Environmental Guidance Regulatory Bulletin

Office of Environmental Policy and Assistance RCRA/CERCLA Division *August 1998*

Hazardous Waste Combustors; Revised Standards; Final Rule--Part 1: RCRA Comparable Fuel Exclusion; Permit Modifications for Hazardous Waste Combustion Units; Notification of Intent to Comply; Waste Minimization and Pollution Prevention Criteria for Compliance Extensions.

Hazardous Waste Combustors; Revised Standards; Final Rule -- Part 1 Issued

Effective Date: June 19, 1998

BACKGROUND

In the April 19, 1996 Federal Register (61 FR 17358), the U.S. Environmental Protection Agency (EPA) proposed Revised Standards for Hazardous Waste Combustors (HWCs) under the joint authority of the Resource Conservation and Recovery Act (RCRA) and the Clean Air Act (CAA). After issuance of the proposal, the Agency issued the following notices of data availability (NODA): NODA 1 (peer review and comparable fuels)--August 23, 1996: 61 FR 43501; NODA 2 (revised emissions database)--January 7, 1997: 62 FR 960; continuous emissions monitoring systems (CEMS) NODA--March 21, 1997: 62 FR 13775; NODA 3 (MACT standards and implementation)--May 2, 1997: 62 FR 24212; NODA 4 (Comparable fuels data)--September 9, 1997: 62 FR 47402; and CEMS NODA--December 30, 1997: 62 FR 67788. In these notices, EPA proposed to integrate the monitoring, compliance testing, recordkeeping and permitting requirements of RCRA and CAA with a focus on limiting emissions of several hazardous air pollutants (HAPs) [e.g., dioxins/furans, mercury, cadmium, lead, beryllium, hydrochloric acid (HCl)] from the combustion of hazardous waste in incinerators, cement kilns, and lightweight aggregate kilns to the level of the maximum achievable control technology (MACT). These standards, when finalized, will constitute a National Emission Standard for Hazardous Air Pollutants (NESHAPs) and are expected to be incorporated into Part 63, as well as by reference into Parts 260 through 271 of Title 40 of the Code of Federal Regulations (CFR).

Although EPA is not expected to issue the revised MACT standards until February 1999, EPA finalized four elements of the April 1996 proposal on June 19, 1998 (63 FR 33782). These elements include: (1) a conditional exclusion from RCRA for fuels which are derived from a hazardous waste, but which are comparable to some currently used fossil fuels; (2) a new RCRA permit modification provision which is intended to make it easier for facilities to make changes to their existing RCRA permits when adding air pollution control equipment, or making other changes in equipment or operation needed to comply with the upcoming MACT emission standards; (3) notification requirements for affected sources which identify their intent regarding compliance with the upcoming final rule; and (4) allowances for extensions to the compliance period to promote the installation of cost-effective pollution prevention technologies to replace or supplement emission control technologies for meeting the MACT standards.

The U.S. Department of Energy (DOE) currently operates three hazardous/mixed-waste incinerators. These include the following units: the Consolidated Incineration Facility (CIF) at the DOE-Savannah River; the Toxic Substances Control Act (TSCA) Incinerator at the Oak Ridge Reservation; and the Waste Experimental Reduction Facility (WERF) at the Idaho National Engineering and Environmental

Laboratory. Also, the Los Alamos National Laboratory utilizes a small incinerator to destroy high explosives-contaminated waste (e.g., wipes and rags). Finally, some DOE thermal units (e.g., vitrifiers, melters) used to treat hazardous/mixed waste may, dependent on their configuration, qualify as either incinerators or "miscellaneous units." Miscellaneous units are regulated under 40 CFR part 264, Subpart X and, at the discretion of the regulatory agency (i.e., to protect human health and the environment), may be subject to hazardous/mixed-waste incinerator standards, including the new MACT standards once they are finalized.

The HWC MACT rulemaking in general is of significant interest to DOE due to its potential impact on the Department's management of hazardous/mixed waste, including compliance-driven activities, and current waste-management and alternative-fuel technology development activities and plans, particularly those involving mixed waste incineration and other thermal treatment options. The following sections analyze individual components of the June 1998 "fast track" final rule.

COMPARABLE FUELS EXCLUSION

Under this final rule, EPA provides a self-implementing exclusion [40 CFR 261.4(a)(16)] from its regulatory definition of solid waste for hazardous waste-derived fuels that meet "benchmark approach" specification levels and conditions appearing in a newly codified section--40 CFR 261.38. These levels and conditions are reviewed in the next subsections.

Benchmark Approach Specification Levels

Using the benchmark approach, EPA promulgated, under 40 CFR 261.38(a), a set of technical specifications for both comparable and syngas fuels (Table 1).

Meeting the Comparable Fuel Specification

A hazardous waste can meet the comparable fuel hazardous constituent, heating value, and viscosity specifications of 40 CFR 261.38(a) in several ways.

Table 1. Technical Specifications For Comparable/Syngas Fuels

Specification	Comparable Fuel	Synthesis Gas (Syngas) Fuel
(1) Physical specifications:		
– Heating value	≥ 5,000 Btu/lbs (11,500 J/gr)	≥ 100 Btu/scf (standard cubic ft)
– Kinematic viscosity	< 50 centistokes, cs, as-fired	N/A
(2) General constituent specifications:		
– Total Halogens [expressed as Chlorine (Cl)]	≤ 540 parts per million by weight (ppmw)*	< 1 part per million by volume (ppmv)
– Total Organic Halogens [expressed as Cl]	≤ 25 ppmw or individual halogenated organics limit*	N/A
– Nitrogen, total	≤ 4900 ppmw *	< 300 ppmv [other than (N_2)]
– Hydrogen sulfide	N/A	< 200 ppmv
(3) Individual hazardous constituent specifications	Levels appearing in 40 CFR 261.38, Table 1; where "non-detect" is the specification, the minimum required detection limit*	<1 ppmv for hazardous constituents appearing in Appendix VIII of 40 CFR Part 261 that are reasonably expected to be present in the gas

*When determining whether a waste meets these specifications, generators must first correct the constituent levels in the candidate waste to a 10,000 Btu/lb heating value basis prior to comparing them to the comparable fuel specifications.

Specifically, a hazardous waste can meet the comparable fuel *hazardous constituent* specification if the hazardous waste "as generated," (i.e. without any processing, blending, or other alteration): (a) meets the hazardous constituent specification; or (b) does not meet the hazardous constituent specification, but undergoes treatment, pursuant to 40 CFR 261.38(c)(4), so that the hazardous constituents of concern are destroyed or reduced to concentrations that meet the exclusion specifications. Waste meets the 40 CFR 261.38(a)(1)(i) *heating value* specification if the hazardous waste as generated without processing: (a) meets the heating value specification; or (b) does not meet the hazardous constituent specification, but undergoes treatment that destroys or removes material to increase the heating value to meet the exclusion specification [40 CFR 261.38(c)(4)]. A waste can meet the 40 CFR 261.38(a)(1)(ii) *viscosity* specification if the hazardous waste as generated without processing:

(1) meets the viscosity specification;

(2) does not meet the viscosity specification, but through blending with fossil fuel, another excluded comparable fuel, or other non-waste the viscosity is changed to meet the exclusion specification [40 CFR 261.38(c)(3)]; or

(3) does not meet the viscosity specification, but undergoes treatment that destroys or removes material to decrease the viscosity to meet the exclusion specification [40 CFR 261.38(c)(4)].

Relative to blending, EPA's final rule allows an as-generated hazardous waste, which meets the hazardous constituent and heating value specifications but does not meet the viscosity specification, to be blended to meet the viscosity specification [see 40 CFR 261.38(a)]. The generator, however, must document that the hazardous waste, as generated without processing, meets the hazardous constituent and heating value specifications prior to any blending; and blending does not violate the dilution prohibition of 40 CFR 261.38(c)(6). This prohibition states that the hazardous constituent and heating value specifications can only be met through treatment which destroys or removes hazardous constituents. Also, blending hazardous waste to meet the viscosity specification may be performed only in regulated units located at a permitted or interim status treatment, storage facility; or in generator accumulation units meeting the requirements of 40 CFR 262.34 [40 CFR 261.38(c)(3)].

A hazardous waste can be treated to meet the comparable fuels or syngas fuels requirements provided the treatment:

(1) destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying hazardous constituents or materials;

(2) is performed at a facility that is subject to the applicable requirements of 40 CFR 264 and 265 or 40 CFR 262.34; and

(3) does not violate the dilution prohibition of 40 CFR §261.38(c)(6) [40 CFR 261.38(c)(4)].

This can be accomplished by documenting that the unit that will treat the hazardous waste has been demonstrated to effectively remove or destroy the hazardous constituents (at the levels present in the waste) or materials of concern from the type of waste being treated; or treating the waste in a unit that removes or destroys the constituents of concern, then reanalyzing the waste, in accordance with the requirements of 40 CFR 261.38(c)(8), to document that the constituent specifications have been satisfied.

Persons claiming that a hazardous waste meets the exclusion criteria of this rule are referred to (for the purposes of this rule) as the "comparable fuel generator," in the case of excluded liquid fuel; or "syngas fuel generator," in the case of excluded syngas fuel. Each original[1] generator claiming the exclusion is responsible for demonstrating eligibility based on either their (initial generators only) process knowledge (see 63 FR 33796, col. 1), or testing of all of the constituents and properties in Table 1 to 40 CFR 261.38(a)(2). Generators may use any reliable method [e.g., SW-846 methods; *DOE Methods for Evaluating Environmental and Waste Management Samples*

[1] If the generator of the hazardous waste and generator of the comparable/syngas fuel are different, then the comparable/syngas fuel generator must test each waste rather than use process knowledge to determine that constituents are not present in the waste [40 CFR 261.38(c)(8(ii)].

(http://www.pnl.gov/methods/index.html)] that meets the performance-based criteria in 40 CFR 261.38(c)(8). Excluded comparable/syngas fuel must be re-tested annually at a minimum, and must be retested after a process change that could influence the chemical or physical properties of the waste.

Notification, Certification, and Documentation

Merely meeting the hazardous constituent, heating value, and viscosity specifications does not qualify a hazardous waste for the exclusion. The rule also contains notification, certification, sampling and analysis, and recordkeeping conditions that must be satisfied for a hazardous waste to be excluded as a comparable fuel. These conditions assure that the fuels meeting the specification will be burned in the requisite type of units, and that this can be verified objectively by third parties [40 CFR 261.38(c)].

Notification

Waste meeting the comparable or syngas fuel specifications is excluded from EPA's regulatory definition of solid waste provided that the comparable/syngas fuel generator submits a one-time notice and a certification of compliance to the Regional or authorized State RCRA and CAA Directors, in whose jurisdiction the exclusion is being claimed and where the comparable/syngas fuel will be burned.

Additionally, facilities burning the comparable/syngas fuel ("comparable/syngas burner") must, prior to burning an excluded comparable/syngas fuel (i.e., fuel meeting the comparable/syngas fuel specifications) in hazardous waste incinerators, industrial furnaces (as defined in 40 CFR 260.10), and industrial and utility boilers (also defined at 40 CFR 260.10), publish a notice entitled "Notification of Burning a Comparable/Syngas Fuel Excluded Under the Resource Conservation and Recovery Act."

Certification

Comparable/syngas fuel generators claiming the exclusion must submit a one-time notice to the Regional or State RCRA and CAA Directors, which includes a signed certification stating, under penalty of criminal and civil prosecution that the requirements of 40 CFR 261.38 have been met for all waste identified in this notification, and that copies of the records and information required at 40 CFR 261.38(c)(10) are available at the comparable/syngas fuel generator's facility [40 CFR 261.38(c)(1)(i)(A)].

Documentation and Recordkeeping

Comparable/syngas fuel generators may use any reliable analytical method to demonstrate that no constituent of concern is present at concentrations above the specification levels. However, the final rule requires comparable/syngas fuel generators to develop, follow, and retain at the facility a written waste analysis plan (WAP) prior to sampling and analysis of their hazardous waste to determine if the waste meets the exclusion specifications [40 CFR 261.38(c)(7)]. Syngas fuel generators must, in addition, *submit* a copy of the WAP to and receive written approval from the appropriate regulatory authority (i.e., Regional EPA or authorized State agency RCRA and/or CAA Directors) prior to this sampling and analysis. WAPs also must contain records that serve as the basis for claiming the exclusion.

As with the notification/certification and contents of the WAP that must be maintained on-site for a period of three years, generators must maintain the following records:

(1) brief process descriptions;

(2) an estimate of the average and maximum monthly and annual quantities of each waste claimed to be excluded;

(3) documentation supporting any claim that a hazardous constituent is not present in the hazardous waste;

(4) the results of all analyses and all detection limits achieved during comparable fuel sampling and analysis;

(5) information pertaining to treated or blended fuels; and

(6) certification from the burner if the waste is to be shipped off-site [40 CFR 261.38(c)(10)].

PROCEDURES FOR RCRA PERMIT MODIFICATIONS AND CHANGES TO INTERIM STATUS FACILITIES

Section 112(i) of the CAA requires that owner/operators comply with MACT emission standards within three years of their effective date (with the possibility of a one-year extension). In many cases, conventional air pollution control devices cannot be simply "plugged" into operating incinerator unit configurations. Therefore, many incinerator owners/operators anticipate a need to conduct design and configuration studies, as well as make changes to their process(es) in order to come into compliance with the new standards.

Revised Permit Modification Procedures

For facilities operating under a RCRA permit, changes to the operating unit's design, configuration, and/or operating practices may need to be incorporated into the permit before they may be put in place at the facility. EPA is concerned, however, that the RCRA permit modification procedures, as a practical matter, will not allow enough time to meet statutory deadlines for implementing new standards under the CAA. To facilitate meeting the three-year deadline, the final rule revises the RCRA permit modification procedures to explicitly address changes to a HWC facility's design or operations that are necessary to comply with the new MACT emission standards. By promulgating the revised procedures on an expedited (fast track) schedule (i.e., before issuance of the final MACT standards), EPA hopes to provide ample time for States to develop comparable standards and obtain EPA authorization before they need to process MACT-related modification requests from HWC facility owners or operators.

The new rule sets forth a new section in the permit modification procedures [40 CFR 270.42(j)], and a new entry under "L(9)" in the permit modification table (Appendix I of 40 CFR 270.42) for technology changes to existing permit conditions necessary to come into compliance with MACT emission standards for HWCs. The new entry is designated as a Class 1 modification, requiring prior approval by EPA or an authorized State. Thus, EPA or the authorized State will have an opportunity to review the proposed physical and operational changes to the HWC facility before they are implemented, to ensure that these changes do not have other undesirable consequences. The selected approach also requires that notification of the modification be sent to all persons on the facility mailing list, as well as appropriate units of State and local government and must be made within 90 calendar days after the modification request is approved.

Two requirements incorporated into the new provisions are noteworthy. First, affected facilities must comply with the "Notification of Intent to Comply" (NIC) requirements (discussed in the next section) before a permit modification under the streamlined modification process can be requested. Second, EPA has incorporated a "time default" into the modification procedure for changes requested under L(9) only. The final rule amends 40 CFR 270.42 by adding a paragraph that specifies that the permitting agency Director has 90 days, with a possible one-time 30-day extension, to make a decision about modifications requested under section L(9). If the Director does not make a decision, then the permittee may consider the request approved.

Because EPA believes the revised procedures offer a potentially more viable way for States to handle the anticipated volume of requests in a more timely manner, it encourages States to adopt procedures comparable to those in the June 19, 1998 rule. States, however, can continue to use their current modification process to accomplish the permit modifications (63 FR 33801, col. 2).

RCRA Changes in Interim Status Procedures

As with permitted HWCs, interim status units may require changes to the operating unit design, configuration, and/or operating practices to comply with the upcoming MACT standards. RCRA facilities operating under interim status are allowed to implement certain facility changes in accordance with requirements and procedures set forth in 40 CFR 270.72. Section 270.72(b) imposes a limit, however,

by stating that the changes cannot amount to "reconstruction," which is defined in the regulation as "when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility."

To ensure that the reconstruction clause does not present an obstacle for interim status facilities trying to implement changes to meet the upcoming MACT standards, EPA has added a new paragraph to 40 CFR 270.72(b) exempting from the reconstruction limit those changes that are necessary to comply with the upcoming 40 CFR 63 Subpart EEE MACT standards. Facilities operating under interim status will, like permitted facilities, be required to comply with the NIC requirements. Thus, although it is not clearly conveyed in the new codified language, EPA anticipates that owners/operators of interim status HWC facilities will notify the public of the planned changes as part of the NIC, conduct the public meeting, and complete the NIC ***before*** proceeding with changes to the HWC facility (63 FR 33805, col. 3).

NOTICE OF INTENT TO COMPLY, PUBLIC MEETING, AND PROGRESS REPORT

The third component of the fast track rule includes new 40 CFR 63 Subpart EEE provisions that require owner/operators of affected HWC units to prepare and submit to the applicable regulatory agency a notification of whether the owner/operator intends to comply with EPA's MACT emission standards for such units. HWC sources who state in their notification that they do not intend to comply with the MACT emission standards must generally stop burning hazardous waste no later than two years after the effective date of the MACT standards. These sources can continue to burn nonhazardous waste. In contrast, sources that intend to comply must submit a progress report to the regulators demonstrating compliance efforts. Owners/operators must also hold at least one informal meeting with the public to discuss anticipated activities for complying with the MACT standards.

The notification and the progress report must contain the following certification signed and dated by an authorized representative (40 CFR 63.1213).

Notice of Intent to Comply (NIC)

The preamble to the final rule states that the primary purpose of the NIC is to serve as a planning and outreach tool for achieving compliance with the MACT standards (63 FR 33806). EPA intends that the NIC serve to facilitate a dialogue with the public and regulators regarding the compliance strategy selected for a particular HWC facility.

The final rule contains specific timing requirements for issuance of a draft and final copy of the NIC. The draft NIC must be made available for public review no later than 30 days prior to the public meeting [40 CFR 63.1211(a)(3)]. The public meeting (see below) must be held no later than ten months after the effective date of the MACT emission standards for HWC units [40 CFR 63.1211(b)(1)]. The final NIC must be submitted to the applicable regulatory agency no later than one year following the effective date of the MACT emission standards [40 CFR 63.1211(a)(3)]. EPA plans to issue MACT emission standards for HWC units including incinerators that combust hazardous waste in February 1999. EPA notes in the preamble that for sources to be operating in compliance with the MACT emission standards by the end of the compliance period, it is imperative to start the planning process immediately (63 FR 33808).

Before preparing the draft NIC, owner/operators of affected facilities will need to make the fundamental decision of whether the facility will comply with the MACT emission standards. If the HWC MACT emission standards are issued in February 1999 as EPA expects, this decision will need to be made in fall 1999 to meet the deadline for issuance of the draft NIC. Under §112(i)(3) of the Clean Air Act, compliance with the MACT standard will be required within three years of the effective date of the standard. Sources that intend to comply can request a one-year extension of the compliance date from the applicable regulatory agency if an

extension is necessary for the installation of pollution controls (40 CFR 63.1214) or pollution prevention or waste minimization measures (40 CFR 63.1216). The request for a one-year extension to install controls needs to follow the procedures in 40 CFR 63.6(i)(4) or 40 CFR 63.1216. The potential one-year extension for pollution prevention or waste minimization measures is discussed in more detail below. There are three compliance options for an existing HWC facility:

(1) meet the MACT emission standards [40 CFR 63.1211(a)(1)(i) and (ii)];

(2) do not meet the MACT standards and cease burning hazardous waste no later than two years after the effective date of the MACT standards [40 CFR 63.1211(c)]; or

(3) do not meet the MACT standards but continue to burn hazardous waste until the compliance date of the MACT emission standards by meeting specified conditions [40 CFR 63.1211(a)(1)(iv)].

One of the preceding three options will need to be selected and discussed in the draft NIC. Submission of a NIC is required even if Option (2) is selected. Option (3) gives the source an additional year to burn hazardous waste. However, to take advantage of this option the source must demonstrate that waste from another onsite source will be combusted during the additional year because the other source is (a) installing equipment to come into compliance with the MACT emission standards, or (b) installing source reduction modifications to eliminate the need for further combustion of wastes.

The content requirements for a NIC are set out in 40 CFR 63.1211. General information which must be included in every NIC, if applicable, includes: the name and address of the owner/operator, whether the source is a major or area source of hazardous air pollutants, waste minimization and emission-control techniques being considered and their effectiveness, emission-monitoring techniques being considered, and the evaluation criteria to be used to select waste minimization and/or emission control.

For sources that state their intention in the NIC to comply with the MACT standards, the following information on key activities and associated dates is to be included in the NIC:

(1) dates for beginning and completion of engineering studies to evaluate emission-control systems or process changes for emissions;

(2) the date by which contracts for emission control systems or process changes for emission control will be awarded, or the date by which orders will be issued for the purchase of component parts to accomplish emission control or process changes;

(3) the date by which construction applications will be submitted;

(4) the date by which on-site construction, installation of emission-control equipment, or process change is to be initiated;

(5) the date by which on-site construction, installation of emission-control equipment, or process change is to be completed; and

(6) the date by which final compliance is to be achieved.

The preceding dates are not intended to be static and are not enforceable. Revisions can be made during the period the NIC is in effect provided notice of the revisions is submitted to the regulatory authority and made available to the public.

For sources which do not intend to comply with the MACT standards, the NIC is to include a schedule that includes key dates for the steps to be taken to stop burning hazardous waste, including the date for submittal of RCRA closure documents [40 CFR 63.1211(c)(2)].

Finally, the NIC must include a summary of the public meeting held to discuss the owner/operator's planned activities (see below) [40 CFR 63.1211(b)(2)]. In the preamble to the rule, EPA states that while the owner/operators of affected facilities are not required to formally respond to

comments made by the public (63 FR 33808), the final NIC "should reflect, to the extent appropriate, ideas or suggestions raised by the public" (63 FR 33809).

NIC Public Meeting and Notice

Owner/operators of sources subject to Subpart EEE must hold at least one public meeting prior to submission of the final NIC to discuss anticipated activities discussed in the draft NIC [40 CFR 63.1211(b)]. The meeting is to be held no later than ten months after the effective date of the MACT emission standards. There is no exemption from the meeting requirement for sources which do not intend to meet the MACT standards and stop burning hazardous waste. For such sources, the meeting would presumably focus on the anticipated dates for the steps to be taken to stop burning hazardous waste.

Owner/operators of affected sources must provide public notice of the NIC meeting at least 30 days in advance. Public notice is to include newspaper and radio/television advertisements and notification to the mailing list for the facility. Notices should inform the public of how to obtain a copy of the draft NIC.

Progress to Meet MACT Standards and Submission of Progress Report

All HWC sources subject to the Subpart EEE requirements that intend to meet the MACT standards must take the following actions no later than two years after the effective date of the MACT emission standards [40 CFR 63.1212(a)]:

(1) complete engineering design for any physical modifications to the source needed to comply with the MACT emission standards;

(2) submit construction application(s) to the regulatory authority; and

(3) enter into a binding contractual commitment to purchase, fabricate, and install any equipment, devices, and ancillary structures needed to comply with the MACT emission requirements.

The sources need to submit a progress report to the appropriate regulatory agency no later than two years after the effective date of the MACT emission standards, demonstrating that the three preceding requirements have been met [40 CFR 63.1212(b)]. Sources that can meet the MACT standards without taking actions (1) - (3) above do not need to complete the three actions, but do need to include information in their progress report demonstrating 1) that the source, at the time of the progress report, is in compliance with the MACT emission requirements, or 2) specifying the steps that will be taken to bring the source into compliance, without undertaking any of the activities in (1) - (3) above [40 CFR 63.1212(b)(2)].

Sources that intend to meet the MACT standards must also include in their progress report a detailed schedule listing key dates for all projects that will bring the source into compliance with Subpart EEE requirements. The schedule is to cover the time period through the compliance date for the MACT emission standards. The following dates are to be included in the schedule:

(1) bid and award dates for construction contracts and equipment supply contractors;

(2) milestones such as ground-breaking, completion of drawings and specifications, equipment deliveries, intermediate construction completions, and testing;

(3) the dates on which applications were submitted or obtained for operating and construction permits or licenses;

(4) the dates by which approvals of any permits or licenses are anticipated; and

(5) the projected date by which the source will be in compliance with the requirements of Subpart EEE [40 CFR 63.1212(c)].

Sources that do not intend to meet the MACT standards must still submit a progress report to the regulatory agency indicating the date the source stopped or will stop burning hazardous waste and the date(s) on which RCRA closure documents were submitted [40 CFR 63.1212(e)].

COMPLIANCE EXTENSION FOR POLLUTION PREVENTION OR WASTE MINIMIZATION

The fourth component of the fast track rule allows HWC owners/operators to request a one-year compliance extension from the regulatory agency if they can reasonably document that the installation of pollution prevention or waste minimization measures will significantly reduce the amount and/or toxicity of hazardous wastes entering the feedstream(s) of the HWC facility, and that the facility could not otherwise install the necessary control measures and comply within three years after the effective date of the MACT emission standards [40 CFR 63.1216(a)].

To be considered for the one-year compliance extension, the request must be submitted one year or more before the compliance date and must include a variety of detailed information including the following [40 CFR 63.1216(b)]:

(1) a description of planned pollution prevention or waste minimization controls, e.g., equipment or technology modifications, reformulation or redesign of products, substitution of raw materials, improvements in work practices, maintenance, training, inventory control, or recycling practices;

(2) a description of other pollution controls to be installed that are necessary to comply with the emission standards;

(3) a goal or estimate of the annual reductions in quantity and/or toxicity of hazardous waste(s) entering combustion feedstream(s);

(4) a comparison of reductions in the amounts and/or toxicity of hazardous wastes combusted after installation of pollution prevention or waste minimization measures to the amounts and/or toxicity of hazardous wastes combusted prior to the installation of these measures;

(5) reasonable documentation that installation of the pollution prevention or waste minimization changes will not result in a net increase (except for documented increases in production) of hazardous constituents released to the environment through other emissions, wastes, or effluents;

(6) reasonable documentation that the design and installation of waste minimization and other measures that are necessary for compliance cannot otherwise be installed within the three-year compliance period;

(7) a compliance schedule including dates when each step toward compliance will be reached; and

(8) a description of any interim emission-control steps that will be taken during the one-year extension period.

The preamble to the rule lists several EPA publications that are potentially useful in assessing pollution prevention and waste minimization opportunities (63 FR 33782).

For this and all other aspects of the Subpart EEE rule, the applicable regulations (both EPA and state) need to be consulted for complete details.

Questions of policy or questions requiring policy decisions will not be dealt with in EH-41 Regulatory Bulletins unless that policy has already been established through appropriate documentation. Please refer any questions concerning the CAA portions or RCRA portions of the subject material covered in this Regulatory Bulletin to Theodore Koss or Beverly Whitehead, respectively:

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