

PPC 9521.1984(02)

PUBLIC HEARING AFTER ISSUANCE OF DRAFT PERMIT - STATES

MAY 7 1984

Dr. Robert Bernstein, Commissioner  
Texas Department of Health  
1100 West 49th Street  
Austin, Texas 78756

Dear Dr. Bernstein:

Thank you for your letter of April 4 expressing your concern about EPA's requirement that authorized States hold a public hearing after issuance of the draft hazardous waste permit. I understand that the Texas Department of Health is committed to an effective public participation program in permit issuance, and I appreciate your concern about the regulatory agency appearing to have made up its mind at the time of the permit hearing.

Section 7004(b) of RCRA requires EPA and authorized States to publish notice of the Agency's intention to issue a permit and to hold a hearing if written notice of opposition is received. EPA and authorized States are thus required by RCRA to publicly notice their intention to issue a permit prior to holding a hearing. The statute requires this approach in order to allow the public opportunity to review and provide comments on the specific conditions which the Agency intends to apply in the draft permit.

Nothing in RCRA or the EPA regulations precludes a State from holding a public hearing or meeting prior to issuance of the draft permit, as long as an additional opportunity for a hearing is provided following issuance of the draft permit. We do, in fact, recognize the value and importance of early public involvement in the permit process. In our draft National Permits Strategy we include Regional Office preparation of facility-specific public participation plans and suggest that a public meeting be held prior to issuance of the draft permit, in addition to the hearing which is subsequently held.

I wish to commend the State of Texas for its commitment to develop a sound hazardous waste management program. Texas has been in the forefront in pursuit of interim and final authorization. Please let me know if I may be of further assistance.

Sincerely yours,

Original Document signed  
"Jack W. McGraw for"

Lee M. Thomas  
Assistant Administrator

cc: Dick Whittington, P.E., Region VI  
Charles E. Nemir, Texas Department of Water Resources