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SOLID WASTE MANAGEMENT UNIT DEFINED FOR CORRECTIVE ACTION
UNDER 3004(u)

July 24, 1987

MEMORANDUM

SUBJECT: Definition of Solid Waste Management Unit for the
Purpose of Corrective Action Under Section
3004(u)

FROM: Marcia E. Williams, Director
Office of Solid Waste

TO: Hazardous Waste Division Directors, Region I-X

The purpose of this memorandum is to provide clarification regarding one aspect of the definition of solid waste management unit as related to RCRA corrective action under Section 3004(u). The concept of a solid waste management unit has been explained in various guidances since the passage of the 1984 Hazardous and Solid Waste Amendments (HSWA).

As explained in the July 15, 1985 HSWA Codification Rule, a solid waste management unit is "...any unit at a facility from which hazardous constituents might migrate, irrespective of whether the units were intended for the management of solid and/or hazardous wastes." This definition was intended to include those types of units which have traditionally been subject to regulatory controls under RCRA: container storage areas, tanks, surface impoundments, waste piles, land treatment units, landfills, incinerators, underground injection wells and other physical, chemical and biological treatment units.

A memorandum from John Skinner to the Hazardous Waste Division Directors (June 14, 1986) further interpreted the term solid waste management unit to include areas at facilities which have become contaminated by routine, systematic and deliberate releases of hazardous waste or hazardous constituents. An example of this type of "solid waste management unit" is a wood preservative "kickback" area, where drippage of preservative fluids onto soils from pressure-treated wood is allowed to occur over time. This interpretation was reiterated in the final RCRA Facility Assessment Guidance and the

National HSWA Corrective Action Strategy of October 14, 1986.

Recently, however, several Regions have inquired whether the term "deliberate" meant that the owner/operator had actually intended to create the release of hazardous wastes or hazardous constituents. We wish to clarify that the term "deliberate" in this context was not meant to require a showing that the owner/operator knowingly caused a release of hazardous wastes or hazardous constituents. Rather, the term "deliberate" was included to indicate the Agency's intention not to exercise its Section 3004(u) authority to proceed against one-time, accidental spills which cannot be linked to a discernible solid waste management unit. An example of this type of release would be an accidental spill from a truck at a RCRA facility. Routine and systematic releases constitute, in effect, management of wastes; the area at which this activity has taken place can thus reasonably be considered a solid waste management unit. Therefore, in implementing corrective action under Section 3004(u), Regions and States should consider areas which have become contaminated through routine and systematic releases of hazardous wastes or hazardous constituents to be solid waste management units. It is not necessary to establish that such releases were deliberate in nature.

This concept, and other issues relating to the definition of solid waste management unit, will be addressed in the proposed rulemaking being developed for corrective action under Section 3004(u).

If you have any questions regarding this interpretation of solid waste management unit, please contact David Fagan at FTS 382-4497.

cc: Regional RCRA Branch Chiefs
Regional RCRA Permit Section Chiefs
Gene Lucero
Bruce Weddle
Joe Carra
Mark Greenwood