

PPC 9501.1984(01)

IMMEDIATE PERMIT REQUIREMENTS

NOV - 9 1984

MEMORANDUM

SUBJECT: RCRA Reauthorization Statutory Interpretation #1:  
Immediate Permit Requirements

FROM: Lee M. Thomas  
Assistant Administrator

TO: Addressees

On November 8, President Reagan signed The Hazardous and Solid Waste Amendments of 1984. These amendments to the Resource Conservation and Recovery Act (RCRA) will have a profound effect on almost every aspect of the management of hazardous waste in this country. Provisions are effective in both authorized and unauthorized States. EPA is responsible for implementation until a State is authorized for the new provisions.

This memorandum alerts EPA Regions and States to those new provisions of the Act immediately applicable to RCRA permits issued as of the date of enactment (DOE), November 9, 1984. Permits in process, including draft permits, must address the newly effective requirements before issuance. It is important to note that in authorized States, EPA is responsible for incorporating the new provisions into the permit. Therefore, issuance of a valid RCRA permit in authorized States must be accomplished through joint permit processing with EPA until States are authorized for the new provisions.

To assist in identifying the extent to which draft permits and permits under development, as well as permit applications, must now be revised, the attached table briefly describes, by facility type, the new requirements which are to be immediately reflected in final permit conditions. The attachment does not include provisions that affect the permit program at later dates, nor does it cover early enactment provisions beyond permitting.

Subsequent memoranda will describe the full range of new RCRA provisions that affect hazardous waste management programs at the Federal and State level, including joint permit processing, and will include a schedule of implementation guidance.

While new requirements for permit applications already in process may delay the issuance of some permits, other permit processing activities will not be substantially affected. Activities that should continue include:

Requesting land disposal permit applications. However, under the new legislation, within one year of enactment all existing interim status land disposal facilities must submit their Part B permit application, as well as a certification of compliance with applicable ground-water and financial responsibility requirements, in order to retain interim status. Because of the new statutory requirement, the timeframe provided in the National Permits Strategy for requesting remaining land disposal permit applications, including the one year extension into FY 1986, is eliminated. Current schedules for calling in land disposal facilities should be reevaluated and new schedules should be developed which will conclude all Part B requests for existing interim status land disposal facilities within the first six months of enactment;

Requesting remaining incinerator applications, as scheduled;

Processing interim status closures. However, owners and operators of land disposal facilities that received waste after July 26, 1982, and closed between that date and January 26, 1983, should be advised in writing that the new RCRA amendments extend the Part 264 ground-water monitoring and response requirements to them.

Joint inspection and permit writer visits within ninety days of the permit application request should continue. These visits should be used to assist facilities in understanding new requirements, as well as to offer them advice on application requirements that have not changed;

Continuing technical evaluations of those parts of the

permit applications that are not affected by the RCRA amendments;

Preparing public participation plans for the environmentally significant facilities whose permit applications are in process or will be requested in FY 1985.

For your information, we are currently in the midst of a process to identify and analyze the issues that reauthorization poses for near-term implementation of the RCRA program. Our aim is to prepare the policies and guidance that the Regions and States need on specific reauthorization issues according to their significance and immediacy. Additional "RCRA Reauthorization Statutory Interpretations" will be issued periodically to alert Regions, States and other affected or interested organizations to the interpretations of various provisions such as those described in the attachment, as well as to key changes to program directions and policies necessitated by the latest RCRA amendments.

Until guidance is provided on the new permit requirements highlighted in the attachment, I encourage you to call Peter Guerrero, Chief, Permits Branch (FTS-382-4740) to discuss their scope, policy interpretations and implementation procedures.

Attachment

Addressees:

Regional Administrators, Regions I-X  
Regional Waste Management Division Directors, Regions I-X  
Hazardous Waste Branch Chiefs, Regions I-X  
Regional Counsels, Regions I-X  
State Hazardous Waste Program Directors  
Assistant Administrator for Enforcement and Compliance Monitoring  
Associate General Counsel for Solid Waste and Emergency Response  
OSWER Office Directors