PPC 9431.1991(03)

RCRA CORRECTIVE ACTION PROGRAM

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAY 17 1991

Honorable John D. Dingell
Chairman
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of February 12, 1991, requesting information about the progress of the Resource Conservation and Recovery Act's (RCRA's) corrective action program, and the Environmental Protection Agency's (EPA's) current approach and future plans for managing this program. I appreciate the opportunity to respond to these important issues.

To provide the facility-specific information you have requested, we have initiated a considerable effort within our headquarters and regional offices. A substantial amount of data will also need to be obtained from state agencies. Due to the volume of this information and our desire to respond as completely and as accurately as possible to your questions, we were not able to fully respond to your latter by the March 29 date that you requested. As my staff indicated in a recent telephone conversation with Deborah Jacobson, the Subcommittee Counsel, we are in the process of collecting this information. We will be able to give you a complete and detailed response in June.

I would like to take this opportunity nevertheless, to address a number of issues that you raised in your letter. These include EPA's long-term action plan and budgetary strategy for implementing corrective actions at RCRA facilities, EPA's plans for seekinq statutory changes to RCRA in the area of corrective action, EPA's timetable for publishing the final corrective action rule, and EPA's plans and budget for meeting the 1992 deadline for issuing permits to storage and treatment facilities.

Long-Term Plan for Corrective Action

Our recently published RCRA Implementation Study outlined a long-term strategy for managing the corrective action program. Over the past several months, we have been working to put the components of this strategy into place through the following initiatives.

Development of a Consistent National System for Setting Priorities

This now national system is already being implemented in several EPA regions. It uses standard decision criteria to evaluate specific environmental data, and generates high-medium-, and low-priority rankings for facilities. By October 1991, we expect to have completed setting priorities for all facilities that are currently in the "pipeline" (i.e., pursuing corrective action under enforcement actions or permits). All remaining facilities for which preliminary environmental assessments have been completed will be ranked by April 1992.

Acceleration of the Environmental Priorities Initiative

The EPI is an integrated RCRA-Superfund effort to identify and evaluate sites that present the greatest risks to human health and the environment. As noted in the RCRA Implementation Study, this program has experienced initial start-up problems. However, beginning in FY 1992, EPA will expand this effort to greatly increase the number of facilities assessed, and to broaden the scope of the assessments performed to generate additional data for purposes of ranking. At this time, we are developing detailed plans and schedules for each EPA region for implementing the EPI in FY 1992 and beyond.

Development of a Strategy for Stabilizing RCRA Facilities

We are currently developing a set of operating directives and technical guidance documents to focus interim measures at facilities to reduce existing exposures to contamination and to prevent the contamination from spreadinq. Although fully implementing this nev program direction will be a longer-term effort, we expect that it will enable the program to accelerate the overall pace of cleanups, by initiating remedial activities at a faster rate at a greater number of facilities. For FY 1992,

we expect to be identifying potential candidates for interim measures and to expedite the collection of the data needed to evaluate RFA facilities (those facilities at the RFA stage of the corrective action process) for stabilization measures.

Differential Oversight

In May 1991 we will be issuing guidance for use by the EPA regions and the states to tailor their oversight approaches for implementing corrective actions, as appropriate to site-specific factors.

Budget strategy for corrective Action

EPA's proposed FY 1992 budget for RCRA corrective action and the RCRA-Superfund EPI effort is as follows:

EPA Regions: 169 full-time employees (FTEs)
$22.3 million (extramural funds)

EPA Headquarters: 28.5 FTEs
$3 million

State Grants: $14.2 million

EPI: 16.6 FTEs
$18.3 million

There was a relatively small decrease in regional FTEs in FY 1992 from FY 1991 levels (about 17 FTEs). However, EPI resources in FY 1992 were increased over FY 1991 EPI resource levels by 4.9 FTEs and $5.8 million. When FY 1992 EPI resources are factored into the total Corrective Action Program resources for FY 1992, there is a net loss to the Corrective Action Program of 12.6 FTEs and a net gain of $5.4 million in extramural resources. In addition to the above resources, several corrective actions will take place under the Great Lakes Initiative as well.

These resource levels reflect the high level of importance that EPA attaches to the Corrective Action Proqram. At the same time, in managing the national hazardous waste program, we must strike an appropriate resource balance between RCRA's mandates for both cleanup and prevention. The FY 1992 RCRA Implementation Plan, which should be released shortly, will describe in more

detail how EPA intends to rank the environmental priority of all facilities in the RCRA universe and balance priorities between corrective action and other program activities. We expect, however, to reevaluate the resource needs for corrective action over the next two to three years, as we gather more definitive data on the number of facilities requiring cleanup, and the severity of their environmental problems. At that time, EPA will be better able to assess the effectiveness, and the resource implications, of the corrective action management strategy outlined above.

The results of the forthcoming Regulatory Impact Analysis (RIA) for the corrective action rule will also be useful in establishing the program's resource needs. The RIA will evaluate the costs and human health and environmental benefits associated with different regulatory options for implementing the corrective action program. Among many other things, it will specifically address how the timing of corrective action affects both the costs and the benefits of this program.

The RCRA corrective action program is clearly in a transition phase. In light of this, we agree that the "outyear scenarios" that we provided to the Subcommittee in 1989 are no longer accurate projections of our longer-term expectations for implementing the program. Although we are unsure at this early stage of implementation of precisely how adopting our strategy will change these outyear scenarios, we can see that it will alter the fundamental assumptions we used to develop those earlier projections. Once we have completed the prioritization effort and the other analyses now under way, we will provide you with our now assumptions and our updated multiyear projections.

Potential Statutory Changes

At this time, EPA is examining a number of potential changes to the statute, in the context of a possible reauthorization of RCRA in the coming months. Relating to corrective action, we are analyzing approaches to statutory and regulatory requirements for managing remediation wastes. We are also considering options for changing the existing procedural Subtitle C permit requirements as they apply to cleanup actions to accelerate and create more incentives for private party cleanup actions.

Timetable for Publishing the Rule
As outlined in the Federal Register preamble to the proposed "Subpart S" rule (published July 27, 1990), EPA has committed itself to conducting a revised RIA for this rule. Before finalizing the rule, we will publish the results of this major nev analysis for notice and comment. We will provide you with a detailed status report and description of this RIA effort in our follow-up response to your letter. In short, however, we expect to be able to publish the results of the new analysis no sooner than June 1992. The final rule should be published within one year thereafter, or by June 1993.

1992 Deadline for Issuing Permits

As of March 120 1991, pernittinq decisions were made at over 1,000 treatment and storage facilities. Of these determinations, more than 900 permits were issued, and 64 permits were denied. We have approximately 850 remaininq RCRA Part B applications to process for treatment and storage facilities, and just over 1,700 facilities are not pursuing RCRA permits (i.e., they did not file Part B applications and/or are on track to close).

As you know, the RCRA Implementation Study noted that the 1992 deadline for issuing permits to treatment and storage facilities constrains EPA's efforts to focus the program's resources on those facilities that pose the highest risks to human health and the environment. We believe strongly that it is EPA's responsibility to allocate the program's resources in such a way as to maximize the environmental benefits to be gained. Our draft FY 1992 RCRA program guidance establishes a priority-setting framework for the RCRA program, and we expect to be evaluating the environmental priority of all RCRA facilities beginning this year and ending in mid-FY 1992. Accordingly, we plan to continue making permit determinations at treatment and storage facilities to the extent that determinations at these remaining facilities are a high environmental priority.

Although we recognize the importance of substantial progress in issuing permits to storage and treatment facilities, it is our responsibility as managers of this program to balance that goal against the many other environmental priorities that place demands on the program's capabilities. We will rank corrective action needs at these facilities using the national priority

ranking system discussed earlier.

* * *

Thank you for giving us the opportunity to respond to these important issues. We look forward to sending you the remainder of the information that you have requested in June. In the meantime, please do not hesitate to contact me if you have any questions.

Sincerely yours,

Original Document signed

Don R. Clay
Assistant Administrator