

9502.1988(01)

CORRECTIVE ACTION RULE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

AUG 23 1988

MEMORANDUM

SUBJECT: OECM Comments on Corrective Action Rule

FROM: Sylvia K. Lowrance, Director
Office of Solid Waste

TO: Edward Reich
Deputy Associate Enforcement Counsel

Last week when we met to discuss your Office's non-concurrence issues on the RCRA corrective action rule we reached tentative agreement as to how those issues would be resolved. This memorandum summarizes my understanding of the agreements we reached.

Issue 1. CAMU. The idea of including discernible units within a CAMU will not be explicitly proposed in the rule, but will be discussed in the preamble. The preamble will also discuss optional approaches, as per the suggested preamble language in your August 9 memorandum.

Issue 2. Temporary Units. Temporary units will be limited to managing wastes that originate within the boundary of the facility, similar to the concept contained in the "Christmas Tree" rule (see attached excerpt from that rule). We will also develop additional preamble language explaining the legal rationale behind temporary units, emphasizing how notice and comment on such units is provided through the permit/order procedures. Additional clarifying language describing how the land disposal restrictions apply to land-based temporary units will also be developed.

Issue 3. Point of Departure. We will add rule language on 10 -6 as the point of departure in setting cleanup levels. The language is essentially the same as the language in the NCP (see

attached rule language).

Issue 4. Target Levels. The preamble discussion which explains the circumstances in which it will not be necessary to specify preliminary target levels will be expanded to include additional clarifying examples.

Issue 5. Aggregate Risk. As a result of a meeting between soon as possible to clarify this issue. It is our understanding that the approach outlined in the rule is consistent with how the media aggregate risk would be a factor in establishing cleanup levels and triggering corrective measure studies. This discussion will essentially reiterate the NCP language; i.e., that cross media analyses will be done when there are indications that site-specific exposure conditions warrant such analyses.

Issue 6. Protectiveness. As we discussed, the approach articulated in the rule for setting cleanup standards within the risk range, which allows flexibility to consider several factors in selecting the appropriate level, is a fundamental concept in both the RCRA and CERCLA programs. You indicated that this would not be a non-concurrence issue for OECM.

If you have any questions concerning the above, please let me know. I will be in touch with you later this week, to confirm that this summary of our meeting is accurate, and to discuss how to move the rule forward to OMB.

cc: B. Weddle (OSW)
M. Hale (OSW)
D. Fagan (OSW)
B. Grimm (OSWER)
S. Leifer (OECM)
J. Cannon (OECM)