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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

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4. Does the authority granted under RCRA section 3008(h) extend to facilities that have lost interim status (RCRA §3005(e))?

EPA has interpreted section 3008(h) to apply to the following: 1) facilities that have applied for and are now operating under interim status; 2) facilities that treat, store, or dispose of hazardous waste but have not obtained interim status because they did not fully comply with section 3010 notification requirements or submit a timely Part A; and 3) units or facilities at which active operations have ceased and interim status has been terminated pursuant to 40 CFR 124 or Sections 3005(c) and 3005(e)(2) of RCRA. Section 3008(h) specifically provides that the interim status corrective action orders may include a suspension or revocation of the authority to operate under interim status, as well as any other response necessary to protect human health or the environment. Accordingly, Section 3008(h) can be used to compel responses to releases at facilities that lost interim status prior to a section 3008(h) action. EPA believes this approach to be consistent with Congressional intent to assure that significant environmental problems are addressed at facilities that treat, store, or dispose of hazardous wastes but do not have a final RCRA operating or post-closure permit. H. Rep. No. 1133, 98th Congress, 2d. Sess. 110-112 (1984). (from "Interpretation of Section 3008(h) of the Solid Waste Disposal Act", J. Winston Porter, December 16th, 1985.)

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