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UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY WASHINGTON, D.C.
20460

April 1, 1996

Mr. David Gossman
President
Gossman Consulting, Inc.
45W962 Plank Road
Hampshire, Illinois 60140

Dear Mr. Gossman:

Thank you for your letters of February 7, 1996 and February 21, 1996 to Administrator Browner in which you raise a number of issues regarding the ability of a boiler or industrial furnace (BIF) burning hazardous waste to spike metals and also to use test data in lieu of performing a trial burn. We address each of your issues below.

In regard to testing and trial burns invoking the spiking of toxic metals, the Environmental Protection Agency (EPA), at the time of promulgation of the BIF regulations, did not envision that facilities would seek permits to burn higher levels of toxic metals than they routinely accept in hazardous waste. We do not believe a facility should burn high levels of toxic metals during a trial burn, other compliance tests, or normal operations if this creates potential worker safety and health risks. Furthermore, our regulations do not require feeding metals at unsafe levels during trial burns or compliance tests. We would be concerned if they were interpreted in such a way, since feeding extremely high levels of metals is an environmentally un-sound practice because metals are not destroyed by combustion but merely partitioned to the ash or the product or emitted to the air. EPA has previously addressed the issue of burning waste fuels with high metals content in boilers and industrial furnaces in the enclosed letter to Mr. Joseph A. Kotlinski of Clean Harbors Environmental Services, Inc. However, if you still feel that high levels of spiking are necessary in certain specific cases, we would be willing to discuss with you alternative approaches in order to avoid or minimize this type of spiking.

The Agency's concerns with respect to potential health risks from metals being fed in hazardous waste, as well as from organic emissions, were the major reasons EPA developed its Strategy for Hazardous Waste Minimization and Combustion (Combustion Strategy). This concern was brought on by the

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realization that the BIF rule primarily addressed the risk from inhalation and did not directly address risks by indirect exposure pathways. As a result, the Combustion Strategy recommends that toxic metals burned in a hazardous waste combustor should be addressed in a multi-pathway risk assessment, using the omnibus requirements of Section 3005(c)(3) of the Resource Conservation and Recovery Act (RCRA) (40 CFR 270.32(b)(2)).

You also express concern about the infrequent use of "data in lieu of a trial burn and/or compliance test" (40 CFR, 270.22(a)(6), 266.103(c)(3), and 270.66(d)(2)). The purpose of these provisions is to allow the use of test data from one unit as a substitute for conducting a trial burn or compliance test for a similar unit. The Office of Solid Waste has no specific guidance materials on the use of these provisions other than the regulations themselves. Decisions to allow data in lieu of a trial burn are made on a site-specific basis by the appropriate permitting authority after considering a number of complex factors, e.g., the size of the device, the configuration of the device, the type of waste burned, etc. However, especially where multi-pathway risk assessments are conducted, one might anticipate that permit writers would be less likely to accept data in lieu of a trial burn except in cases where the wastes and the combustion device with its associated control systems are almost the same. (This issue was previously addressed in the transcript of the Chemical Manufacturing Association/Environmental Protection Agency (CMA/EPA) Boilers and Industrial Furnaces (BIF) Workshop of March 29-30, 1994. This transcript was supplied to you as part of the response to your February 21, 1995 FOIA request.). We do not keep national data on requests and approvals, but do know that some Regional offices and states have approved the use of "data in lieu of trial burns and/or compliance tests" in the past. Additionally, in some cases where approvals were granted, the permittee elected to conduct the tests anyway.

Finally, your letters, at least in our reading of them, seem to indicate some confusion as to the purpose of the provisions allowing data in lieu of trial burns and compliance tests. The "data in-lieu of" provisions were not generally intended to allow elimination of requirements for retesting at a facility, since the purpose of retesting is to ensure the facility remains in compliance over time as the unit ages. Therefore, it is difficult to envision a scenario where using earlier test data gathered prior to the most recent permitting term or most recent period of compliance would be appropriate as a substitute for a retest.

I hope I have addressed all your concerns with respect to these issues. If you have any additional questions, please contact Dwight Hlustick or Bob Holloway at (703) 308-8647 and (703) 308-8461 respectively.

Sincerely,

Michael Shapiro, Director
Office of Solid Waste

Enclosures