



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

OCT 26 1996

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Melvin Keener
Executive Director
Coalition for Responsible Waste Incineration
1133 Connecticut Ave., NW
Washington, DC 20036

Dear Mel:

In response to your e-mail containing questions from your last board meeting, I've included our current thinking in italics. Please call or e-mail me if you need anything else on this.

1. If a state fails to pickup the fast track rule, does that two years to cease burning still apply? If so, who would enforce it?

The requirement for sources who do not intend to comply with the new standards to stop burning hazardous waste within two years following promulgation of the emissions standards is included in both the NIC and Progress Report rule sections (see §§ 63.1211(c)(1) and 63.1212(e)(2), respectively).

These requirements will apply even if states do not "pick up" the fast track rule. They would be implemented and enforced by EPA. Please keep in mind that these are CAA requirements subject to the MACT delegation process, as discussed in the preamble to the fast track rule (see 63 FR 33818, June 19, 1998). They are not RCRA requirements, and are not subject to RCRA state authorization procedures.

2. What happens to the comparable fuels exemption if one state picks up the fast track rule and another doesn't? Can a facility in a state that doesn't pick up the rule burn a comparable fuel as such when the fuel was generated in a state that has picked up the rule?

If one state picks up the comparable fuels rule and another doesn't, the more stringent rules apply when transporting comparable fuels across state lines (i.e., in a state without comparable fuels, no exclusion exists and the waste must be managed in accordance with State Subtitle C requirements).

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3. Does the NIC process still apply when a state does not pick up the rule?

Yes. The NIC requirements are promulgated in 40 CFR part 63, under the authority of CAA section 112. As stated in the preamble, EPA administers any rules federally promulgated under section 112 of the CAA that have not been delegated to the State.

4. If a state does not pick up the rule and requires a Class 3 permit mod to meet the new standards, what happens when a facility can not meet the three year statutory deadline?

The facility can apply for a one-year extension to the compliance date in order to install pollution prevention controls, in accordance with the provisions in § 63.1216. There is also a provision in the part 63 general requirements to allow for a one-year extension if necessary for the installation of controls (see § 63.6(i)(4)). Four years should be sufficient for a facility to get a permit mod request processed, to implement the upgrades, and operate in compliance with the standards. What would happen if there are any delays beyond four years would most likely be a matter of enforcement discretion, or perhaps addressed via a compliance schedule.

Sincerely,



David Hockey
Project Director,
HWM&C Strategy