

**KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Inter-Bureau Agreement**

related to

**The Implementation of NESHAP/RCRA Emission Standards
for Hazardous Waste Combustors**

December 7, 1999

This agreement establishes and clarifies the responsibilities of the Bureau of Waste Management (BWM), the Bureau of Air and Radiation (BAR), and the Bureau of Environmental Field Services (BEFS) related to the implementation of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the application of Maximum Achievable Control Technology (MACT) and RCRA risk-based emission standards for hazardous waste combustors (HWCs) in Kansas. The goal of this agreement is to provide these bureaus with the guidance they need to cooperatively administer the hazardous waste combustor (HWC) permitting process and all related compliance and enforcement activities that are related only to MACT/RCRA emission standards. This agreement is needed because the U.S. Environmental Protection Agency (EPA) recently promulgated new regulations which complicated the HWC permitting process by consolidating air and waste regulations related to facility emissions under the Title V air permitting program. This agreement does not specify any details regarding regulatory oversight related to other applicable environmental programs, including other air pollution considerations covered by the comprehensive Title V permit. The procedures set forth in this agreement must be implemented in a manner consistent with statutes, regulations and requirements set forth by the EPA and KDHE.

Bureau Responsibilities

Overview: Regulatory oversight will require good cooperation and communication by the affected bureaus.

The BWM shall be responsible for implementing the RCRA Hazardous Waste Permitting Program in the State of Kansas. The BWM will provide technical guidance and compliance assistance to facilities affected by the HWC MACT. The BWM shall continue to have primary oversight responsibility for working directly with HWC owners and operators for implementation of the HWC MACT/RCRA standards. A BWM point of contact will be established for each facility. The BWM shall evaluate, develop and establish HWC technical requirements for each HWC consistent with the requirements contained in 40 CFR Part 63, Subpart EEE. BWM in coordination with BAR shall prepare applicable documents for incorporation into Title V permits. BWM will initiate a memorandum of agreement (MOA) with EPA Region 7 in order to address implementation of MACT during the interim period when KDHE does not have authority for the rule.

The BAR shall be responsible for the CAA Title V air operating permitting program in the State of Kansas as established under the state's implementation plan (SIP) agreement with EPA. The technical standards document(s) prepared by BWM shall be incorporated into and become an enforceable part of BAR's Title V/Class 1 air operating permit.

The BEFS shall be responsible for conducting compliance inspections at HWCs and preparing the relevant facility inspection reports. The BEFS led inspection team will include participation by permit staffs from both BWM and BAR.

Permitting and Compliance Team: A HWC permitting and compliance team with representatives from BWM, BAR, and BEFS will be established and will meet every six months or more frequently, if necessary. Members of this team shall include at a minimum the BWM Permits section chief, the BAR Air Permits section chief, the BAR Air Compliance section chief when dealing with compliance issues, the BEFS waste engineer, and appropriate staff members from each bureau. It is the responsibility of BWM and BAR permits section chiefs to schedule meetings and to ensure that effective communication and coordination is occurring.

Permitting/ Reporting: All MACT/RCRA compliance documents shall be submitted concurrently by the facility to BAR, BWM, and EPA. BWM will review and approve all of the necessary compliance documents submitted by HWC to meet the MACT/RCRA requirements in accordance with 40 CFR 63 Subpart EEE. These documents are:

- (A) Notice of Intent to Comply (NIC) - Required by September 30, 2000
- (B) Document of Compliance (DOC) - Required by September 30, 2002
- (C) Notice of Compliance (NOC) - No later than March 30, 2003
- (D) Comprehensive Test Plan - Approval required for NOC determination
- (E) Confirmatory Test Plan - Approval required for NOC determination
- (F) All of the necessary Progress Reports - Yearly, beginning with NIC

BAR will propose adoption of 40 CFR Part 63, Subpart EEE under K.A.R. 28-19-750 and in coordination with BWM will be responsible for handling the general provisions of MACT such as initial notifications and pre-construction approvals. BWM will be able to perform regulatory activities related to this program under K.A.R 28-19-750.

BWM will provide oversight for the comprehensive and confirmatory tests. In addition, BWM will coordinate all testing to meet site-specific indirect risk assessment requirements under RCRA's omnibus authority. BWM will write specific operating standards and performance requirements developed through the above. The BAR shall be involved in the review and evaluation of performance test plans.

BAR will consider and include, as appropriate, all BWM approved compliance documents in the review and issuance/denial of Title V permits. Title V permitting and enforcement authority for HWC will stay with BAR. BWM will prepare and provide BAR with specific sections (in BAR prescribed format) of the Title V permit involving operating and performance requirements for HWC emissions. In addition, BWM will provide BAR with the necessary technical support during the public participation process for the Title V permit actions.

BWM and BAR will meet with the U.S. EPA, as necessary, to coordinate state/federal responsibilities and to receive EPA input into KDHE's HWC regulatory program.

Compliance Inspections and Enforcement Activities: BEFS' southeast district office waste and air staff, with assistance when necessary from BWM and BAR permit staff, will perform compliance

inspections at the facilities subject to the HWC rules. Inspections at active HWCs should occur at least two times per year. Under current program organization the waste engineer will be the inspection team leader. The waste engineer in the southeast district office will be responsible for inspecting the HWC for compliance with permitted emission requirements. The air inspector will address the other Title V permit conditions during one of the two annual inspections. BEFS will address the other RCRA storage activities during one of the two inspections each year.

All HWC inspection reports will be submitted to both BWM and BAR. The "*Permitting and Compliance Team*" shall develop inspection forms and determine when enforcement action is appropriate at HWCs. When such determinations are made, special meetings with BWM and BAR enforcement staff will be called to determine the most appropriate course of action. Enforcement actions related to HWC violations will be addressed using air program authorities; however, combined orders addressing RCRA violations may be utilized.

Initial List of Facilities Affected by the HWC MACT/RCRA Emission Standards

BWM is presently (late 1999) reviewing the RCRA Part B application for Ash Grove's new plant and has a consent agreement in place with the facility to complete both storage and treatment portions of this permit. BWM has a Memorandum of Agreement (MOA) in place with EPA Region 7 and has retained Midwest Research Institute (MRI) under a contract for completing the permitting process. In light of the above rules, BWM will immediately initiate and complete all of the necessary amendments to the above agreements/contracts. Ash Grove's DOC must be complete before start-up of the new cement plant, scheduled for March 2001.

Safety-Kleen is scheduled for permit renewal in July 2001. A Comprehensive Test Plan/Trial Burn Plan must be approved for this facility in 2000. The Kansas Army Ammunition Plant (KAAP) is currently being considered for permit renewal. The Lafarge Cement Plant is expected to receive their RCRA permit shortly. The Heartland Cement Plant is being considered for permitting.

Funding for HWC Activities

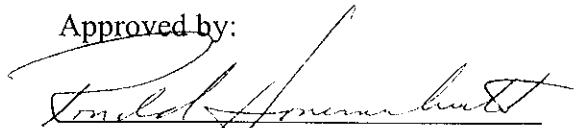
The U.S. EPA (Region 7) provides a RCRA base grant to the KDHE waste program to support permitting, compliance, and enforcement activities. In addition, state air fees and hazardous waste fees are collected to provide additional funding to administer these programs. All BWM HWC activities will be funded by the federal RCRA grant and state hazardous waste fees. All BAR HWC activities will be funded by air emissions fees. BEFS staff members performing inspections at HWCs will be funded by a combination of the federal RCRA grant, state hazardous waste fees, and air emissions fees.

The need for special expert contractors to assist in the permitting process is probable. Depending upon availability and need, funding for these activities may come from various sources including payments made to KDHE under agreement with owners and operators of HWCs, hazardous waste fees, air fees, and federal grants.

Implementation Schedule

The implementation schedule for HWC MACT/RCRA emission standards will vary with the regulatory status of the facility with respect to 40 CFR Parts 264, 265, 266, 270, 63 Subpart EEE, and 70 as well as K.A.R. 28-19-510. Therefore, BWM in coordination with BAR and BEFS will develop specific implementation and inspection schedules for fulfilling the above regulatory requirements. This schedule shall be maintained by BWM with regular input from BAR and BEFS. This schedule will be updated as appropriate and incorporated into the annual review of the EPA/KDHE Performance Partnership Agreement work plans.

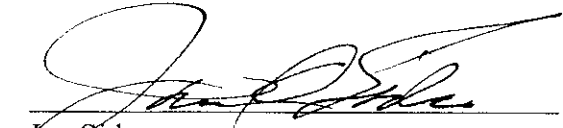
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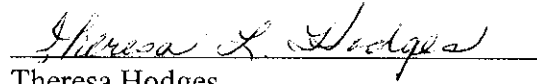
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