permit during its term is considered compliance for purposes of RCRA enforcement (§270.4(a)). This means that an owner/operator complies with the requirements specified in the permit, rather than with the corresponding regulations as promulgated in 40 CFR. This is referred to as the "permit-as-a-shield" provision. A permittee must still comply with requirements that are imposed by the statute itself, the land disposal restrictions promulgated under Part 268, and the liner and leak detection requirements for certain land disposal units (57 FR 3462; January 29, 1992). In addition, the definition of permit-as-a-shield was amended to require facilities to comply with Subparts AA, BB, and CC of Part 265 (59 FR 62952; December 6, 1994).

2.3 SPECIAL FORMS OF RCRA PERMITS

Part 270, Subpart F, contains the regulations that apply to special forms of permits. Special forms of permits under Subpart F include: (1) permits-by-rule; (2) emergency permits; (3) hazardous waste incinerator permits; (4) permits for land treatment

demonstrations; (5) interim permits for underground injection control (UIC) wells; (6) research, development, and demonstration (RD&D) permits; and (7) permits for boilers and industrial furnaces (BIFs) burning hazardous waste.

Permits-By-Rule

Certain types of facilities managing hazardous waste may qualify for a RCRA permit without submitting a permit application. This is known as "permit-by-rule."

Having a permit-by-rule means that by following certain portions of the regulations promulgated under other environmental statutes and a portion of the RCRA regulations, a facility is deemed to have the equivalent of a RCRA permit. The owner/operator must follow the conditions listed in §270.60 for a permit-by-rule.

Permits-by-rule are available for:

- Ocean disposal vessels and barges
- Underground injection wells
- Publicly owned treatment works (POTWs).

In all three of these cases, specific provisions of other environmental regulatory programs must be met in order to operate under a permit-by-rule. Ocean disposal vessels and barges must have a permit issued under 40 CFR Part 220, underground injection wells must have a permit issued under 40 CFR Part 144 or 145, and POTWs must have a National Pollution Discharge Elimination System (NPDES) permit under the Clean Water Act.

Emergency Permits

Under §270.61, emergency permits are temporary permits issued when the Regional Administrator or state finds an imminent and substantial endangerment to human health or the environment. These permits may be issued to a non-permitted facility to allow treatment, storage, or disposal of hazardous waste, or to a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit. The duration of an emergency permit cannot exceed 90 days.

Hazardous Waste Incinerator Permits

The purpose of a hazardous waste incinerator permit is to allow a hazardous incinerator to establish permit conditions, including, but not limited to, allowable waste feeds and operating conditions that will ensure adequate protection of human health and the environment. The incinerator permit covers four phases of operation: pre-trial burn, trial burn, post-trial, and final operating conditions.

The pre-trial burn phase of the permit allows the incinerator to achieve a state of operational readiness necessary to conduct the trial burn. The pre-trial burn permit

conditions are effective for the minimum time required to bring the incinerator to a point of operational readiness to conduct a trial burn which is not to exceed 720 hours. This phase is often referred to as the shakedown period.

For the trial burn, EPA will establish conditions in the permit necessary to conduct an effective trial burn. These conditions are based on the operating conditions proposed by the permit applicant in the trial burn plan submitted to EPA. To allow the operation of a hazardous waste incinerator following the completion of the trial burn, EPA establishes permit conditions sufficient to meet the incinerator performance standards. This post-trial burn period is limited to the minimum time required to complete the sampling, analysis, data computation of trial burn results, and submission of these results to EPA.

After reviewing the results of the trial burn, EPA will modify as necessary the operating conditions of the incinerator to ensure compliance with incinerator standards and assure protection of human health and the environment. Owners/operators of incinerators must comply with the final permit conditions for the duration of the permit, or until the permit is modified.

Permits for Land Treatment Demonstrations

Before a land treatment facility can obtain a final permit, the owner/operator must demonstrate that hazardous constituents in a waste can be completely degraded, transformed, or immobilized in the treatment zone (§264.272). The purpose of land treatment demonstrations using field tests or laboratory analyses is to allow an owner/operator to meet the treatment demonstration requirements of §264.272 so that a final permit may be obtained. Under §270.63, the permit may be issued as either a treatment or disposal permit and may include conditions for conducting the field tests or laboratory analyses, or conditions pertaining to unit design, construction, operation and maintenance, or both.

UIC Wells

Under §270.64, EPA may issue a UIC permit to Class I injection wells injecting hazardous waste in a state in which no UIC program has been approved or promulgated. A UIC permit issued pursuant to this section must ensure compliance with Part 265, Subpart R.

Research, Development, and Demonstration Permits

Section 270.65 provides special permitting requirements for research, development, and demonstration (RD&D) permits for hazardous waste treatment facilities using innovative and experimental treatment technologies for which no standards exist under Parts 264/265. These permits are issued for a period of up to one year, and may be renewed up to three times, with each renewal not exceeding one year.

Boilers and Industrial Furnace Permits

There are special permitting requirements for owners/operators of BIFs burning hazardous waste. The permit requirements and conditions for BIFs are similar to but more stringent than those for incinerators.

2.4 INTERIM STATUS REQUIREMENTS

EPA recognized that it would be impossible for the Agency and authorized states to issue permits to all hazardous waste management facilities before the RCRA Subtitle C program became effective in November 1980. In RCRA §3005(e), Congress established provisions to treat certain facilities as though they had been issued a permit until final administrative action was taken on their permit applications. This statutory grant of a permit is referred to as "interim status." Interim status regulations are found in Part 270, Subpart G, and Part 265.

SCOPE OF INTERIM STATUS

According to §270.70, to qualify for interim status, a facility must meet three requirements: (1) the facility must have been in existence (operating or in construction) on the effective date of the rule that brings the facility into the RCRA program; (2) the facility must have submitted a Part A permit application; and (3) the facility must have filed a §3010 notification (EPA form 8700-12). An interim status facility must comply with the standards specified in Part 265 and the conditions described in its Part A application until the final determination is made regarding its Part B application (§270.71).

CHANGES DURING INTERIM STATUS

The owner/operator of an interim status facility must follow the procedures in §270.72 in order to make any changes to the facility. Sections 270.72(a)(1) through (6) establish the types of changes that can be made, as well as the criteria under which the changes may occur. The following changes can be made to an interim status facility, provided the owner/operator submits a revised Part A permit application that includes justification for the proposed change(s) before any of these changes are made:

- Managing hazardous wastes not in the Part A permit
- Increasing design capacity
- Changing or adding processes
- Changing the owner/operator
- Changing to comply with a §3008(h) corrective action order
- Adding newly regulated units.

Reconstruction

Section 270.72(b) placed certain limitations on the extent of any changes that can be made under §270.72(a). Changes to an interim status facility may not be made if they amount to reconstruction of the facility. Reconstruction is defined as occurring when:

$$\frac{\text{Capital Investment in changes to the facility}}{\text{Capital Cost of a comparable new facility}} > 50\%$$

Any changes to an interim status facility that require a capital expenditure exceeding 50 percent of the cost of construction of a comparable new facility is considered reconstruction.

Exceptions

Two exceptions to the reconstruction prohibition were promulgated prior to March 1989:

- Changes necessary to comply with the land disposal restrictions
- Changes necessary to comply with hazardous waste tank regulations.

In addition, the March 7, 1989, Federal Register added the following activities that are allowed without consideration of reconstruction limitations (54 FR 9596):

- Changes that EPA determines necessary to comply with federal, state, or local requirements
- Changes that are necessary to allow a facility to continue to manage newly listed or identified wastes
- Changes made during closure in accordance with an approved closure plan
- Changes made to comply with an interim status corrective action order
- Addition of newly regulated units (e.g., boilers or industrial furnaces).

The reconstruction limit was amended for compliance with new tank standards and changes necessary due to the land disposal restrictions. All of these situations are still considered changes during interim status and require a revised Part A application to be submitted; however, they are not subject to the constraints of the reconstruction limitation.

LOSS OF INTERIM STATUS (LOIS)

Under §270.73, interim status is terminated when either of the following situations occurs:

- EPA makes a final determination on the Part B permit application (issue or denial)
- or
- The facility fails to furnish a Part B application on time (§270.10(e)(5)).

Due to the small number of permits issued prior to passage of the Hazardous and Solid Waste Amendments in 1984 (HSWA), Congress implemented a statutory timetable for submission of Part B permit applications. Those facilities that failed to meet this "call-in deadline" lost their interim status and had to close. These deadlines are found in §§270.73(c) through (g) and include submittal of a Part B application and demonstration of compliance with the groundwater monitoring and financial assurance requirements. The only facilities not covered by the HSWA-mandated schedule are facilities that became newly regulated as a result of a statutory or regulatory change after November 8, 1984 (other than land disposal facilities). These facilities are required to submit their Part B applications when requested by EPA or an approved state (at least six months notice must be given).

3. REGULATORY DEVELOPMENTS

In order to improve the permitting process, EPA continues to develop ways to expedite and simplify post-closure permitting, expand public involvement, and increase the efficiency and effectiveness of environmental permitting programs. Each of these initiatives is described in more detail below.

3.1 POST-CLOSURE PERMITS

On November 8, 1994, EPA proposed to offer alternatives to the permitting requirements for facilities conducting post-closure and to allow the use of other authorities, such as enforcement, to address environmental risks (59 FR 55778). The rule would provide regulators flexibility to use the best available mechanisms to address each facility. An anticipated date for final promulgation has not been set.

3.2 PUBLIC PARTICIPATION IN PERMITTING

On December 11, 1995, EPA finalized regulations that provide earlier opportunities for public involvement in the TSDF permitting process and expand public access to information throughout the permitting process and the operational lives of TSDFs (60 FR 63417).

Permit applicants are now required to hold an informal meeting before submitting an application for a RCRA permit. The rule also requires the applicant to publicize the meeting in a number of ways, including a display advertisement in the newspaper, a television or radio broadcast announcement, and a sign posted on or near the property (§124.31). The permitting agency must also mail a notice to interested people when the facility submits its application. The notice will tell members of the public where they can examine the application while the agency reviews it (§124.32).

The permitting agency may require a facility owner/operator to set up an information repository at any time during the permitting process or the permit life (§§124.33 and 270.30). The repository makes important permitting information available to the public. Finally, the rule also requires combustion facilities to notify the public before conducting a trial burn (§270.66(d)(3)).

3.3 PERMITS IMPROVEMENT TEAM

In July 1994, EPA created a Permits Improvement Team (PIT) to identify specific actions that can be taken to increase the efficiency and effectiveness of environmental permitting programs, not only under RCRA, but also in other EPA program areas. The PIT was divided into six task forces looking at improvement in different areas of the permitting process: alternatives to individual permits, administrative streamlining, enhanced public participation, pollution prevention incentives, training, and performance measures. The team held six roundtable meetings with stakeholders from EPA, states, local governments, industry, and interest groups. The results of these task force meetings were published in an April 1996 report, Permit Improvement Team Concept Paper on Environmental Permitting and Task Force Recommendations. The recommendations will be used as guidance by program offices. The Agency may ultimately revise the current permitting process based on the recommendations, possibly through implementation of short-term and long-term regulatory changes. Currently, there is no definitive time frame for any changes recommended by the PIT.

4. SPECIAL ISSUES

Mobile treatment units (MTUs) are designed to move from facility to facility treating waste on site. These units must comply with the applicable unit standards for interim status (Part 265 or 266) or permitting (Part 264 or 266). RCRA permits are site-specific, thus a mobile treatment unit alone (i.e., the unit itself) cannot receive a permit (or interim status) but must be permitted (or receive interim status) for use at each location.

A mobile treatment unit, like other treatment units, may qualify for an exemption from permitting requirements. If a mobile unit meets the requirements for a wastewater treatment unit, elementary neutralization unit, generator accumulation/treatment tank, or any other RCRA permit exemption, the facility would not be required to obtain a permit for that unit.