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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

OCTOBER 86

7. Corrective Action for New Facilities

Is an owner/operator seeking a pre-construction permit for a new RCRA treatment, storage, or disposal facility subject to corrective action under Section 3004(u) of RCRA?

Yes, Section 3004(u) states that corrective action is required "for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit..." under Subtitle C of RCRA, "... regardless of the time at which waste was placed in such unit..." Therefore, any solid waste management unit located on a site which is involved in a permit application is subject to corrective action (§264.101) even if there has never been any previous authorization for hazardous waste activity at the site. Examples of units which could be included in corrective action under these circumstances are sanitary landfills, dumps, and units in which waste which is normally exempt from RCRA regulation have been stored or disposed. Releases of hazardous waste would include releases of listed (§261.31-33) or characteristic hazardous wastes. Releases of hazardous constituents from both hazardous and solid wastes are also covered. This would include any of the hazardous constituents listed in 40 CFR Part 261, Appendix VIII.

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