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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

AUGUST 86

7. RCRA Compliance Orders

Is a RCRA compliance order issued to the owner of a facility or its operator? Who is responsible for complying with the order?

EPA has always held that both the owner and the operator are equally responsible for compliance with the permit issued to a facility. Section 3005(a) of RCRA requires "each person owning or operating" a treatment, storage, or disposal facility to obtain a permit. The permit regulations require both owner and operator to sign the permit application according to 40 CFR 270.10(b). The permit will be issued to both the owner and operator.

Preamble discussions in the May 19, 1980 Federal Register confirm this concept of dual responsibility at 45 FR 33169 and 45 FR 33295. Both discussions specifically reference situations where the operator may be different from the landowner or facility owner. EPA considers both the owner (or owners) and operator of a facility to be responsible for regulatory compliance. For this reason, EPA may initiate an enforcement action against either the owner, the operator, or both. Normally, the compliance order is issued to the person responsible for the daily operations at the facility because this person is most likely to be in the position to correct the problems. If the operator is unable or unwilling to rectify the problems then EPA may issue a separate compliance order to the owner.

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