9525.1982(01)

PROPOSED MECHANISM FOR HANDLING MOBILE TREATMENT UNITS

January 29, 1982

MEMORANDUM

SUBJECT: Proposed Mechanism for Handling Mobile Treatment Units

FROM: John H. Skinner
Director, State Programs
and Resource Recovery Division (WH-563)

TO: Howard Zeller
Acting Director
Enforcement Division, Region IV

This is in response to your memorandum of September 25, 1981, requesting concurrence with your proposed mechanism to handle mobile treatment facilities.

We agree with Region IV's interpretation of the regulations, that interim status and RCRA permits are site specific and therefore, mobile treatment units alone cannot receive permits (or interim status) but must be permitted (or receive interim status) for use at a particular location. We have written at least one letter to that effect. (See letter from John Skinner to Timothy Vanderver of Chemfix Technologies, Inc. dated June 2, 1981, sent to the Regions on that date).

The following approach, which is somewhat similar to the one suggested in your memorandum, will enable mobile treatment units to operate within the scope of the RCRA program. This approach has been developed after meeting with several mobile treatment companies. We have divided the approach into the following four situations:

(1) Non-emergency situations at a site which has interim status;

(2) Non-emergency situations at a site which has a RCRA permit (e.g., periodic use of mobile treatment units during the operating life of the

facility, use at closure);

(3) Non-emergency situations at a site which does not have interim status or a RCRA permit (e.g., remedial actions at inactive sites);

(4) Emergency situations (e.g., spills, emergency response).

(1) Non-emergency situations at a site which has interim status

This approach would enable a mobile treatment unit to operate during interim status under one of three alternatives (Alternative (c) will be proposed soon as an amendment to 40 C.F.R. §122.23, Changes during interim status).

(a) An interim status facility which intended to use mobile treatment equipment, but did not include it in the original Part A permit application, may amend its Part A application to include the mobile treatment process. The Agency would treat these facilities as it would any facility which submitted an incomplete Part A permit application. The only requirement is that the equipment must have been in existence on or before November 19, 1980,1/ and the facility must have qualified for interim status.

(b) Mobile treatment may be added to a facility as a new process or an increase in the design capacity of an existing process under the allowable changes during interim status, 40 C.F.R. §122.23(c)(2) or (c)(3). Under these sections, a mobile treatment unit may be added to a facility if it is necessary either to prevent a threat to human health and the environment because of an emergency situation; to comply with Federal regulations or state and local laws; or because of a lack of available treatment, storage, or disposal capacity at other facilities. It should be noted, however, that these sections will change with the amendment to §122.23.

1/ Because mobile treatment units are unique in that they are used intermittently at different sites, they will be considered in existence if they were operating at any site on or about November 19, 1980. Normally, a unit would have to be operating on or about November 19, 1980, at a site which qualified for interim status to be considered in existence.

(c) The proposed amendments to 122.23(c) will include a section which will allow interim status facilities to add tanks and containers used for the treatment or storage of hazardous waste. Such tanks and containers may be added for any reason, whether or not the facility previously had tanks or containers, or any treatment or storage process. The facility must have qualified for interim status, however. This amendment, if promulgated as proposed, will enable most interim status facilities to add mobile treatment done in tanks or containers to their facilities.

(2) Non-emergency situations at a site which has a RCRA permit

A mobile treatment unit may be added to a permitted facility under §122.15 as a permit modification. Section 122.15(a)(1) allows a permit to be modified, or revoked and reissued when substantial alterations or additions to the permitted facility or activity occur.

We will be proposing amendments to §122.17 which, in some limited circumstances, may allow the addition of mobile treatment units to be considered minor modifications to a facility.

(3) Non-Emergency situations at a site which does not have interim status or a RCRA permit

Our approach is to require a permit before a mobile treatment operator may begin operation at a non-emergency site which does not have interim status or a RCRA permit. In most situations where the mobile treatment company is handling the clean-up, it will be considered both owner (of the equipment) and operator, and must apply for a permit. If there is another owner involved as well, e.g., owner of the land, that owner may also have to sign the permit application.

(4) Emergency Situations

There are two emergency mechanisms already in place in the RCRA regulations. First, storage or treatment done in immediate response to a spill of hazardous waste may occur without first obtaining a RCRA permit. (See 40 CFR §264.1(g)(8), 45 FR 76630, November 19, 1980).

Second, there is a provision for an emergency permit in 40

CFR §122.27. This is a temporary permit to be used in the event that treatment, storage, or disposal of hazardous waste must take place due to an emergency situation.

Your concept of a generic permit would allow the mobile treatment operation itself to obtain a permit, and then require public notice before the mobile treatment operation is used at each individual site. The concept is obviously a departure from the present RCRA scheme of site specific permits. We will look into this suggestion further. In the meantime, the approach described in this memorandum must be used.

We would appreciate any comments you have on our approach to handling mobile treatment units. If you have further questions or comments, please contact Deborah Wolpe at (202) 755-9107.

cc: Directors, Air & Hazardous Materials Division, Regions I, III-X
Director, Water Division, Region II
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