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VOLUNTARY CORRECTIVE ACTION

DEC 21 1987

MEMORANDUM

SUBJECT: Options for Voluntary Corrective Action

FROM: Marcia Williams
Director
Office of Solid Waste

TO: Directors
Waste Management Division, Regions I-X

Many unpermitted hazardous waste generators and other industrial property owners are likely to have solid waste management units on their property that require some degree of corrective action. In a number of cases, the facility owners may wish to proceed with corrective action, either to reduce their liability or to forestall subsequent EPA or State action. Under current RCRA regulations, however, certain activities conducted during voluntary correction action will require a permit if the wastes are hazardous waste (i.e., they are known to include listed hazardous wastes or they are determined to be hazardous under 40 CFR 261 Subpart C). This could include relatively straight forward activities, such as dewatering wastes or treating groundwater, as well as more complicated treatment technologies such as incineration.

We are concerned that the time needed to obtain a permit may in some cases substantially delay desirable cleanup and provide a significant disincentive to generators and other facility owners considering voluntary corrective action. I am interested in identifying approaches that would allow certain relatively low concern treatment activities to be conducted during corrective action without a full RCRA permit. We have identified several possible approaches that might be used to allow voluntary corrective action at unpermitted sites. These approaches are outlined in the attachment.

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Options 1-3 are possible now, without any regulatory or statutory changes. With regard to these options, I am specifically interested in the potential benefits and obstacles you see to each of the approaches. Are generators or others likely to avail themselves of these? Have you used any of these approaches with parties seeking to do voluntary corrective action?

Option 4 would require a rule change. In our preliminary discussions with the Office of General Counsel, they have indicated that they see potential legal problems to this approach. Nevertheless, I believe that it may be worth further investigating this option to see if a legally defensible approach can be developed. With regard to this option, I'm specifically interested in your thoughts on the types of treatment activities that may be appropriate for conditional exemptions from permitting.

I see this issue of voluntary corrective action as being very important to our program. I appreciate you taking the time to consider this issue and I look forward to your reactions.

Attachment