



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Environmental Conservation

DIVISION OF AIR QUALITY
Air Permits Program

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December 4, 2024

Jim and Nancy Oliver
Safety Waste Incineration
8050 S. Alix Drive
Wasilla, AK 99623

Subject: Final Decision to Deny Owner Requested Limit Application, AQ0608ORL02, for Safety Waste Incineration's Medical Waste Incinerator.

Dear Mr. and Mrs. Oliver,

The Alaska Department of Environmental Conservation (Department) received a complete application for an Owner Requested Limit (ORL) approval from Safety Waste Incineration (SWI). SWI is proposing two ORLs under 18 AAC 50.225 for the above noted stationary source on August 30, 2024. The Department received a revision to that application on November 18, 2024, proposing a third ORL. The purpose of these three ORLs is to avoid Title V permitting requirements for SWI's waste incineration business. Based on the information provided in the application materials, the Department is moving forward in denying the SWI's ORL application due to the basis of the three ORLs not being valid. Even if the three requested ORLs were established, SWI would still be subject to Title V permitting requirements.

Background:

SWI owns a stationary source that would be comprised of two units: a 2023 waste incinerator with a rated capacity of 10.56 tons per day (tpd) and a 1983 steam boiler with a rated capacity of 645,000 Btu/hr. Before applying for ORLs, SWI's business has primarily been combusting medical waste. According to the application and subsequent amendment, without the ORLs, SWI's stationary source would be subject to Title V permitting under 18 AAC 50.326(a) and New Source Performance Standards (NSPS) Subparts Ec and EEEE. To avoid Title V permitting requirements, SWI proposed three ORLs.

ORL to Avoid Title V Permit under 18 AAC 50.326(a)

SWI proposed the first ORL to avoid Title V permitting requirements under 18 AAC 50.326(a) by avoiding stationary source classification as a Hazardous Air Pollutant (HAP) Major. 18 AAC 50.326(a) states "an owner or operator of a Title V source must obtain a Title V permit consistent with 40 C.F.R. Part 71, as adopted by reference in 18 AAC 50.040." 40 C.F.R. Part 71.3(a)(1) requires that any 'major source' is subject to the permitting requirements under 40 C.F.R. Part 71 (i.e., any 'major source' is required to obtain and operate under a Title V permit). 40 C.F.R. Part 71.2 defines a 'major source' as including "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tpy or more of any HAP which has been listed pursuant to Section 112(b) of the Act, ..." To avoid Title V permitting requirements under 18 AAC 50.326(a), the first proposed ORL would limit hydrochloric acid (HCl) emissions from SWI's waste incinerator to less than 10 tpy, the threshold for being

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classified as a HAP major source, by limiting the waste incinerator to combusting no more than 93.5 tons of hospital waste and medical/infectious waste per calendar quarter.

ORL to Avoid Title V Permit under 40 C.F.R. 60 Subpart Ec

SWI proposed the second ORL to avoid the Title V permitting requirements under NSPS Subpart Ec in 40 C.F.R. 60.50c(l). Subpart Ec regulates ‘hospital/medical/infectious waste incinerators’ (HMIWIs). As defined in 40 C.F.R. 60.51c, HMIWIs include any device that combusts any amount of hospital waste and/or medical/infectious waste. However, 40 C.F.R. 60.50c(c), provides an exemption from NSPS Subpart Ec for “any co-fired combustor (defined in 40 C.F.R. 60.51c)... if the owner or operator of the co-fired combustor:

- (1) Notifies the Administrator of an exemption claim;
- (2) Provides an estimate of the relative amounts of hospital waste, medical/infectious waste, and other fuels and wastes to be combusted; and
- (3) Keep records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.”

40 C.F.R. 60.51c defines ‘co-fired combustor’ as “a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, 10 percent or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis...” SWI’s incinerator meets the definition of a HMIWI and the applicability criteria under 40 C.F.R. 60.50c(a). Therefore, without any enforceable limits limiting the amount of hospital waste and medical/infectious waste being combusted in SWI’s incinerator, it would be subject to NSPS Subpart Ec requirements, including but not limited to, Title V permitting required under 40 C.F.R. 60.50c(l). To avoid the Title V permitting requirements, the second proposed ORL would limit SWI’s waste incinerator to combusting a fuel feed stream, 10 percent or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis through an enforceable limit. There would have been monitoring, recordkeeping, and reporting requirements associated with the proposed limit. If exempted from Subpart Ec, SWI would be subject to NSPS Subpart EEEE.

40 C.F.R. 60 Subpart EEEE Applicability

40 C.F.R. 60 Subpart EEEE regulates Other Solid Waste Incineration (OSWI) units, defined under 40 C.F.R. 60.2977 as “either a very small municipal waste combustion unit or an institutional waste incineration unit...” A very small municipal waste combustion unit is defined under 40 C.F.R. 60.2977 as any municipal waste combustion unit that has the capacity to combust less than 35 tons per day of municipal solid waste or refuse-derived fuel,...” A municipal waste combustion unit is defined under 40 C.F.R. 60.2977 as, for the purpose of [Subpart EEEE] and Subpart FFFF of [Part 60], any setting or equipment that combusts municipal solid waste (as defined in [Subpart EEEE])...” Municipal solid waste means “refuse (and refuse-derived fuel) collected from the general public and from residential, commercial, institutional, and industrial source consisting of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustible materials and non-combustible materials such as metal, glass and rock, provided that:

- (1) the term does not include industrial process wastes or medical wastes that are segregated from such other wastes; and
- (2) an incineration unit shall not be considered to be combusting municipal solid waste for purposes of [Subpart EEEE] if it combusts a fuel feed stream, 30 percent or less of the weight of which is comprised, in aggregate, of municipal solid waste, as determined by 40 C.F.R. 60.2887(b).”

Per 40 C.F.R. 60.2887, in addition to exempting co-fired combustors, Subpart EEEE provides an exemption for incinerators regulated as HMIWIs under Subpart Ec.

SWI's second proposed ORL avoids the Title V permitting requirements under Subpart Ec in 40 C.F.R. 60.50c(l) by taking enforceable limits and associated requirements to have the incinerator classified as a co-fired combustor (as defined under 40 C.F.R. 60.51c) and utilizing the exemption provisions under 40 C.F.R. 60.50c(c). SWI's incinerator, as indicated in SWI's application materials, would combust a mixture of municipal solid waste and a limited amount of hospital waste and/or medical/infectious waste to be exempt from Subpart Ec requirements. As such, SWI's incinerator would meet the applicability criteria of Subpart EEEE under 40 C.F.R. 60.2885. Therefore, if SWI's incinerator is exempted from Subpart Ec, it would be subject to Subpart EEEE. At the time of SWI's submission of their application materials, Subpart EEEE would not have required SWI to apply for and obtain a Title V permit for its incinerator.

On November 14, 2024, EPA published a notice titled, "Final Rule Technical Corrections – OSWI Air Curtain Incinerators and Title V Permit Provisions." This notice stated that EPA was correcting a final rule that appeared in the Federal Register (FR) on April 17, 2024, which was the latest version of Subpart EEEE at the time. The technical corrections made by EPA, included changes to the language under 40 C.F.R. 60.2966 (Am I required to apply for and obtain a title V permit for my unit?). The revised language reads as follows:

Am I required to apply for and obtain a title V permit for my unit?

(a) Yes, if you are subject to this subpart, you are required to apply for and obtain a title V operating permit unless you meet the relevant requirements for an exemption specified in § 60.2887, or unless your unit is an air curtain incinerator exempt under subsection (b) of this section.

(b) If you own or operate an air curtain incinerator that burns only wood waste; clean lumber; yard waste; or a mixture of wood waste, clean lumber, and/or yard waste and that is subject only to the requirements in §§ 60.2970 through 60.2973, you are exempt from the obligation to obtain a title V operating permit, provided that your air curtain incinerator is not otherwise required to obtain a title V operating permit.

Consequently, due to EPA's technical correction to the language under 40 C.F.R. 60.2966, if SWI's incinerator is subject to Subpart EEEE, as would be the effect of SWI's second proposed ORL, the incinerator would now be required to apply for and obtain a title V operating permit under NSPS Subpart EEEE.

ORL to Avoid Title V Permit under 40 C.F.R. 60 Subpart EEEE

After being notified of EPA's technical correction to Subpart EEEE and its effect, SWI sent a request, dated November 18, 2024, for a third proposed ORL. This third proposed ORL would limit SWI's incinerator to combusting a fuel feed stream, 30 percent or less of the weight of which is comprised, in aggregate, of municipal solid waste. Assuming that the second and third proposed ORLs are in effect, SWI's incinerator would combust wastes mostly comprised of industrial process wastes.

40 C.F.R. 60 Subpart CCCC and 40 C.F.R. 63 Subpart EEE Applicability

Assuming the industrial process wastes being combusted in SWI's incinerator are not hazardous and that the incinerator is exempt from Subparts Ec and EEEE, SWI's incinerator would meet the applicability criteria under 40 C.F.R. 60.2010 for Subpart CCCC, which regulates commercial and industrial solid waste incineration units (CISWIs) (as defined in 40 C.F.R. 60.2265). Per 40 C.F.R. 60.2242, "each CISWI and ACI subject to standards under [Subpart CCCC] must operate pursuant to a permit issued under Section 129(e) and Title V of the Clean Air Act."

Assuming the industrial process wastes include hazardous wastes and that the incinerator is exempt from Subparts Ec and EEEE, SWI's incinerator would meet the applicability criteria under National Emission Standards for Hazardous Air Pollutants (NESHAP) 40 C.F.R. 63.1200 for Subpart EEE, which regulates all 'hazardous waste combustors' (as defined in 40 C.F.R. 63.1201). Per 63.1200(a)(2), "both area sources and major sources subject to [40 C.F.R. 63 Subpart EEE], but not previously subject to Title V, are immediately subject to the requirement to apply for and obtain a Title V permit in all States, and in areas covered by part 71 of this chapter."

Consequently, even if SWI's incinerator is exempted from Subpart EEEE and Subpart Ec, it would be subject to either 40 C.F.R. 60 Subpart CCCC or 40 C.F.R. 63 Subpart EEE. Both subparts would require the owner and/or operator of an affected source to apply for and obtain a Title V operating permit.

Final Decision

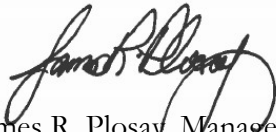
The Department is moving forward with denying SWI's ORL application on the basis that the incinerator is no longer able to avoid Title V permitting due to changes in the federal requirements, specifically the technical corrections made by the EPA in Subpart EEEE. Based on the information provided by SWI in its ORL application, SWI's incinerator would be subject to one of the previously mentioned subparts, all of which require the owner and/or operator to apply for and obtain a Title V permit.

If SWI does not agree to the Department's decision, it may request an informal review by the Division Director in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. Informal review requests must be delivered to the Division of Air Quality, not later than 20 days after the issuance of the decision. Adjudicatory hearing requests must be delivered to the Commissioner, Department of Environmental Conservation, P.O. Box 111800, Juneau, AK 99811-1800, not later than 30 days after the issuance of the decision. If a hearing is not requested within 30 days, the right to appeal is waived. A copy of the adjudicatory hearing request must be served on the Air Quality Division.

A copy of the adjudicatory hearing request should be provided to the Department in an electronic format and must be submitted on the adjudicatory hearing request form available on the Department's web site. See DEC's "Appeal a DEC Decision" web page <https://dec.alaska.gov/commish/review-guidance/> for access to the required forms and guidance on the appeal process.

If you have any questions on the permit application status, please contact Joshua Klina at 907-465-1310 or at joshua.klina@alaska.gov.

Sincerely,



James R. Plosay, Manager
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