

MEMORANDUM

SUBJECT: Implementation of the RCRA Expanded Public Participation Rule

FROM: Elliott Laws, Assistant Administrator

TO: Regional Administrators
Regions I - X

The Agency will soon take a major step forward in its effort to promote public involvement and environmental justice by promulgating the “RCRA Expanded Public Participation Rule.”

The final rule will improve the RCRA permitting process by: (1) providing earlier opportunities for public involvement in the process and (2) expanding public access to information throughout the permitting process and the operational lives of facilities. The rule's requirements include: a facility-led pre-application meeting; agency notice at application submittal; agency notice of impending trial burns; and a provision for information repositories.

Immediate Implementation

While the effective date of the rule will not arrive until six months after promulgation, I am recommending that all EPA Regions start meeting the goals of the final rule as soon as possible. The Regions, in turn, should encourage the States and individual RCRA facilities to meet these goals even as States are pursuing authorization for components (e.g., this rule, BIF permitting, and corrective action) of the RCRA program.

Early implementation of the final rule will allow the public to benefit immediately from the rule's new and important procedures. This early implementation will be useful for the entire program and help the Agency fulfill its commitment to meaningful public involvement in RCRA permitting.

I would like to express my appreciation to the Regions for working to achieve these goals since the Agency proposed the rule in June 1994. We are encouraged by the positive reception these new standards have received, and look forward to full implementation.

Guidance on Equitable and Flexible Public Participation

The development of the final rule involved a balance between broader, more equitable public participation and flexibility for individual permit writers, facilities, and communities to adopt the most appropriate, site-specific approaches. Some of the principles underlying the final rule would have been difficult to prescribe through regulation. We decided that, instead of trying to achieve these goals through regulatory language, the public interest would be served best by encouraging permitting agencies and permit applicants to adopt these principles through guidance.

Consistent with this approach, you should abide by the following principles in your permitting efforts:

- Using all reasonable means to ensure that all segments of the population have an equal opportunity to participate in the permitting process and have equal access to information in the process. These means may include, but are not limited to, multilingual notices and fact sheets, as well as translators, in areas where the affected community contains significant numbers of people who do not speak English as a first language;
- Addressing environmental justice concerns, in part, by expanding access to information (particularly in a multilingual format) and opportunities for public input (through tools such as information repositories); and
- Going beyond the regulatory requirements, where appropriate, to provide for a level of public involvement that is commensurate with public interest in the permitting issue.

I also encourage State permitting agencies and permit applicants to adopt these principles in their dealings with the RCRA program. These policies will improve the RCRA permitting program and promote the Agency's commitments in the area of equitable public participation.

We are providing further guidance for implementing the final rule and this policy directive in our update of the 1993 RCRA Public Involvement Manual (EPA530-R-93-006, September 1993). We anticipate issuing the new guidance document in Spring 1996. The revised manual will provide guidance to regulated facilities and affected communities, as well as permitting agencies.

If you need any additional information about the rule, the policies in this memorandum, or the upcoming guidance manual please contact Patricia Buzzell of my staff at (703) 308-8632.

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