

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

AUGUST 11, 1993

Honorable John D. Dingell  
Chairman, Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, D.C. 20515-6115

Dear Mr. Chairman:

Thank you for your letter of June 15, 1993 concerning the Environmental Protection Agency's (EPA's) combustion strategy. You stated in your letter that you had a number of questions concerning the impact of the strategy on pending permit applications, Superfund remedies, and the authority available to EPA to impose waste minimization requirements. The enclosed response addresses each of your specific questions in turn.

I hope that this information is helpful. Please let me know if I can be of further assistance to you.

Sincerely,

Carol M. Browner

Enclosure

## RESPONSE TO QUESTIONS

### **Question 1.**

For commercial incinerators, industrial furnaces and cement kilns, please identify (by name and location) each facility with a pending permit application. For each facility where the EPA is the lead permitting agency for any part of the permit, specify how the new strategy will affect the timing of a final agency decision on each permit application.

**Answer:** There are currently 44 commercial incinerators, industrial furnaces, and cement kilns that have submitted a Resource Conservation and Recovery Act (RCRA) Part B permit application to burn hazardous waste but do not yet have a final effective permit. These facilities are identified in Attachment A. Most of these facilities are already operating under interim status while their permit application is processed. Therefore, the strategy does not affect the ability of these units to continue to burn hazardous wastes. For those few units that do not have interim status, the strategy will likely impact the timing for issuing a final permit. EPA's Regional Offices are now in the process of evaluating each facility (particularly those that do not have interim status) to determine how the Agency's new hazardous waste reduction and combustion strategy will affect the timing of a final agency permit decision. I will provide this site-specific information to you as soon as the Regional analysis is complete; I expect this analysis to be completed in about four weeks.

### **Question 2.**

Will the EPA continue to commit resources to finalize permit applications for new combustion capacity which are within weeks or months of having a final permit issued? If not, please identify the facilities with pending permit applications for new combustion capacity which will be delayed due to implementation of the new strategy.

**Answer:** The Agency's hazardous waste reduction and combustion strategy calls for facilities which currently have interim status to receive the highest priority in terms of processing permits in order to bring them under more comprehensive environmental controls. Therefore, permit applications for new capacity will generally receive lower EPA priority during the next 18 months. I expect a reduced resource commitment to such facilities.

In cases where the Agency is already close to a final permit decision, our main concern is that the permit be fully protective of human health and the environment. The Agency believes that generally, future permits should not be issued unless the risks from indirect exposures are assessed and adequate limits for dioxin, metals, and particulates have been established. In some cases, permit delays may be experienced as these issues are addressed in the permit process. However, each facility is subject to unique circumstances that must be considered by EPA and the State permitting agency. As discussed in the answer to your first question, the precise impact on the permitting of new capacity is not known at this time since our Regional Offices are currently evaluating each facility. Attachment B identifies the seven facilities with pending RCRA permit applications for new combustion capacity.

### Question 3.

In at least one Superfund response action, construction of an off-site incinerator is part of the selected remedy. Will the new strategy affect the processing of any incinerator permit application which is necessary to implement an existing or future record of decision? Please explain.

**Answer:** The combustion strategy is the result of EPA's decision to take a fresh look at how to achieve a fully integrated waste management program in which source reduction is given its proper emphasis. Since source reduction is generally not a viable option at Superfund or other remediation sites, the strategy does not apply, and is not intended to impact the timing or selection of combustion units that are constructed solely to address remediation wastes -- that is, these combustion units will be constructed according to their existing schedules. At the same time, facilities constructed for commercial purposes that plan to accept wastes other than those associated with designated Superfund sites are subject to the provisions of the strategy and may be affected by the strategy. Since most remediation wastes are managed at existing off-site combustion units or at combustion units dedicated to remediation wastes, we would not expect the strategy to have a major impact on remediation wastes. However, it is not possible for us to project which Superfund projects may be impacted by new permit requirements. We are currently looking at the extent to which the strategy may affect individual Superfund sites. If there are specific Superfund projects on which you have particular questions, please have your staff contact Henry Longest, the Director of The Office of Emergency and Remedial Response at (202) 260-2180.

### Question 4.

The strategy requires full risk assessments, including those for indirect exposure, in all new permits. Has risk assessment guidance been issued to each of the Regions? If so, please provide a copy. Has the guidance undergone peer review or been subjected to notice and comment? Please describe the procedures that were followed in formulating the risk assessment guidance.

**Answer:** The Agency released a report in 1990 entitled "Methodology for Assessing Health Risks Associated with Indirect Exposure to Combustor Emissions," (1990 Report) which provides guidance for risk assessors to estimate the health risks that result from exposure to toxic pollutants in combustor emissions by pathways other than direct inhalation. The 1990 Report, which was distributed to all Regions, reflects the outcome of an extensive internal and external review process. In particular, the 1990 report incorporates comments received from a review of the methodology by the Agency's Science Advisory Board. The 1990 Report, along with the Agency's 1992 "Guidance on Risk Characterization for Risk Managers and Risk Assessors" and the 1993 "Guideline on Air Quality Models (Revised)," including Supplements A and B, constitute the current risk assessment guidance for combustion facilities. The 1993 "Guideline on Air Quality Models (Revised)" will be published as Appendix W to 40 CFR Part 51 and, as such, has been subject to full notice and comment.

At the same time, an Agency work group is reviewing the 1990 Report and is developing an addendum to update the guidance. This addendum is expected to be made available (in draft) to the Regions for

use this August. In the interim, we have established a process to provide immediate technical assistance to the Regions and States confronted with very tight deadlines for conducting the risk assessments, including indirect exposures. We also will share with the Regions and States the types of information that they will need to collect and consider in the risk assessments. It is expected that the 1990 Report, as revised by the addendum, will undergo an external peer review. We are currently developing an appropriate and timely peer review plan to ensure we are providing the best available technical information for conducting risk assessments at combustion facilities. We have enclosed a copy of the 1990 Report for your information.

#### **Question 5.**

Section 3005(h) of the Solid Waste Disposal Act requires as a condition of any permit issued for the treatment, storage or disposal of hazardous waste on the premises where the waste was generated that the generator has a waste minimization program in place. Such certification is required annually. It is my understanding that EPA in the past has not looked behind the generator's certification to the substance of the generator's program. I also note that EPA has issued interim final guidance to hazardous waste generators on the elements of a waste minimization program.

Does the EPA believe that it has statutory authority pursuant to Section 3002(b) or 3005(h) to enforce a permit condition or other directive requiring generators to provide information about how they minimize wastes, to provide the results of such waste minimization efforts, or to engage in facility planning? Please provide any legal analyses that describe the reach of the Agency's authority pursuant to Sections 3002(b) or 3005(h).

**Answer:** As you note, Sections 3002(b) and 3005(h) of RCRA require generators of hazardous waste to certify that they have a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable. EPA's regulations codifying the certification requirement closely track the statutory language. See 40 C.F.R. §§ 262.20(a) (and Part 262 Appendix) and § 264.73 (b) (9). To assist the regulated community in complying with the certification requirement, EPA recently issued interim final guidance identifying appropriate elements of a "program in place," a copy of which is enclosed. The term "program in place" is not defined by RCRA or in EPA's regulations.

To date, EPA has been concerned primarily with compliance with the certification signatory requirement. As to the activities referenced in your letter, EPA has primarily sought such information through the generator reporting requirements of Section 3002(a)(6)(C)-(D) of RCRA, and as part of settlement agreements pursuant to EPA's Interim Policy on the Inclusion of Pollution Prevention and Recycling Provisions in Enforcement Settlements issued on February 25, 1991.

EPA now is exploring the extent to which Sections 3002(b) and 3005(h) of RCRA, along with other provisions of RCRA, authorize the Agency to impose additional waste minimization requirements, including those referenced in your letter. These provisions do not expressly authorize the Agency to impose such requirements, but EPA is considering the extent to which RCRA implicitly authorizes such

requirements because they would implement Sections 3002(b) and 3005(h), and would be consistent with the statutory imperative of promulgating regulations necessary to protect human health and the environment stated in Sections 3002(a), 3004(a), and 3005(c) of RCRA, and the national policy of reducing the generation of waste stated in Section 1003(b) of RCRA. In addition, those provisions impose no limits on EPA's ability to recommend voluntary means through which waste minimization may be achieved.

## Attachment A

### Commercial Hazardous Waste Combustion Facilities with Pending Permit Applications (As of July 1, 1993)

#### INCINERATORS

1. General Electric, Pittsfield, MA\*
2. Dupont Deepwater, Deepwater, NJ
3. LWD, Inc., Calvert City, KY
4. Federated Tech Inc., Brooksville, MS
5. Florida First, Polk County, FL
6. Giant Cement, Harleyville, SC
7. ThermalKEM, Woodland, NC
8. ThermalKEM, Rock Hill, SC
9. Laidlaw, Roebuck, SC
10. Waste Tech., Madison, FL
11. Chem Waste Management (CWM) Chemical Services, Chicago, IL
12. American Envirotech, Channelview, TX
13. Ohio Technology, Cleveland, OH
14. Reynolds Aluminum, Gum Springs, AR\*\*
15. Marine Shale, Morgan City, LA
16. Aptus, Coffeyville, KS
17. CWM Kettleman, Kettleman City, CA
18. La Posta Recycling Center, La Posta, CA
19. Grant County Waste Mgmt., Beverly, WA

\* Waste feed is limited to PCB liquids that are also hazardous wastes.

\*\* Waste feed is limited to spent potliners from primary aluminum reduction.

#### BOILERS AND INDUSTRIAL FURNACES (BIFs)

1. Carolina Solite, Norwood, NC
2. Diversified, Kinston, TN
3. Dixie Cement, Knoxville, TN
4. Florida Solite, Green Cove, FL
5. Giant Cement, Harleyville, SC
6. Holnam, Holly Hill, SC
7. Kentucky Solite, Brooks, KY
8. Kosmos Cement, Kosmosdale, KY

9. Medusa, Demopolis, AL
10. Medusa, Clinchfield, GA
11. Lone Star Industries, Green Castle, IN
12. Laforge, Alpena<sub>1</sub> MI
13. Laforge, Paulding, OH
14. Ash Grove Cement, Foreman, AR
15. Holnan, Ada, OK
16. Dupont, Victoria, TX
17. North Texas Cement, Midlothian, TX
18. Olin, Beaumont, TX
19. Texas Industries, Midlothian, TX
20. Ash Grove Cement Co., Chanute, KS
21. Heartland Cement, Independence, KS
22. Holnam/Safety Kleen, Clarksville, MO
23. Continental Cement Co., Hannibal, MO
24. Ash Grove Cement West, Clancy, MT
25. National Cement Co., Lebec, CA

Note: Giant Cement in Harleyville, SC has been listed twice as an incinerator and as a BIF unit.

**Attachment B**

**Hazardous Waste Combustion Facilities  
with Pending Permit Applications for New Capacity  
(As of July 1, 1993)**

**INCINERATORS**

Dupont Deepwater, Deepwater, NJ

Florida First, Polk County, FL

ThermalKEM, Rock Hill, SC

**BOILERS AND INDUSTRIAL FURNACES (BIFs)**

Medusa, Clinchfield, GA

Koppers Co., Grenada, MS

PPG Industries, Lake Charles, LA

Ash Grove Cement West, Clancy, MT

## ENVIRONMENTAL FACT SHEET

### **Hazardous Waste Minimization: Interim Final Guidance for Generators**

*The concept of waste minimization enjoys widespread support and achieves one of the Environmental Protection Agency's (EPA's) primary goals of preventing or minimizing the generation of hazardous waste. To this end, the Agency is developing guidance to help hazardous waste management organizations and facilities design satisfactory programs that fulfill the provisions of the Resource Conservation and Recovery Act (RCRA), and that meet their specific waste management and economic needs.*

### **Background**

RCRA sets national policy that emphasizes the importance of reducing or preventing the generation of hazardous waste. It also contains provisions to promote implementation of waste minimization programs at hazardous waste management facilities. Under those provisions, hazardous waste generators must certify that they have a waste minimization program in-place to reduce the volume or quantity and toxicity of their waste to the degree they determine to be economically practicable. Owners and operators of facilities that receive a permit for the treatment, storage, or disposal of hazardous waste that they generate on the premises also are required to make the same certification at least once a year.

### **Action**

EPA is issuing interim final guidance that describes the basic elements of a hazardous waste minimization program and defines the term *waste minimization*. The term waste minimization includes source reduction or preventing waste from being generated in the first place (using the legal definition of source reduction that is found in the Pollution Prevention Act) and certain forms of recycling. (Those forms of recycling that closely resemble conventional waste management practices are not included in the definition.)

By describing the basic elements of a hazardous waste minimization program, hazardous waste generators may be able to properly certify programs that are more suited to their individual needs. EPA believes that a "program-in-place" includes:

- top management support;
- characterization of waste generation and waste management costs;
- periodic waste minimization assessments;
- appropriate cost allocation;
- encouragement of technology transfer; and
- program implementation and evaluation.



The public is encouraged to submit comments on this interim final guidance. The Agency is committed to establishing a strong partnership with the states to develop a network of pollution prevention programs. While this interim guidance is designed to encourage generators of hazardous waste to reduce the amount and toxicity of their waste, the states play a key role in assisting all industries in implementing pollution prevention measures.

## **Contact**

For additional information or to order a copy of the *Federal Register* notice, contact the RCRA Hotline, Monday-Friday, 8:30 a.m. to 7:30 p.m. EST. The national, toll-free number is (800) 424-9346; TDD (800) 553-7672 (hearing impaired); in Washington, D.C., the number is (703)412-9810, TDD (703) 412-3323.

Copies of the *Federal Register* notice or other documents pertaining to hazardous waste minimization may be obtained by writing: RCRA Information Center (RIC), U.S. Environmental Protection Agency, Office of Solid Waste (OS-305), 401 M Street SW, Washington, D.C. 20460.