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Addressee: Merrill Hohman, Director, Air and Hazardous Materials
Division, Region I

Originator: John H. Skinner, Director, Office of Solid Waste (WH-562)

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Summary:

The memo discusses several issues concerning interim status changes in authorized States and the Region's role in quality control of changes to the RCRA facility data base.

- 1) Once a State has Phase II or final authorization, the State may make determinations relating to changes and termination of interim status. Section 3005(e) of HWSA, however, provides two conditions under which EPA may terminate the interim status of land disposal facilities, if the owner or operator does not meet certain requirements.
- 2) State programs are not required to have an analogue to Federal Interim Status in order to qualify for Phase II interim or final authorization as long as they require existing facilities to comply with such standards through permit terms and conditions. If, however, a State does allow continued facility operation through an interim status analogue, the State's requirements and procedures must be substantially equivalent to the Federal regulations for Phase II interim authorization. For final authorization, they must be at least as stringent as the Federal requirements.

Any facility qualifying for State interim status must continue to qualify for Federal interim status under §271.13(a), otherwise it cannot operate without a RCRA permit. This means that the facility must meet all of the requirements of §270.70, §270.10 and §270.72. Where a State has an interim status analogue for final authorization the State provisions for changes to existing facilities must be no less stringent than §270.72.

- 3) Headquarters expects the Regions to quality control all changes made to the HWDMS RCRA facility data base by authorized States to ensure that the information is correct. This includes assuring that State deletions of Part A data are supported by on-site inspections of the facility (which should be verified by the regions).

AUG 2 - 1983

MEMORANDUM:

SUBJECT: Changes During Interim Status in
Phase II Authorized States

FROM: John W. Skinner
Director, Office of Solid Waste (WH-562)

TO: Merrill Hobron
Director, Air and Hazardous Materials Division
Region I

In your June 13 memo to me, several issues were raised concerning interim status changes in authorized States and the Region's role in quality control of changes to the RCRA facility data base. Our response to these issues is outlined below.

- Do Phase II interim authorized States make determinations on interim status changes and termination of interim status in lieu of EPA?

Yes, once a State has Phase II or final authorization, the State may make determinations relating to changes and termination of interim status. EPA may not make such determinations for facilities covered by components for which the State is authorized. Additional guidance on this issue can be found in the attached copies of PIC 81-10 and John Skinner's July 20, 1981 memorandum to Region IX.

- Do Phase II interim authorized States have to agree to utilize procedures substantially equivalent to EPA's procedures with respect to changes during interim status or termination of interim status? Must these procedures be in regulation in order for the State to qualify for Final Authorization?

State programs are not required to have an analogue to Federal interim status in order to qualify for interim or final authorization. A State may instead require existing facilities to comply with such standards through permit terms and conditions. If a State does allow continued facility operation through an interim status analogue, the State's requirements and procedures must be substantially equivalent to the Federal regulations for Phase II interim authorization.

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For final authorization they must be at least as stringent as the Federal requirements. These procedures need not be in regulation for interim authorization, but for final authorization they must be of a regulatory nature.

The RCRA regulations allow States to provide for continued facility operation without a RCRA permit only if the facility would qualify for Federal interim status. (See §§271.13(a) and 271.129(b)(2).) In order to qualify for Federal interim status, facilities must meet the requirements of §270.70 which requires compliance with §270.10 regarding general permit application requirements, including grounds for termination of interim status (§270.10(e)(5)). Section 270.10(g)(1)(iii) incorporates §270.72 or the authorized State's analogue to §270.72, obligating facilities to conform to specific provisions regarding changes during interim status.

For a State with an interim status analogue, the Model Attorney General's Statement on page 2.3-8 of the Final Authorization Guidance Manual requires the following certification: "State Law and regulations assure that any facility qualifying for State interim status continues to qualify for Federal interim status." As provided in §§271.13(a) and 271.129(b)(2), this certification ensures that facility changes allowed by the State will conform with §§270.71 and 270.72; otherwise, the facility would not continue to qualify for Federal interim status. Likewise, States should terminate interim status when a facility meets conditions under §270.73. Checklist V of the Final Authorization Guidance Manual provides for citations to State interim status analogues (page A-70).

The Headquarters' comment on Maine's Phase II application is consistent with the Final Authorization Guidance Manual and the above discussion. Since Maine has an interim status analogue, for final authorization the State provisions for changes to existing facilities must be no less stringent than §270.72.

- Does EPA Washington expect the regions to quality control the additions, deletions, or changes made to the RCRA facility Data Base (Ver. IV) by authorized States?

Yes, in order for HWHS users to have full confidence in the data, systems must be in place to ensure that the information is correct. The Regional Offices should monitor the quality of additions, deletions, or changes to the data base made by authorized States. Regional quality control can be accomplished through the following activities. The Regions should assure that State deletions of Part A data are supported by on-site inspections of the facility. The reports of these inspections should be verified by the Regions during the quarterly file audits or mid-year reviews. If the

inspection data is of questionable value, joint inspections should be conducted. Routine additions or changes to Part A information by the State should also be verified through random file audits during the Region's scheduled reviews of the State.

Thank you for relaying your concerns on these important issues. If you have any further questions, please contact Bruce Weddle at 382-4746.

Attachment

cc: Division Directors, Regions II-X
Par Hill