

MEMORANDUM

SUBJECT: RCRA Permit Renewals

FROM: Elizabeth A. Cotsworth, Director /s/ 2/2/2000
Office of Solid Waste

TO: RCRA Senior Policy Advisors
Regions I-X (see attached list)

The purpose of this memorandum is to provide guidance on RCRA permit renewals to ensure that expiring permits do not unintentionally lapse and to ensure that permits are properly renewed.

Background

The EPA Office of the Inspector General (OIG) recently examined RCRA permit renewals in one EPA region and two states. The OIG found that: "With its emphasis on issuing original permits, EPA does not yet have controls in place to effectively manage permit renewals. With neither clear oversight responsibilities, nor complete and accurate information, the Agency is not now in a position to monitor performance, identify problems or make improvements. . . ." They also found that the term of some permits had been improperly extended past ten years.

Based on their findings the OIG recommended that headquarters emphasize in national program guidance the importance of federal oversight of permit renewals and the Agency's responsibility to ensure that RCRA permits do not "lapse," resulting in unpermitted operation. More specifically, OIG recommended that OSW:

1. Issue a guidance memorandum for management of RCRA permit renewals to EPA regions and the states that addresses:
 - the value of federal oversight,

- the oversight responsibilities of headquarters and regions, and
 - the growing importance of permit renewals.
2. Ensure that EPA regions and/or the states:
- enter key permitting data in RCRIS, and
 - use the data to ensure that facilities are not allowed to operate under permits that have expired or been improperly renewed.

Regulatory Requirements

As you are aware, permits assure compliance with environmental laws by translating the RCRA regulatory requirements into enforceable site-specific requirements. According to statute, RCRA permits have a fixed term, not to exceed ten years. The requirement for reapplying for a RCRA permit is found in the § 270.10(h). A facility with an effective permit must submit a new application at least 180 days before the permit expiration date, if it wishes to continue operations beyond the permit expiration date. This includes facilities with either an operating or a post-closure permit. If a new permit is not in place prior to the expiration date, the facility must continue to comply with the existing permit until a new permit takes effect.

Guidance on Oversight of Permit Renewals

One of EPA's primary RCRA responsibilities is to provide oversight of authorized state programs. It is important that you know when RCRA permits are expiring in your region and that permits are properly renewed. Therefore, I am requesting that you exercise appropriate oversight of RCRA permit renewals. This means that you have mechanisms in place in your region to ensure that RCRA permit renewals are being issued according to the 40 CFR part 270 requirements or comparable state regulations.

You should make sure that facilities are aware of their responsibility to submit a permit application six months before their permit expires, to ensure that permits do not unintentionally lapse. You should work with your states to ensure that RCRA permits are renewed according to the applicable regulatory procedures. To this end, state-EPA grants, memoranda of understanding, and performance partnership agreements should discuss the expectations for RCRA permit renewals. The agreements should include a discussion of facilities whose permits are expiring, what the schedule is for these facilities to submit applications, and which of these expiring permits are expected to be renewed.

Please note that renewal of expiring permits is of lower priority compared to bringing unaddressed existing facilities under approved controls as laid out in the

RCRA GPRA Subobjective for Hazardous Waste Facilities. The priority of permit renewals is likely to change once these existing facilities are under approved controls. However, at this time, the main concern with respect to expiring permits is to be sure that they are administratively continued where appropriate, and that they are renewed according to the applicable regulations. Permit renewals of course can be considered of high priority if the changes to be made to the permit are as environmentally significant as bringing an unaddressed existing facility under approved controls. However, renewals are not counted as GPRA accomplishments.

Guidance on Tracking Permit Renewals

Oversight of RCRA permit renewals will require you to have a way to track the status of renewals in your region. One way of tracking renewal information is to have states enter key permitting data into RCRIS. The state-EPA agreements already include a discussion of what permitting data should be entered into RCRIS. The following RCRIS data elements can be used to track the status of permit renewals:

- the date the permit application (part B) was received,
- the date the permit was issued, and
- the date the permit expires.

These are currently part of the core data elements that should be entered into RCRIS.

We recognize that with the expanded need for accurate tracking due to GPRA, we have made other requests to the regions and states with respect to data cleanup and reporting. Therefore, as discussed on the July 28, 1999 RCRA Senior Policy Managers' conference call, we agreed that a two-step process for initiating this tracking is acceptable. The first step, as you know, was for each region to work on developing or refining your tracking approach for RCRA permit renewals in FY2000, and provide a narrative discussion of permit renewals in the FY2000 Beginning of Year Plan (BYP). We will be working with you in subsequent years to reassess your success in tracking permit renewals.

Follow up

During the FY2000 BYP calls, we can discuss how permit renewals are progressing in your region and how you are tracking the status of permit renewals. If you have any questions, please call Sonya Sasseville at (703) 308-8648 or Vernon Myers at (703) 308-8660.

cc: RCRA Key Contacts
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