

RCRA, SUPERFUND & EPCRA HOTLINE MONTHLY REPORT
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2. Joint State and Federal Permits Under RCRA

RCRA §3006 allows EPA to authorize states to administer and enforce the RCRA program within the state, provided the state demonstrates the program to be equivalent, consistent, and at least as stringent as the federal program. Prior to 1984, a state with a federally approved RCRA program administered the hazardous waste program entirely in lieu of the federal program. This meant that as new regulations were promulgated, states could update their programs to incorporate these new regulations; however, until the state adopted the new requirements as state law and received authorization for them, the new regulations were not in effect in that state. The Hazardous and Solid Waste Amendments (HSWA) of 1984 added §3006(g) to RCRA, which changed when new hazardous waste regulations become effective in states authorized for the RCRA program. Regulations promulgated pursuant to HSWA authorities (i.e., provisions added by HSWA) take effect in authorized states at the same time they take effect in unauthorized states. In these instances, EPA implements and enforces the new regulations in authorized states until that state incorporates the new regulations into its program. When states are not authorized for all HSWA provisions, facilities subject to both HSWA and non-HSWA provisions may have two implementing agencies, the EPA region and the state. Many authorized states issue treatment, storage, and disposal facility (TSDF) permits, but are unable to issue a complete permit to the facility, since the state may not be authorized to implement all the RCRA Subtitle C regulations. How are permits issued and implemented in this situation?

TSDFs located in a state which has been authorized to implement the RCRA program, but has not received authorization for all HSWA provisions, may currently be issued joint state and federal permits which together constitute the TSDF's RCRA permit. RCRA §3006(c)(4) directs the EPA regions to coordinate with the state agencies the procedures for issuing such joint permits. The state prepares the portion of the permit covering non-HSWA rules and the HSWA regulations for which the state has received authorization. EPA then prepares the portion of the permit covering the HSWA provisions for which the state is not yet authorized.

Once the EPA regional office and the state prepare their portions of the permit, the joint permit may be issued in one of two ways. The EPA regional office and the state may combine their parts of the permit and issue the TSDF a single document, with the signatures of both the State Director and the Regional Administrator. Alternatively, a permit may be issued as two separate documents, one signed by the State Director and the other signed by the Regional Administrator, which together would address all the conditions required in the facility's permit. Whether a single permit or separate

documents each constituting a portion of the complete RCRA permit are issued, the document must clearly identify which provisions are implemented by the EPA regional office and which provisions are implemented by the state, primarily to clarify enforcement responsibility. Use of either method is at the discretion of the state and region.

Most states and EPA regions have established procedures for coordinating the joint permitting process. Owners and operators of facilities subject to joint permitting should contact their state and EPA regional offices for more information on the procedures for permit issuance, including how many copies of the permit application to submit and whether the permit issued to the facility will consist of a single document.