

RCRA/SUPERFUND HOTLINE MONTHLY REPORT

May 1999

1. Subpart CC and Miscellaneous Unit Permitting

The regulations in 40 CFR Part 264, Subpart X, require that a miscellaneous unit's permit include the appropriate requirements of Part 264, Subparts I through O, Subparts AA, BB, and CC, if they apply to the unit (Section 264.601). For example, a permitting agency would incorporate the Part 264, Subpart CC air emission standards applicable to tanks into the permit of a tank-like miscellaneous unit. If a state in which a miscellaneous unit is located is authorized to implement Subpart X miscellaneous unit requirements, but not authorized to implement the Subpart CC air emission requirements, who is responsible for implementing the air emission requirements segment of this unit's permit?

In this situation, the EPA Region is responsible for writing the Subpart CC requirements into the miscellaneous unit's permit and implementing those requirements. If a permit applicant's unit is subject to the requirements of Part 264, Subpart CC, the permitting agency will need to include those provisions in the permit. This is because the applicability of Subpart CC to miscellaneous units is a requirement promulgated pursuant to the Hazardous and Solid Waste Amendments (HSWA) of 1984. However, if the state is not authorized for the Subpart CC requirements, it cannot write or implement that portion of the permit. Therefore, under HSWA, the EPA Region would write the Subpart CC provisions into the unit's permit and would be responsible for the implementation of the air emission requirements. In this situation, the state would only have the authority to regulate the miscellaneous unit itself, and would not have authority to implement and enforce the Subpart CC provisions until the state receives authorization for such provisions.