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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

JUNE 86

4. Corrective Action in Permits

Section 3004(u) of RCRA requires owners and operators (o/o) of disposal facilities seeking a permit to conduct corrective action for all releases of hazardous waste or constituents from any solid waste management unit (SWMU) at the facility. Are there any situations in which an interim status facility could avoid corrective action requirements under §3004(u)?

Any facility that is not required to obtain a permit under Section 3005(c) of RCRA will not have to meet Section 3004(u). Interim status units that continue operating will generally have to obtain permits.

- However, a permit would not be required for an interim status facility where all units containing hazardous wastes are tanks or containers, if it continued to operate after converting to generator status and met the accumulation standards in 40 CFR 262.34.

Permits will also be required for some facilities that close under interim status. Under 40 CFR 270.1(c), some surface impoundments, waste piles, land treatment units, and landfills ("land disposal units") must obtain post-closure permits.

- No permit would be required for a closing interim status facility that has no land disposal units. Units such as tanks, containers and incinerators do not require post-closure permits.
- The current version of 40 CFR 270.1(c) requires post-closure permits for all facilities with land disposal units that close after January 26, 1983. To implement new Section 3005(i) of RCRA, EPA recently proposed to change this requirement to require post-closure permits for all land disposal units that received waste after July 26, 1982 (see 51 FR 10706). EPA is considering a further revision to require post-closure permits for facilities with land disposal units that received waste

after July 26, 1982 or closed after January 26, 1983. Facilities that would not be required to have post-closure permits under these criteria will not be subject to Section 3004(u).

Although Section 3004(u) would not apply to closing units that fall in these three categories, EPA could use authorities under the closure regulations and Section 3007 of RCRA to investigate the facility for releases from the closing hazardous waste units. This investigation could also extend to other potential sources of contamination at the facility, especially if information about additional sources were needed to determine whether the closing hazardous waste units were the sources of any contamination found. This investigation could be very similar to the RCRA Facility Assessment (RFA) required under Section 3004(u) for permitted units. If EPA found a release of hazardous waste, or hazardous constituents from hazardous or solid waste, it could order corrective action under the interim status corrective action order authority in Section 3008(h). Section 3008(h) orders may be issued both before and after closure.

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