PPC 9502.1986(14)

CORRECTIVE ACTION REQUIREMENTS FOR FEDERAL FACILITIES AND IRP ACTIVITIES

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

AUG 22 1986

Mr. Carl Schafer, Jr.
Deputy Assistant Secretary
of Defense, (Environment)
Department of Defense
The Pentagon, Room 3D833
Washington, D.C. 20301

Dear Mr. Schafer:

I would like to bring to your attention an issue that may frustrate our mutual efforts to clean up hazardous waste contamination. On November 8, 1985, the Cannon Air Force Base submitted a Part B permit application to Region VI. The application addressed one surface impoundment, one container storage area, one landfill, and one open-burning treatment area. The Part B application contained no information on the 41 sites addressed by the CAFB Installation Restoration Program. On April 30, 1986, Region VI requested information on the solid waste management units that were not identified in the Part B application. CAFB responded to EPA's request with the following language:

> We have omitted these sites and units with the understanding that the Environmental Protection Agency agreed at the Washington level that the IRP will continue to function as a DOD program that is not regulated under RCRA and the 1984 Amendments. We understood this agreement was based on recognition that clean up of DOD sites should be based on national priorities rather than regional or local ones. If the IRP is subject to regulation by the EPA regions, national priorities will be lost. We have not been notified by Air Force authorities of any change in this understanding. Therefore, we did not include i n our Part B application any site or unit addressed in the IRP.

CAFB states that RCRA and the 1984 Amendments do not apply to DOD's IRP. We are concerned that CAFB's position represents the official position of the Air Force. For example, Offutt AFB required to sign a schedule of compliance under Section 3004(u) of RCRA until EPA issues a final rule on national priorities for corrective action.

It appears that the Air force has misinterpreted our rulemaking efforts on corrective action at Federal facilities. It is EPA's position that Section 3004(u) applies to Federal facilities. Furthermore, we shall continue to call for permit applications and to issue RCRA permits to Federal facilities. Our permitting program is not delayed or postponed pending our rulemaking on priorities for corrective action at Federal facilities. We reiterated our position on this issue in a March 5, 1986, Notice published in the Federal Register, which clearly stated that, "In the interim (while working to resolve national priority and principal owner issues), EPA and the states will proceed to review and issue RCRA permits, and EPA will implement 3004(u) requirements at federal facilities."

Because our permitting program cannot wait for a final rule on national priorities, we encourage you to begin setting priorities for corrective action under Section 3004(u) of RCRA. Your priorities can be used as a factor during permit negotiations, and schedules of compliance under Section 3004(u) can reflect the relative priority of your facilities.

If the Air Force has misinterpreted our position on Section 3004(u), I would appreciate your clarifying to them their obligations under RCRA. I am confident that our offices can avoid misunderstandings during future permit negotiations if we maintain a common understanding of RCRA. Please let me know the outcome of any discussions on this matter you say have with the Air Force.

Sincerely yours,

Original Document signed
"Jack W. McGraw for"

J. Winston Porter
Assistant Administrator

cc: Warren Hull
Michael Heeb
Jim Cruickshank

bcc: Hazardous Waste Division Directors & Branch Chiefs,
Regions I-X