



The Hazardous Waste Facility Permitting Process

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What Are Hazardous Wastes?

Hazardous wastes can be liquids, solids, or sludges. They can be by-products of manufacturing processes or discarded commercial products. If hazardous wastes are not handled properly, they pose a potential hazard to people and the environment. To ensure that companies handle waste safely and responsibly, EPA has written regulations that track hazardous wastes from the moment they are produced until their ultimate disposal. The regulations set standards for the hazardous waste management facilities that treat, store, and dispose of hazardous wastes.

What Is a Hazardous Waste Management Facility?

Hazardous waste management facilities receive hazardous wastes for treatment, storage, or disposal. These facilities are often referred to as treatment, storage, and disposal facilities, or TSDFs.

- ▶ *Treatment* facilities use various processes (such as incineration or oxidation) to alter the character or composition of hazardous wastes. Some treatment processes enable waste to be recovered and reused in manufacturing settings, while other treatment processes dramatically reduce the amount of hazardous waste.
- ▶ *Storage* facilities temporarily hold hazardous wastes until they are treated or disposed of.
- ▶ *Disposal* facilities permanently contain hazardous wastes. The most common type of disposal facility is a landfill, where hazardous wastes are disposed of in carefully constructed units designed to protect ground-water and surface-water resources.

What Laws and Regulations Govern TSDFs?

EPA has written detailed regulations to make sure that TSDFs operate safely and protect people and the environment. EPA wrote these regulations to implement the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments of 1984. The U.S. Congress passed these laws to address public concerns about the management of hazardous waste.

EPA can authorize states to carry out the RCRA program. To receive authorization, state requirements must be as strict, or stricter, than the federal requirements. Federal or state agencies that implement RCRA are known as "permitting agencies."



What Is a RCRA Permit?

A RCRA permit is a legally binding document that establishes the waste management activities that a facility can conduct and the conditions under which it can conduct them. The permit outlines facility design and operation, lays out safety standards, and describes activities that the facility must perform, such as monitoring and reporting. Permits typically require facilities to develop emergency plans, find insurance and financial backing, and train employees to handle hazards. Permits also can include facility-specific requirements such as groundwater monitoring. The permitting agency has the authority to issue or deny permits and is responsible for monitoring the facility to ensure that it is complying with the conditions in the permit. According to RCRA and its regulations, a TSDF cannot operate without a permit, with a few exceptions.

Who Needs a RCRA Permit?

All facilities that currently or plan to treat, store, or dispose of hazardous wastes must obtain a RCRA permit.

- ▶ *New TSDFs* must receive a permit before they even begin construction. They must prove that they can manage hazardous waste safely and responsibly. The permitting agency reviews the permit application and decides whether the facility is qualified to receive a RCRA permit. Once issued, a permit may last up to 10 years.
- ▶ *Operating TSDFs* with expiring permits must submit new permit applications six months before their existing permits run out.
- ▶ *TSDFs operating under Interim Status* must also apply for a permit. Congress granted "interim status" to facilities that already existed when RCRA was enacted. Interim status allows existing facilities to continue operating while their permit applications are being reviewed.

Who Does Not Need a RCRA Permit?

There are certain situations where a company is not required to obtain a RCRA a permit.

- ▶ *Businesses that generate hazardous waste* and transport it off site without storing it for long periods of time do not need a RCRA permit.
- ▶ *Businesses that transport hazardous waste* do not need a RCRA permit.
- ▶ *Businesses that store hazardous waste* for short periods of time without treating it do not need a permit.

What Are the Steps in the Permitting Process?

Step 1 Starting the Process

Before a business even submits a permit application, it must hold an informal meeting with the public. The business must announce the "preapplication" meeting by putting up a sign on or near the proposed facility property, running an advertisement on radio or television, and placing a display advertisement in a newspaper. At the meeting, the business explains the plans for the facility, including information about the proposed processes it will use and wastes it will handle. The public has the opportunity to ask questions and make suggestions. The business may choose to incorporate the public's suggestions into its application. The permitting agency uses the attendance list from the meeting to help set up a mailing list for the facility.



Step 2 Applying for a Permit

After considering input from the preapplication meeting, the business may decide to submit a permit application. Permit applications are often lengthy. They must include a description of the facility and address the following:

- ▶ How the facility will be designed, constructed, maintained, and operated to be protective of public health and the environment.
- ▶ How any emergencies and spills will be handled, should they occur.
- ▶ How the facility will clean up and finance any environmental contamination that occurs.
- ▶ How the facility will close and clean up once it is no longer operating.

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Step 3 Receipt and Review of the Application

When the permitting agency receives a permit application, it sends a notice to everyone on the mailing list. The notice indicates that the agency has received the application and will make it available for public review. The permitting agency must then place a copy of the application in a public area for review.

Simultaneously, the permitting agency begins to review the application to make sure it contains all the information required by the regulations. The proposed design and operation of the facility are also evaluated by the permitting agency to determine if the facility can be built and operated safely.

Step 4 Revisions, Revisions, Revisions

After reviewing the application, the permitting agency may issue a Notice of Deficiency (NOD) to the applicant. NODs identify and request that the applicant provide any missing information. During the application review and revision process, the permitting agency may issue several NODs. Each time the permitting agency receives a response from the applicant, it reviews the information and, if necessary, issues another NOD until the application is complete. Given the complex and technical nature of the information, the review and revision process may take several years.

Step 5 Drafting the Permit for Public Review

When the revisions are complete, the agency makes a preliminary decision about whether to issue or deny the permit. If the agency decides that the application is complete and meets appropriate standards, the agency issues a draft permit containing the conditions under which the facility can operate if the permit receives final approval. If the permitting agency determines that an applicant cannot provide an application that meets the standards, the agency tentatively denies the permit and prepares a "notice of intent to deny."

The permitting agency announces its decision by sending a letter to everyone on the mailing list, placing a notice in a local paper, and broadcasting it over the radio. It also issues a fact sheet to explain the decision. Once the notice is issued, the

public has 45 days to comment on the decision. Citizens also may request a public hearing by contacting the permitting agency. The permitting agency may also hold a hearing at its own discretion. The agency must give 30-day public notice before the hearing.

Step 6 The End Result: A Final Permit Decision

After carefully considering public comments, the permitting agency reconsiders the draft permit or the notice of intent to deny the permit. The agency must issue a "response to public comments," specifying any changes made to the draft permit. The agency then issues the final permit or denies the permit.

Even after issuing a permit, the permitting agency continues to monitor the construction and operation of the facility to make sure they are consistent with state and federal rules and with the application.

Several additional steps can also take place after the original permit is issued:

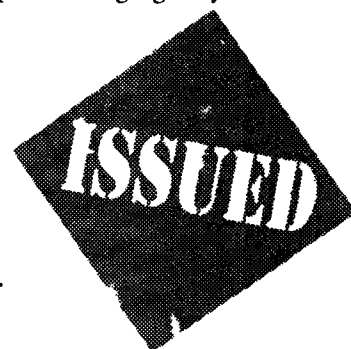
► **Permit Appeals.** Facility owners and the public both have a right to appeal the final permit decision. The appeal is usually decided upon by administrative law judges.

► **Permit Modifications.** If a facility changes its management procedures, mechanical operations, or the wastes it handles, then it must secure a permit modification. For modifications that significantly change facility operations, the public must receive early notice and have a chance to participate and comment. For minor modifications, the facility must notify the public within a week of making the change.

► **Permit Renewals.** The permitting agency can renew permits that are due to expire. Permit holders that are seeking a permit renewal must follow the same procedures as a facility seeking a new permit.

► **Permit Terminations.** If a facility violates the terms of its permit, the permitting agency can terminate the permit.

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PUBLIC HEARING DRAFT

How Can the Public Participate?

Members of the public have valid concerns about hazardous waste management. They and other interested parties can contribute valuable information and ideas that improve the quality of both agency decisions and permit applications. EPA believes that public participation is a vital component of the permitting process. Accordingly, EPA has written regulations that create opportunities for the public to learn about RCRA activities and give input during the permitting process. The preapplication meeting, public comment and response periods, and public hearings are all instances where citizens can engage companies and regulators in a dialogue. Furthermore, EPA encourages permitting agencies, permit holders or applicants, and other interested parties to provide additional public participation activities where they will be helpful.

EPA also realizes that some of the most important public participation activities happen outside the formal permitting process. Citizens can contact environmental, public interest, and civic and community groups that have an interest in the facility and become involved in their activities. The permit holder or applicant may also create informal opportunities for public input and dialogue.

The permitting process gives citizens a number of opportunities to express their ideas and concerns. Here are several steps you can take to ensure that your voice is heard:

- ▶ Know whom to call at the permitting agency. Early in the process, call the agency to determine the contact for the project. This person's name also should be on fact sheets and other printed materials.
- ▶ Ask to have your name put on the facility mailing list for notices, fact sheets, and other documents distributed by the agency.
- ▶ Do your own research by talking to local officials, contacting research or industry organizations, reading permitting agency materials, and interacting with interested groups in the community.
- ▶ Submit written comments that are clear, concise, and well documented. Remember that, by law, permitting agencies must consider all significant written comments submitted during a formal comment period.
- ▶ Participate in public hearings and other meetings. Provide testimony that supports your position. Remember that a public hearing is not required unless a citizen specifically requests one in writing.

- ▶ If any material needs further explanation, or if you need to clear up some details about the facility or the permitting process, request an informational meeting with the appropriate official. You also may want to call the facility to meet with the staff or to request a tour or other information.
- ▶ Follow the process closely. Watch for permitting agency decisions and review the agency's responses to public comments. Remember that citizens may have an opportunity to appeal agency decisions.
- ▶ Remember that your interest and input are important to the permitting agency.

In Conclusion

The permitting process for a hazardous waste management facility requires a significant amount of time and effort. Each participant plays a distinct and essential role. *Permit applicants* must carefully consider the RCRA regulations when developing and submitting their applications and planning public involvement activities. The *permitting agency* must review the permit application to ensure that it is complete, adequate, and protective of public health and the environment. The agency must also coordinate this review to ensure community involvement. The *public* should become familiar with the permitting process and participate in it so that community concerns are heard and acted upon. This coordination of efforts will help to ensure that the environment and citizens of the United States are protected by proper management of hazardous wastes.

For More Information

For more information, call the RCRA Hotline at 800 424-9346 or TDD 800 553-7672 (hearing impaired). In the Washington, DC, area, call 703 412-9810 or TDD 703 412-3323. You can request the documents *RCRA Public Participation Manual* or *RCRA Expanded Public Participation Rule* (brochure). You can also obtain contact people and phone numbers for your state or regional hazardous waste agency. Additional information can be found in Title 40 *Code of Federal Regulations*, Parts 124, 270, and 271.

The *RCRA Expanded Public Participation Rule* brochure and this fact sheet are accessible on the Internet. Go to either gopher.epa.gov or <http://www.epa.gov>, and then Offices and Regions, Office of Solid Waste and Emergency Response, Office of Solid Waste.