

9524.1985(01)

August 1, 1985

Mr. Thomas M. Hellman, Ph.D.  
Manager  
Health, Safety and Environmental Protection  
General Electric  
Fairfield, Connecticut 06431

Dear Dr. Hellman:

Thank you for your letter of June 13 regarding RCRA incinerator permits. Specifically, you inquired as to whether an incineration facility which is intended to burn non-hazardous waste and/or hazardous wastes banned from land disposal, but is oversized to meet RCRA requirements, can secure a RCRA permit at a future time.

RCRA Section 3005(a) and 40 CFR 270.10 prohibit physical construction of a hazardous waste management facility without a RCRA permit. When applying this requirement, the intent of the owner in constructing the facility is the primary factor of consideration. A permit is required prior to construction if the owner intends for the facility to handle non-hazardous waste for a period of time, and then apply for a permit to handle hazardous waste (including hazardous waste banned from land disposal) at a later date. If the facility is intended to burn only solid non-hazardous wastes, a permit prior to construction is not required.

If an incinerator is constructed with the intention of burning only solid waste and those wastes are listed as hazardous wastes sometime in the future, the facility would be eligible to receive a permit provided that all permitting requirements are met. Such a facility would have to comply with any additional standards applicable to that treatment process which have been adopted subsequent to the construction of the incinerator.

RCRA allows an exemption from the requirement to have a permit prior to construction for facilities constructed pursuant to an approval issued under section 6(e) of the Toxic Substances Control Act for the incineration of polychlorinated biphenyls. any person owning or operating such a facility may file an

application for a RCRA permit to incinerate hazardous wastes after construction or operation of that facility.

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We endorse your decision to seek environmentally sound alternatives to land disposal in your hazardous waste management strategies. In regard to this issue, I also recommend that you contact the State RCRA permitting agency since Connecticut is authorized to issue RCRA incinerator permit. For further information, please contact:

Stephen Hitchcock  
Hazardous Material Management Unit  
Department of Environmental Protection  
State Office Building  
165 Capitol Building  
Hartford, Connecticut 16106

If we can be of further assistance, please contact Art Glazer of my staff at (202) 382-4692.

Sincerely,

John Skinner  
Director  
Office of Solid Waste

cc: Stephen Hitchcock, Connecticut  
Dennis Huebner, Region I