

9522.1985(04)

AUG 30 1985

PARTIAL PERMITTING OF INCINERATOR UNIT (DOW)

SUBJECT: Partial Permitting

FROM: John H. Skinner
Director, Office of Solid Waste (WH-562)

TO: Harry Seraydarian
Director, Toxics and Waste Management Division

In your memorandum of May 9 (attached) you requested our response to your proposal for permitting of a new incinerator unit at the Dow Chemical plant in Pittsburg, California. Outlined below is a discussion of that proposal and our recommendations regarding issuance of a separate permit.

We agree with your conclusion that issuance of a new incinerator permit for the facility which is to be phasing out its land disposal units is consistent with EPA's policy of encouraging treatment alternatives to land-based waste disposal methods. As you know, however, any such permit must address corrective action for releases from all solid waste management units at the facility as required by new section 3004(u) of RCRA. You proposed that the preliminary assessment, site investigation and/or corrective action for those land disposal units be addressed through a schedule of compliance in a permit which could be issued for construction of the new incinerator, but which would not otherwise cover the land disposal units at the facility.

The existing land disposal units at the facility are also regulated units as defined in §264.90(a). As discussed in the preamble to the HSWA final codification rule, (see discussion of §3005(i)) regulated units are subject to existing standards under Subpart F of Part 265 and Part 264 for gathering information on releases to ground water. Permit schedules of compliance for information gathering -- as provided for in §3004(u) for solid waste management units -- cannot be used for investigating ground water releases from regulated units. Consequently, the proposed approach which you have suggested for permitting this facility does not appear to be workable.

RO 12447

We can, however, suggest an alternative approach which would expedite the issuance of the permit to the incinerator unit by addressing any releases to ground water from the regulated units in separate permits.

Section 3005(i), as amended by HSWA, reaffirmed that ground water releases from regulated units are subject to existing RCRA regulations. This regulatory scheme encompasses not only the substantive cleanup requirements in Part 264 Subpart F, but also the procedural permitting requirements in Part 270, and the provision for partial permitting in 40 CFR 270.1(c)(4) in particular. We could, therefore, issue a partial permit covering the new incinerator unit, all releases to media other than ground water from the regulated unit, and all releases from non-regulated units. A permit issued separately to the regulated units would address any needed ground water corrective action in accordance with Subpart F of Part 264.

We believe this approach is fully consistent with the basic objectives of sections 3004(u) and 3005(i). If you have any further questions on this issue, please call Peter Guerrero, Chief, Permits Branch at 382-4740.

Attachment

cc: Regional Hazardous Waste Management Division Directors
Regional Hazardous Waste Branch Chiefs

09 May 1985

Multiple RCRA Permits at A Single Facility

Original Document signed

Harry Seraydarian
Director, Toxics and Waste Management Division, Region 9

John B. Skinner
Director, Office of Solid Waste (WH-562)

Issue:

Are the Regions precluded by statute, regulation or policy from issuing more than one RCRA permit at a single hazardous waste management facility? In particular, may we issue a permit for a new incinerator at an existing land disposal facility, deferring until a later date the issuance of a permit for the land disposal units?

Background:

Although the subject of issuing several permits at one "facility" has been discussed in the past with your staff, to our knowledge no official policy position was ever taken. In 1982, when only tank and container facilities could be permitted, we have several discussions with Headquarters staff which led to our understanding that we could begin to process permits for tank/container units at facilities which also had land disposal or incinerator units. Since we felt that this could ultimately lead to a duplication of effort, we never followed this course of action. By virtue of having only Phase II A authorization, California has proceeded with issuance of tank/container permits at sites also conducting land disposal.

In a few recent cases, we have been presented with circumstances which cause us to reexamine our policy of going through the permit process only once at each facility. When your staff has been presented with the issues, we have received conflicting advice.

Perhaps the best example of the situation we have in mind is the Dow Chemical plant in Pittsburg, California. Dow has existing tank/container, incinerator, and surface impoundment units operating under interim status. In response to our request, Dow submitted a Part B permit for its existing units. Due to complex ground water issues at the facility and trial burn requirements, we do not expect early issuance of a permit for the Dow interim status units.

365B-T-2-2/Wilson-grace: 5/05/85

Recently we received a permit application from Dow for a new waste incinerator at the Pittsburg plant. The unit is part of Dow's efforts to upgrade its waste management practices and discontinue land disposal both on-site and off-site. The new unit, because of its large cost, can not be constructed under interim status, and must receive a RCRA permit before commencement of construction. We are persuaded that expedited issuance of a RCRA permit for the new unit would be environmentally responsible, for the following reasons.

1. It would be consistent with EPA's policy of encouraging high technology waste disposal as an alternative to land disposal.
2. Although the incinerator would only dispose of wastes generated at Pittsburg and a few other small Dow facilities, any reduction in the amount of waste going to land disposal is an advance.
3. The installation of the incinerator (and additional on-site treatment facilities) is required for Dow to close its surface impoundments. Due to the lengthy lead time required for incinerator construction, the surface impoundment closure will be delayed if the incinerator is not permitted.

Recommended Action:

The passage of the HSWA has clearly led to complications in the issuance of multiple permits at a single facility. Since the statute now requires that we address all releases from Solid Waste Management Units (SWMUs) in all RCRA permits, we must deal with this provision. In Dow's case, the existing

Hazardous Waste Management Units (HWMUs) are, of course, also SWMUs.

We propose the following course of action at Dow and other facilities with similar circumstances.

1. "Fast-tracking" the permitting of new, higher technology units by addressing them in a single-unit permit.
2. Addressing corrective actions at SWMUs (including HWMUs) through permit conditions that require the continuation of preliminary assessment, site investigation, and/or corrective action in general terms. The conditions will include a compliance schedule for completion of the next phase of the corrective action process, depending on its status as of the time of permit issuance.
3. Continuation of interim status for other units at the facility until permit issues can be resolved.
4. Major modification of the permit to incorporate all other units at the facility. At this time, the corrective action provisions would be updated.

Requested Action

Your review of our recommended course of action is requested. Unless we receive objections with thirty (30) days, we will assume that you have none, and we will proceed as outlined above.

We also request that in developing regulations to codify the HSWA, you consider the circumstances above, and allow adequate flexibility for the Regions to proceed with approval of new high technology units prior to resolution of all issues at an individual facility.

Should questions arise in your evaluation of this proposal, Bill Wilson should be contracted at FTS 454-8391.

cc: Permit Section Chiefs, Regions 1-8, and 10