

## Completion of Corrective Action Activities at RCRA Facilities

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### ***Purpose***

The purpose of this fact sheet is to address completion of corrective action activities at Resource Conservation and Recovery Act (RCRA) facilities. Though RCRA hazardous waste (HW) treatment, storage, and disposal facility (TSDF) permits typically specify the manner in which corrective action must proceed, they have not historically addressed the end point of the process - completion of corrective action activities. Neither is completion of the process specified within Federal regulations. The Environmental Protection Agency (EPA) recognized the need for guidance and made recommendations for administering completion of corrective action activities via an EPA memo dated February 13, 2003. This was subsequently made available via Federal Register on February 25, 2003, 68 FR 8757.

### ***Background***

Under RCRA, HW management facilities are required to be evaluated for releases of hazardous constituents to the environment. This is known as RCRA corrective action and applies to HW TSDFs. This includes not only fully permitted TSDFs, but also interim status facilities (facilities with permits pending) as well as facilities never intended to be permitted, but which have conducted activities subject to permitting. For example, enforcement action could be taken to compel corrective action if a large quantity generator accumulates HW in excess of 90 days such that the facility should have had a permit. Where a facility has a permit, corrective action requirements are stipulated within the permit. Where a facility is subject to corrective action, but does not have a permit, corrective action requirements are imposed through another mechanism such as an enforcement order.

### ***Guidance for Determining Corrective Action Complete***

EPA recommends two types of completion determinations (1) Corrective Action Complete Without Controls and (2) Corrective Action Complete With Controls. Both determinations are intended to demonstrate completion of the corrective process and protection of human health and the environment. The "Corrective Action With Controls" determination is not a stepping stone toward Corrective Action Complete Without Controls."

### **Procedures for Processing Completion Determinations**

Regulators have considerable flexibility in the approach used to recognize completion of RCRA corrective action activities because regulations do not

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provide explicit procedures. Procedures for processing completion determinations will depend upon (1) whether or not controls are required; (2) whether or not the determination is for the entire facility or just a portion of the facility; and (3) whether or not the facility has a permit.

Corrective Action Complete Without Controls Determination

A "Corrective Action Complete Without Controls" determination is appropriate where no additional remedial activity is required to maintain protection of human health and the environment.

At a permitted facility, it is appropriate to document the corrective action completion decision via a Class 3 permit modification, as outlined in 40 CFR 270.42. This provides an opportunity for meaningful public involvement in the process. In addition, the Class 3 modification can also be used to change the expiration date of the permit, such that it can be terminated if no longer needed. The permit should not be terminated, however, if corrective action has only been completed at a portion of the facility or if controls are required.

For non-permitted facilities where facility-wide corrective action is complete and all other RCRA obligations have been satisfied, EPA or the authorized State may acknowledge completion of corrective action by terminating interim status via final administrative disposition of the facility's permit application. This ordinarily involves issuing a final "permit denial" decision. If there is concern over issuing a denial decision when in fact there is no need for a permit, EPA recommends use of alternative terminology such as "no permit necessary determination" or "cleanup obligations satisfied" within the context of the permit denial process or by developing other procedures for recognizing completion of the corrective action process.

Corrective Action Complete With Controls Determinations

A "Corrective Action Complete with Controls" determination is appropriate where (1) a full set of corrective measures is defined; (2) the facility has completed construction and installation of all required remedial actions; (3) site-specific media cleanup objectives have been met; and (4) all that remains is performance of required operation and maintenance of any institutional controls.

When controls are required, an enforceable mechanism must be in place to ensure they are maintained. Options for ensuring controls include permits, orders and other enforceable mechanisms.

**References**

A complete copy of the EPA Guidance Memo, "Guidance on Completion of Corrective Action Activities at RCRA Facilities" can be obtained via the

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Government Printing Office website at:

[http://www.access.gpo.gov/su\\_docs/fedreg/a030225c.html](http://www.access.gpo.gov/su_docs/fedreg/a030225c.html).