HOLLYFRONTIER.

July 12, 2019

Mr. John Kieling
Chief – Hazardous Waste Bureau
New Mexico Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505-6303

RE: RCRA Contingency Plan Requirements for Permitted Facilities
HollyFrontier Navajo Refining, LLC – Artesia Refinery
EPA ID# NMD048918817

Dear Mr. Kieling:

HollyFrontier Navajo Refining LLC (HFNR) Artesia Refinery (the Refinery) operates with a Resource Conservation and Recovery Act (RCRA) Post-Closure Care (PCC) Permit, number NMD048918817. A RCRA Permit renewal application was submitted to the New Mexico Environment Department (NMED) in April 2013, that included a Contingency Plan as Attachment J, per 20.4.1.500 New Mexico Administrative Code (NMAC) and Title 40, Code of Federal Regulations (CFR) Part 264, Subpart D.

40 CFR 270.28 provides the requirements for a PCC permit application and specify that requirements in 40 CFR 270.14(b) (4) and (6) are required as they relate to security and preparedness and prevention planning, while 40 CFR 270.14(b)(7) is not required i.e. inclusion of a Contingency Plan.

To satisfy the requirements of 40 CFR 270.14(b)(4) and (6) for PCC permit applications, HFNR proposes to replace the existing Contingency Plan in the Renewal Application with a summary of security procedures and preparedness and prevention steps related to the closed HWMUs (i.e., the on-site RCRA-permitted units – the Tetra Ethyl Lead Landfill (TEL) and the North Colony Landfarm (NCL); the Evaporation Ponds [EPs] are off-site and do not actively manage waste, and therefore are not likely to be involved in an emergency), and to reference the Refinery-wide Emergency Response Plan (ERP) and/or other applicable emergency response documents maintained by the Refinery, such as the Spill Prevention, Countermeasures and Control (SPCC) Plan and Facility Response Plan (FRP). This approach will allow for a more streamlined application, minimize the need for future permit modification requests, and improve refinery response in the event of an emergency. It also serves to minimize confusion in the event of an emergency by reducing the information which must be referenced.

HFNR will maintain the required Contingency Plan documents for both the Artesia and Lovington Refineries, per 40 CFR 262 Subpart M, as adopted by NMED on December 1, 2018.

The attached memo provides additional information for NMED regarding this topic. Should you have any questions or comments about this notification, or need any additional information, please do not hesitate to contact me by phone at (575) 746-5487 or via email at scott.denton@hollyfrontier.com. We look forward to your response to our proposal and appreciate your assistance in this matter.

Sincerely,

Scott M. Denton
Environmental Manager

c: HollyFrontier: M. Holder, R. Combs
NMED: L. Tsinnajinnie

File Location: \Env\RCRA\RCRA Permit\2019 RCRA CP Letter

505 East Huntland Dr.
Suite 250
Austin, TX 78752

T 512.329.6080
TRCcompanies.com

Memorandum

To:	Robert Combs
From:	Catriona Smith, R.E.M.; Julie Speer, P.G.
Subject:	Contents of the RCRA Part B Permit Renewal Application and Scope of the Preparedness and Prevention/Security Requirements
Date:	July 12, 2019

HollyFrontier Navajo Refining LLC (HFNR, the Refinery) submitted their renewal application for its Resource Conservation and Recovery Act (RCRA) Part B Post-Closure and Corrective Action Permit (Permit Number NMD048918817, the Renewal Application) in April 2013. With the recent adoption of the Hazardous Waste Generator Improvement Rule (HWGIR) by the New Mexico Environment Department (NMED) in December 2018, HFNR reviewed the Contingency Plan submitted as part of that renewal application for conformance with the HWGIR. In order to facilitate updating that Contingency Plan and to minimize the need to revise the Renewal Application after NMED approval, HFNR would like to discuss and obtain NMED concurrence on the scope of the preparedness, prevention and security sections in the current permit application.

The hazardous waste management units (HWMUs) that previously operated at the Refinery, the North Colony Landfarm (NCL) and the Tetraethyl Lead Impoundment (TEL), have completed the closure process and are in post-closure care (PCC). The Evaporation Ponds (EPs) have been inactive since 1999 and closure is pending. There are no active, permitted hazardous waste management units in operation at HFNR. Therefore, HFNR would like to review and discuss the content of the Renewal Application with NMED, specifically with respect to the need for an extensive Contingency Plan and proposes that the application more closely follow the informational requirements for RCRA PCC permit applications as set forth in Title 40 Code of Federal Regulations Part 270.28 (40 CFR 270.28)[1].

In the preamble to the 1998 RCRA amendments, the United States Environmental Protection Agency (EPA) stated that it

> "recognized that certain of the Part 270 information requirements are important to ensuring proper post-closure care, while others are generally less relevant to post closure. . . . an owner or operator seeking a post-closure permit must submit only that information specifically required for such permits under newly added § 270.28, unless otherwise specified by the Regional Administrator." (63 Fed. Reg. 56728, 56729, Oct. 22, 1998).

[1] See also 40 CFR 270.14, which states that for PCC permits, only the information specified in 40 CFR 270.28 is required to be included in the Part B application.

Based on the regulatory language in 40 CFR 270.14 and 270.28 and the EPA guidance in the Federal Register, HFNR understands that the Renewal Application must contain only that information required under 40 CFR 270.28.

Preparedness and Prevention Information in the Renewal Application

The informational requirements for PCC permit applications include a description of security procedures and equipment as required by 40 CFR 264.14, or a justification for a waiver from these requirements (see 40 CFR 270.14(b)(4)), and a justification for a waiver from preparedness and prevention requirements of 40 CFR 264 Subpart C (see 40 CFR 270.14(b)(6)). Note that per the requirements for PCC permit applications, a RCRA Contingency Plan is not required to be included in the application (i.e., 40 CFR 270.28 does not specify that information requirements under 40 CFR 270.14(b)(7) must be included in a RCRA PCC permit application).

To satisfy the requirements of 40 CFR 270.14(b)(4) and (6) for PCC permit applications, HFNR proposes to replace the existing Contingency Plan in the Renewal Application with a summary of security procedures and preparedness and prevention steps related to the closed HWMUs (i.e., the RCRA-permitted units), and to reference the Refinery-wide Emergency Response Plan (ERP) and/or other applicable emergency response documents maintained by the Refinery. This approach will allow for a more streamlined application and will minimize the need for future permit modification requests.

Required Scope of the Preparedness and Prevention Information

Based on the requirements for PCC permit applications, a Contingency Plan does not need to be included in the Renewal Application (See 40 CFR 270.14(a) and 270.28). However, the question remains of whether the security, preparedness, and prevention steps to be included in a Renewal Application must address all Refinery hazardous waste processes (e.g., less-than-90-day and satellite accumulation areas) or only those steps relevant to the HWMUs subject to RCRA permitting (i.e., the three closed units).

Regulatory Background Information

The RCRA Hazardous Waste Permit Program regulations under 40 CFR 270.1(c) specify that:

> RCRA requires a permit for the "treatment," "storage," and "disposal" of any "hazardous waste" as identified or listed in 40 CFR part 261. . . . Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit."
>
> Specific exclusions and exemptions from the requirement to obtain a RCRA permit are provided in 40 CFR 270.1(c)(2), including:
>
> (i) Generators who accumulate hazardous waste on site in compliance with all of the conditions for exemption provided in 40 CFR 262.14, 262.15, 262.16, and 262.17[2].

[2] 40 CFR 262.14, 262.15, 262.16, and 262.17 include exemptions for those facilities meeting the conditions for accumulation/storage of hazardous waste without a RCRA permit (e.g., large quantity generators).

The applicability of 40 CFR 264 to hazardous waste management units mirrors the applicability of the permit requirements in 40 CFR 270, with 40 CFR 264.1(b) stating: "The standards in this part apply to owners and operators of all facilities which treat, store, or dispose of hazardous waste, except as specifically provided otherwise in this part or part 261 of this chapter." In addition, 40 CFR 264.1(g)(3) indicates that the requirements of 40 CFR 264 do not apply to "a generator accumulating waste on site in compliance with §§262.14, 262.15, 262.16, or 262.17 of this chapter" (i.e., those facilities meeting the conditions for accumulation of hazardous waste without a RCRA permit as a small or large quantity generator). Hence, areas and processes within the Refinery meeting these exemptions from regulation under 40 CFR 264 (e.g., less-than-90 day and satellite accumulation areas) are exempt from classification as a unit for the "treatment," "storage," and "disposal" of any "hazardous waste" and are thereby exempt from RCRA permitting requirements.

United States Environmental Protection Agency Guidance

In its *Introduction to Permits and Interim Status* document (EPA530-K-05-016, Sept. 2005, p.2), the EPA states that:

> A RCRA permit is required for facilities conducting treatment, storage, and/or disposal of hazardous waste. A permit defines operating requirements and various provisions specific to the needs of the permit applicant depending on the treatment, storage, or disposal activities being conducted at the facility. **Certain hazardous waste treatment, storage, or disposal activities and facilities do not require a permit.** . . . These exceptions are listed in §270.1(c)(2) and include:
>
> • generators who accumulate hazardous waste on site for less than the time periods provided in §262.34 . . .[3]
>
> • owners and operators of elementary neutralization units or wastewater treatment units as defined in §260.10 . . .
>
> • universal waste handlers and transporters managing wastes subject to regulation under Part 273 . . . (emphasis added)

The EPA states in the section regarding issuance or denial of a permit (Ibid, p.8), that:

[3] The provisions formerly found at Section 262.34 were divided and moved to Sections 262.15, 262.16, and 262.17 in 2016 per the Hazardous Waste Generator Improvements Rule. See 81 FR 85732, 85737 (Nov. 28, 2016). In the preamble to the rule, EPA states "Section 262.34 became difficult to navigate because the SQG and LQG conditions for exemption were intertwined and contained many cross-references to sections in 40 CFR part 265. . . . Therefore the Agency is dividing § 262.34 into three new sections . . . ." Id. EPA also made some minor textual changes along with the renumbering in an effort to eliminate confusion, but there were no substantive changes to the exemptions themselves, as EPA states "EPA does not consider these revisions to the regulatory language as a change to the RCRA generator program because the regulations that were previously in § 262.34 (now in §§ 262.15-17) . . . were always conditions of exemption from storage facility permit, interim status, and operating requirements and have always worked in the same way as we are explaining in this rule." Thus, though EPA guidance documents referenced herein that discuss exemptions for those facilities meeting the conditions for accumulation/storage of hazardous waste without a RCRA permit include regulatory citations to 40 CFR § 262.34, these guidance documents are applicable to the substantially identical exemption provisions now found at 40 CFR §§ 262.15-17.

> EPA may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all units at the facility (§§270.1(c)(4) and 270.29). This means that **a facility may be permitted on a unit-specific basis, rather than as a whole facility**. (emphasis added)

Hence, while the RCRA Part B Permit Application is required to contain some general information related to the facility as a whole (e.g., facility description, location, topography, geology, etc.[4]), required technical information is limited to hazardous waste management units subject to the 40 CFR 264 standards. That is, hazardous waste management activities exempted from RCRA permitting requirements, such as collection and storage of hazardous waste in compliance with 40 CFR 262, are not required to be covered by a RCRA permit, and therefore, information related to Permit-exempt activities does not need to be included in the Permit Application.

EPA guidance supports this interpretation, as reflected in the attached RCRA Online document in which a regulated facility asks, "Does a TSDF have to include information on its accumulation area (262.34)[5] anywhere in a Part B submission, such as in the contingency plan?" The EPA responds that information on the accumulation area would not need to be part of the Part B application because it is not subject to 40 CFR 264 requirements (RO 12075, Dec. 1, 1982). Additionally, EPA states that it "cannot call for the Part B [application] for a type of unit for which there are no regulations in 40 CFR Part 264." (RO 12153, Nov. 1, 1983).

Based on these regulatory citations and EPA guidance, HFNR concludes that a contingency plan covering the entire Refinery is not required to be included in the Renewal Application and that the security, preparedness, and prevention information that the Refinery will include in the Renewal Application need only address the closed HWMUs.

The Refinery maintains appropriate emergency response plans in accordance with other applicable regulations, including for those areas of the Refinery that include hazardous waste management activities not subject to 40 CFR 264 and 270; however, based on applicable EPA regulations and guidance, repetition of this information in the RCRA Part B Renewal Application, and inclusion of a site-wide Contingency Plan as a permit condition, is not warranted.

Conclusion

HFNR is committed to preventing harm to human health and the environment from its operations. While HFNR proposes that the emergency response, preparedness, and prevention information included in the Renewal Application be limited to that information relevant to the permitted HWMUs, the Refinery maintains comprehensive Refinery-wide emergency response procedures under separate mechanisms to satisfy applicable regulatory requirements (e.g., the Refinery-wide ERP, the RCRA Contingency Plan, and the Spill Prevention, Control, and Countermeasure [SPCC] Plan). The Refinery's ERP is used as the primary source of preparedness and response information for emergency events at the Refinery. The ERP contains information above and beyond that

[4] see 40 CFR 270.14((b)(1), (b)(11), and (b)(19)
[5] see *supra*, n. 3.

required to be included in RCRA Part B Permit Applications, and therefore, is not appropriate to be incorporated into the Renewal Application in its entirety.

HFNR appreciates your consideration of these topics and looks forward to obtaining your concurrence on the proposed approach.

Attachments

63 Fed. Reg. 56728, 56729, Oct. 22, 1998

RCRA Online No. 12075, Dec. 1, 1982

RCRA Online No. 12153, Nov. 1, 1983

Attachments

63 Federal Register 56728 and 56729

October 22, 1998

specific requirements in lieu of the generic requirements of Subparts F, G, and H, EPA, as explained above, believes that the need to coordinate the cleanup of ''mingled'' releases outweighs any perceived benefits of the more specific requirements for regulated units.

In the preamble of the proposed rule, the Agency described a second remedial situation where the closure standards might not be appropriate—where waste has been removed from a unit but contaminated soils remain, and the remedy that might best prevent future releases from the unit would be precluded by the requirement for a RCRA cap.

Many commenters agreed with the Agency that the requirement for a RCRA cap may impede remedies. Several commenters agreed that the closure regulations do not consider remediation as an alternative to capping the unit, yet many currently available remedial technologies are more protective to human health and the environment in the long term than is capping, and that the Agency should provide flexibility to pursue such options in the closure of regulated units. Many commenters also agreed that required RCRA caps are very expensive and often provide little additional environmental protection where most waste has been removed from the unit.

However, the Agency is not proceeding with revisions to the closure requirements that would modify the requirement for a RCRA cap (or other closure, groundwater, or financial assurance requirements) beyond the situations outlined in §§ 264.90(f), 264.110(c), 264.140(d), 265.90(f), 265.110(d), and 265.140(d). Thus, the unit described by commenters could be addressed under corrective action procedures only if it was situated among SWMUs or areas of concern, and was part of a broader corrective action. EPA was not prepared, at the time this rule was made final, to make a final decision on this issue. EPA will consider additional action in this area if, in implementing this final rule, the Agency identifies further opportunities for integrating closure and corrective action.

D. Post-Closure Permit Part B Information Submission Requirements (§ 270.28)

1. Overview

EPA is promulgating § 270.28, which establishes information submission requirements for post-closure permits. Prior to this rule, the information submission requirements of Part 270 did not distinguish between operating permits and post-closure permits, and facilities seeking post-closure permits were generally expected to provide EPA, as part of their Part B permit applications, the facility-level information specified in § 270.14 as well as relevant unit-specific information required in §§ 270.16, 270.17, 270.18, 270.20, and 270.21.

However, EPA recognized that certain of the Part 270 information requirements are important to ensuring proper post-closure care, while others are generally less relevant to post-closure. The Agency believes the most important information for setting long-term post-closure conditions are groundwater characterization and monitoring data, long-term care of the regulated unit and monitoring systems (e.g., inspections and systems maintenance), and information on SWMUs and possible releases. Therefore, EPA is adding a new § 270.28 to identify that subset of the Part B application information that must be submitted for post-closure permits.

As a result of this provision, an owner or operator seeking a post-closure permit must submit only that information specifically required for such permits under newly added § 270.28, unless otherwise specified by the Regional Administrator. The specific items required in post-closure permit applications are:

—A general description of the facility;
—A description of security procedures and equipment;
—A copy of the general inspection schedule;
—Justification for any request for waiver of preparedness and prevention requirements;
—Facility location information;
—A copy of the post-closure plan;
—Documentation that required post-closure notices have been filed;
—The post-closure cost estimate for the facility;
—Proof of financial assurance;
—A topographic map; and
—Information regarding protection of groundwater (e.g., monitoring data, groundwater monitoring system design, site characterization information)
—Information regarding SWMUs at the facility.

In many cases, this information will be sufficient for the permitting agency to develop a draft permit. However, since RCRA permits are site-specific, EPA believes it is important that the Regional Administrator have the ability to specify additional information needs on a case-by-case basis. Accordingly, to ensure availability of any information needed to address post-closure care at surface impoundments (§ 270.17), waste piles (§ 270.18), land treatment facilities (§ 270.20) and landfills (§ 270.21), § 270.28 of this rule authorizes the Regional Administrator to require any of the Part B information specified in these sections in addition to that already required for post-closure permits at these types of units. This approach enables the Regional Administrator to require additional information as needed, but does not otherwise compel the owner or operator to submit information that is irrelevant to post-closure care determinations.

2. Response to Comment

Commenters generally supported the provisions of the proposed rule related to information submission requirements, and EPA is promulgating the provisions as proposed. Some commenters suggested that additional information be required by § 270.28 (e.g., one commenter suggested the Agency require the chemical and physical analysis of § 270.14(b)(2), and the training plan information required by § 270.14(b)(12)). However, after considering these comments, EPA is promulgating the proposed requirements because the Agency believes they will provide the Agency with the information it needs to address post-closure care in most instances. The information suggested by commenter is not, in the Agency's experience, routinely needed for post-closure permits. For example, § 270.14(b)(2), suggested by commenter, requires a chemical and physical analysis of waste to be handled at the facility—but, in the case of post-closure permits, the regulated unit is closed, and will not be handling wastes. Similarly, § 270.14(b)(12) requires the owner or operator to train persons who will be operating the facility—but, in the case of a post-closure permit, the facility will not be operating.

If for some reason this information is needed by the Agency, this rule does not preclude the Agency from requiring it. As was discussed above, this rule provides the Agency authority to obtain additional information on a case-by-case basis, as needed, but, for most situations, requires only the minimum information necessary for all post-closure situations. This approach, the Agency believes, provides sufficient information to the overseeing agency to ensure adequate post-closure care, while minimizing the information submission requirements for all owners and operators. However, as a result of this final rule, EPA will request information

for post-closure permit applications beyond the information specified in § 270.28 only when necessary on a case-by-case basis.

IV. State Authorization

A. Authorization of State Programs

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State (*See* 40 CFR Part 271 for the standards and requirements for state authorization).

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final authorization administered its hazardous waste program entirely in lieu of the Federal program. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in a State where the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified timeframes. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under section 3006(g) of RCRA, the new requirements and prohibitions of HSWA take effect in authorized States at the same time they take effect in unauthorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including issuance of permits, until the State is granted authorization to do so. While States must still adopt more stringent HSWA-related provisions as State law to retain final authorization, the HSWA requirements apply in authorized States in the interim. In general, § 271.21(e)(2) requires States that have final authorization to modify their programs to reflect Federal program changes and to subsequently submit the modifications to EPA for approval. It should be noted, however, that authorized States are only required to modify their programs when EPA promulgates Federal standards that are more stringent or broader in scope than the existing Federal standards. For those Federal program changes that are not more stringent or reduce the scope of the Federal program, States are not required to modify their programs (*see* § 271.1(i)). Section 3009 of RCRA allows States to impose standards more stringent than those in the Federal program.

B. Enforcement Authorities

Since 1980, certification of adequate enforcement authority has been a condition of State authorization. EPA's authority to use its own enforcement authorities, however, does not terminate when it authorizes a State's enforcement program. Following authorization, EPA retains the enforcement authorities of sections 3008, 7003, and 3013 of RCRA, although authorized States have primary enforcement responsibility.

C. Effect of this Rule on State Authorizations

This rule promulgates revisions to the post-closure requirements under HSWA and non-HSWA authorities. The requirements in §§ 264.90(e), 265.110(c), 265.118(c)(4), 265.121 (except for paragraph 265.121(a)(2)), 270.1, 270.14(a), and 270.28, which remove the post-closure permit requirement and allow the use of alternate mechanisms, are promulgated under non-HSWA authority. Thus, those requirements are immediately effective only in States that do not have final authorization for the base RCRA program, and are not applicable in authorized States unless and until the State revises its program to adopt equivalent requirements. These new standards are not more stringent than current requirements and, therefore, States are not required to adopt them.

Sections 264.90(f), 264.110(c), 264.140(d), 265.90(f), 265.110(d), 265.140(d), and 271.16(e), which allow the Agency to address closing regulated units through the corrective action program, are promulgated under HSWA authority. Except for § 271.16(e) these provisions provide additional options to regulators, and, therefore, are not more stringent than the current base RCRA program requiring closure of all regulated units. Authorized States are required to modify their programs only if the new Federal provisions are more stringent.

Further, because these HSWA provisions in this rule are not more stringent, they are immediately effective only in those States not authorized for the base RCRA program. In States authorized for the RCRA base program, these HSWA provisions cannot be enforced until and unless the State adopts them. Once a State adopts these provisions, they can be implemented by EPA before the State is authorized for the regulation change because they are promulgated pursuant to HSWA authority, and are thus immediately effective in the State.

D. Review of State Program Applications

1. Post-Closure Care Under Alternatives to Permits

Sections 264.90(e), 265.110(c), 265.118(c)(4), 265.121, and 270.1 of this final rule remove the requirement for post-closure permits, and allow EPA and the authorized States to address facilities needing post-closure care using alternate authorities. All States seeking authorization for the above provisions of this rule must submit an application that includes regulations at least as stringent as these provisions, as well as the information required under § 271.21. In all States, this information will include copies of State statutes and regulations demonstrating that the State program includes the provisions promulgated in this rule in the sections listed above. EPA will review this information to determine that the State has adopted provisions to assure that authorities used in lieu of post-closure permits are as stringent as the Federal program.

In addition, States must submit an application that includes copies of the statutes and regulations the State plans to use in lieu of the section 3004(u) provisions of a post-closure permit to address corrective action at interim status facilities. For example, many States authorized for corrective action have cleanup authorities, which they apply at interim status facilities. EPA will review those statutes and regulations to determine whether the alternate authority is sufficient to impose requirements consistent with § 264.101. At a minimum, that authority must be sufficiently broad to allow the authorized authority to: (1) require facility-wide assessments; (2) address all releases of hazardous wastes or constituents to all media from all SWMUs within the facility boundary as well as off-site releases to the extent required under section 3004(v) (to the extent that releases pose a threat to human health and the environment); and (3) impose remedies that are protective of human health and the environment. This review by EPA will assure that actions taken at closed facilities under an alternate authority are as protective as those that would be taken under a post-closure permit. In addition, EPA is promulgating in this final rule a revision to § 271.16 to ensure that these alternate authorities are adequately enforceable. EPA will review the State's authority to determine whether it includes the authority to sue in court, and to assess penalties.

RCRA Online No. 12075

December 1, 1982

QUESTION:

Does a TSDF have to include information on its accumulation area (262.34) anywhere in a Part B submission, such as the contingency plan?

ANSWER:

The accumulation area is subject to Part 265 requirements, not Part 264 and would not be part of a Part B submission. The area would be represented on the facility map, however.

SOURCE: 262.34 and 264.1g) (3)
RESEARCH: Denise Wright

RCRA Online No. 12153

November 1, 1983

QUESTION: Is EPA authorized to call for the Part B of a permit application for a type of unit for which EPA has not promulgated regulations? Underground tanks that cannot be entered for inspection are an example.

ANSWER: EPA cannot call for the Part B for a type of unit for which there are no regulations in 40CFR Part 264. EPA is only authorized to permit units or appurtenances of units that are regulated by the Agency. Since underground tanks that cannot be entered for inspection are not addressed under Part 264, Subpart J, or any other Subpart, EPA cannot call for their Part B's. If an appurtenance, like a valve, is crucial to the tank's compliance with the regulations, the appurtenance could be included in a permit even though there are no specific "valve" regulations. This exception is very limited in scope and must be evaluated on a case-by-case basis.

Source: Lisa Friedman, OGC
Susan Schmedes, OGC