Hazardous Waste Permitting Updates by the LDEQ

Putting the “W” in AWMA

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Waste Permits Division
Hazardous Waste Permitting
Updates by the LDEQ

- Who we are
  - Organizational Charts
  - OES Functions
- Federal Initiatives
- Rulemaking in Progress
- Recent LDEQ Guidance
- Groundwater Construction Advisory
OES Functions

- Permitting
  - Air, Water, Solid Waste, Hazardous Waste
- RCRA corrective action (Waste Permits)
- Water Quality Certifications (Waste Permits)
- State Revolving Funds for Wastewater Treatment Systems (Waste Permits)
- Small Business Assistance (Env. Assistance)
- Community Industry Relations (Env. Assistance)
- Public Participation Group (Env. Assistance)
Federal Initiatives

- Risk Assessment for HW Combustion
- GPRA permitting goals (Government Performance Results Act of 1993)
- Financial Assurance
Risk Assessment for HW Combustion

  - Standards based on direct (inhalation) risk only
- 1993 RCRA Combustion Strategy
  - Called for Site-Specific Risk Assessment (SSRA) based on direct + indirect exposure
Risk Assessment for HW Combustion

• 1999 Subpart EEE Phase I (Incinerators)
  – Combines RCRA and CAA requirements
  – SSRA policy changed to case-by-case

• 2005 Subpart EEE Phase II (BIFs)
  – Includes codification of SSRA policy - 40 CFR 270.10(l), 270.32(b)(3)
LDEQ Implementation of Combustion Risk Assessment

- 1991 RCRA incinerator permits begin including metal limits
- 1993 RCRA incinerator permits process begins requiring stack testing for risk data
- 2002 RCRA BIF permits begin including limits from SSRAs
- 2007 first Phase I incinerator RCRA, Title V permits issued including limits from SSRA
GPRA Permitting Goals

• Under the Government Performance and Results Act (GPRA) of 1993, EPA has 2 specific permitting goals for HW facilities. By the end of Federal Fiscal Year 2008 (9/30/08):
  – Prevent releases from RCRA HW management facilities by increasing the number of facilities with permits or other approved controls to 95%
  – Update controls for preventing releases at 35% of the facilities that are due for permit renewals by the end of 2006
GPRA Permitting Goal: “Uncontrolled Units”

- 24 of the 67 facilities on the original GPRA baseline were considered “uncontrolled” (i.e., had interim status units)
- Currently, there are 7 “uncontrolled” facilities on the GPRA baseline
  - 3 interim status BIFs (boilers & industrial furnaces)
  - 2 post-closure units (land disposal)
  - 1 facility closure
  - 1 container storage area going to <90 day storage
- By 10/1/08 all facilities should be under control
GPRA Permitting Goal: Renewal Permitting

- 21 facilities on the GPRA renewal baseline (operating permits only)
- Currently, there are 9 facilities still requiring a renewal permit
- By 10/1/08 15 of the 21 (71%) facilities should have current permits
Financial Assurance

- Financial assurance is an integral component of HW permitting
  - Provides assurance that resources will be available for closure, post-closure, and corrective action, if the facility proves unable to do so
  - Provides third-party liability coverage for accidental occurrences

- EPA’s Office of Enforcement and Compliance Assurance (OECA) initiated a phased approach to review compliance and enforcement in various programs:
  - First, RCRA HW closure/post-closure & corrective action, Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Toxic Substances Control Act (TSCA)
  - Second, Safe Drinking Water Act (SDWA) and RCRA Subtitle I (USTs)

- EPA has issued several memorandums stressing the importance of financial assurance
Financial Assurance: LDEQ File Review

- In most states, EPA conducted a review of financial assurance for all RCRA HW facilities
- File review conducted at LDEQ in May 2006
- Draft LA report issued September 2006 (EPA required confidentiality agreement due to potential enforcement issues)
- LDEQ Waste Permits Division working with facilities to ensure their “path to compliance”
- EPA HQ & Region 6 have lead on a few facilities
## Financial Assurance: LDEQ File Review

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<th>Instrument</th>
<th>Number of Facilities</th>
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<tr>
<td><strong>Total</strong></td>
<td><strong>59</strong></td>
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Rulemaking in Progress

- Standardized Permit Rule
- RCRA Burden Reduction Initiative
- Evidentiary Hearings for Commercial HW Facilities
Standardized Permit Rule

- Final Rule published by EPA on Sept. 8, 2005
- Optional (LA does NOT have to adopt)
- Applicable for tanks, container storage & containment buildings
- NOT applicable for commercial HW facilities
- LDEQ workgroup met w/stakeholders, working on rulemaking
- Info available on EPA’s website
  http://www.epa.gov/epaoswer/hazwaste/permit/std-perm.htm
Standardized Permit Rule

- Streamlines the RCRA permitting process
- Consistent with the process and terminology currently used for NPDES general permits
- Utilizes auditing and self-certification of compliance process
- Requires same basic information normally submitted with a Part B application
- Shift of burden from permitting to audit and surveillance
Standardized Permit Rule

• An owner/operator submits a Notice of Intent with supporting documents
  – Pre-application meeting info
  – Part A information
  – Closure plan & cost estimate
  – Financial assurance
  – Location standards
  – Waste analysis plan for facilities receiving off-site waste
  – Audit report and certification
Standardized Permit Rule

• General info kept at facility and NOT in application
  – General facility description
  – Detailed description of the wastes / Waste analysis plan
  – Security information
  – Inspection information
  – Preparedness and prevention / Contingency plan
  – Precautions for ignitable, reactive or incompatible waste
  – Traffic patterns
  – Training programs
  – Topographic map
  – Design and operation info for the storage/treatment units
Standardized Permit Rule

• Permit would contain 2 parts
  – Uniform portion
  – Supplemental portion, which would include corrective action
RCRA Burden Reduction Initiative

• Final Rule published by EPA on April 4, 2006
• Rulemaking streamlines information collection requirements, in accordance with the Paperwork Reduction Act
• LDEQ workgroup currently evaluating its merits
• Info available on EPA’s website
  http://www.epa.gov/epaoswer/hazwaste/data/burdenreduction/#final
RCRA Burden Reduction Initiative

• Burden Reduction Changes
  – Changes to retention time for certain operating records
  – Changes to professional engineer certification requirements
  – Option to follow the Integrated Contingency Plan Guidance
  – Option to follow OSHA regulations for emergency training
  – Clarifies Land Disposal Restrictions
  – Eliminates duplicative/unnecessary notifications
  – Decreases inspections for certain units
  – Changes record retention and submittal of records
  – Changes to the requirements for document submittal
  – Reduces frequency for report submittals
RCRA Burden Reduction Initiative

- Most of this rule would be implemented via Class I Permit Modification without prior approval
  - reduced inspection frequency for Performance Track facilities implemented as a Class 1\(^1\) permit mod with prior approval
- States can be more stringent than the EPA rules
- Federal rule does not curtail the right of States to request any desired info
- States can use the omnibus authority of RCRA Section 3005(c) for specific facilities where there is risk due to site-specific circumstances
Evidentiary Hearings for Commercial HW Facilities

- Notice of Intent October 20th
- Public Hearing November 28th
- Public comment period ends December 5th
- Proposed rule available at www.deq.louisiana.gov/portal/tabid/1669/default.aspx
Evidentiary Hearings for Commercial HW Facilities

• Currently, evidentiary hearings are conducted for all operating permit applications for commercial HW facilities under LAC 33:V.709

• An evidentiary (i.e., fact-finding) hearing is held after the technical review of the application has been completed

• Proposed rule HW101 would mandate evidentiary hearings only for initial permit applications and give LDEQ the discretion to hold hearings for permit renewal applications
Evidentiary Hearings for Commercial HW Facilities

• Evidentiary Hearing is not a federal requirement
• La. R.S. 30:2181 was the statute that required an evidentiary hearing for commercial HW facilities
• Repealed by Act No. 947 of the 1995 Legislature which also created La. R.S. 30:2016
  – gave LDEQ discretionary authority to hold hearings for any kind of application, policy, or rule development
• Rulemaking will align the HW regulations with the intent of Act No. 947 of the 1995 Legislature
Evidentiary Hearings for Commercial HW Facilities

- ~6 evidentiary hearings over last 10 years
- No interveners and no additional substantial information was gathered
- Evidentiary hearings will continue to be public noticed, when they are held
- Public comment period will continue to be held on the draft permitting decision
- As always, a public hearing may be held on the draft permitting decision
Recent LDEQ Guidance for Hazardous Waste Permitting

- Certification of Acknowledgment, Compliance and Applicability
- Corrective Action Strategy (CAS)
Certification of Acknowledgment, Compliance and Applicability

• Permit application for HW treatment, storage, and/or disposal (TSD) must address all regulations (i.e., Chapters 1 through 53)
  – Necessary for the Administrative Authority to determine the applicant’s full compliance with all standards

• Historically, this included
  – administrative chapters (acknowledgment and compliance statement)
  – Non-applicable chapters (statement that it did not apply and why)

• Difficult and burdensome
Certification of Acknowledgment, Compliance and Applicability

• 3 key parts to the document
  – Statement of Acknowledgement and Compliance with “administrative chapters” (1, 3, 7, 11, 13, 22, 38, 40, 41, 42, 43, 49 & 53)
  – Statement of Applicability and Non-Applicability of Additional Chapters (specific to the type of permit and units being permitted)
  – Certification

• Available at http://www.deq.louisiana.gov/portal/tabid/2267/Default.aspx
Corrective Action Strategy (CAS)

- Hazardous & Solid Waste Amendments (HSWA) of RCRA requires permits to address corrective action for releases of haz. constituents from solid waste management units (SWMU)
- EPA’s traditional corrective action approach
  - RCRA facility assessment (RFA)
  - RCRA facility investigation (RFI)
  - Corrective measures study (CMS)
  - Remedy selection
  - Corrective measures implementation (CMI)
Corrective Action Strategy (CAS)

• EPA Region 6 developed the CAS Guidance Document as an alternate approach to streamlining the process (http://www.epa.gov/region6/6pd/rcra_c/pd-o/riskman.htm)

• The CAS can be implemented during any phase of the corrective action
  – performance-based
  – Risk management strategy
  – Facility-wide

• Two primary objectives:
  – prioritize corrective action
  – streamline administrative procedures
Corrective Action Strategy (CAS)

- Permitting language uses CAS & incorporates LDEQ’s Risk Evaluation/Corrective Action Program (RECAP) for screening and media-specific cleanup standards
- Key component: Conceptual Site Model (used to develop performance standard and data quality objectives)
  - Facility Profile
  - Land Use and Exposure Profile
  - Physical Profile
  - Release Profile
  - Ecological Profile
  - Risk Management Profile
- Transition: previous info & reports is encouraged
Groundwater Construction Advisory

- Potpourri notice 6/20/07 with 30 day comment period on Construction Advisory Document
- As of 11/1/07, LDEQ no longer requires Groundwater Certifications
- GW Certification Program began in Nov. 1989
- Required GW Certifications with air permitting actions for construction involving subsurface
- Goal was to ensure construction did not affect existing GW quality nor impede corrective action
Groundwater Construction Advisory

Reasons for the advisory

- Protection of the subsurface can be attained w/o formal Certification
- Most impacted areas already covered by RCRA corrective action
- Financial/liability requirements compel an awareness of GW issues
- LDEQ’s RECAP has made facilities aware of GW protection
- Majority of Certifications did not involve impacted areas
- Certification program was policy and not regulation; thought to be only one of its in the nation
- Required extensive resources
Groundwater Construction Advisory

- Addresses GW investigation & impact
- Administrative & general technical guidance regarding proposed construction activities that may occur in areas of contamination
Groundwater Construction Advisory

- Facilities still responsible for the impacts associated with construction activities that may occur in areas of contamination prior to construction
- Facilities still subject to all notification requirements
- Facilities should still review planned construction projects
  - Site History; Known Contamination; Construction Design; Water Wells; etc.
- Further subsurface assessment may or may not be necessary
Hazardous Waste Permitting
Updates by the LDEQ

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