

April 5, 2001

**MEMORANDUM**

SUBJECT: Reflecting RCRA Cleanup Reforms in MOAs Between EPA and States Authorized for Corrective Action

FROM: Elizabeth A. Cotsworth, Director /S/  
Office of Solid Waste

TO: RCRA Senior Policy Advisors, Regions I - X

As you all well know, our highest RCRA priority over the past two years has been reforming and revitalizing the Corrective Action Program. OSWER's announcement of the RCRA Cleanup Reforms in July of 1999 emphasized a results-oriented focus, more flexible approaches, and of course, meeting Environmental Indicators. On January 11, 2001, OSWER announced a second set of reforms that built upon the July '99 reforms and added new initiatives to strengthen them.

Since the States are in many cases the primary implementers of the Corrective Action Program, it is important that they implement these reforms. This recent announcement provides a unique opportunity for us to reinforce that message.

Our operating agreements with State agencies should reflect and emphasize the RCRA Cleanup Reforms. For that purpose, as a component of the second round of reforms, we have developed the model language set forth below. Please work with States to include it in new or renegotiated MOAs where States are authorized for RCRA Corrective Action.

The following or similar language is suggested:

"The State will conduct the RCRA Corrective Action Program in a manner that promotes rapid achievement of cleanups while protecting human health and the environment. Specifically, the State will, to the extent practicable:

- embrace flexible, practical, results-based approaches that focus on control of human exposure and contaminated groundwater migration in the short term, with final cleanup being the long term goal.

- provide ready public access to information and meaningful opportunities for public involvement in the cleanup process.
- foster a culture of innovation, creativity, communication and technical expertise, focused on accelerating cleanups and meeting program goals.
- carefully consider key program guidance (and any updates) in conducting the RCRA Corrective Action Program.

EPA will assist the State with all aspects of the cleanup program and support its efforts to conduct faster, focused and more flexible RCRA cleanups.”

This language is intended to capture the essence of the themes and objectives of the reforms. It does not refer explicitly to them – an approach designed to keep the provisions from becoming dated when incorporated into MOAs that are likely to stay in effect for many years. Alternatively, your preference may be to refer to the reforms directly, either in the MOA itself or in accompanying correspondence.

Please note that we have also attached a current list of key RCRA Corrective Action Program guidance. Many MOAs contain outdated lists of relevant program guidance that need to be updated. By contrast, some MOAs contain no list of such guidance. It is an option that the MOA contain a concise list of the most important, timely, and relevant guidance documents, together with a recognition that the list is not exhaustive and that there will be future additions to it.

In addition to revising MOAs to reflect the cleanup reforms, I also encourage you to take similar advantage of opportunities to revise State Program Descriptions or Annual State Workplans. In any event, this is a special time when you should be in communication with your States on appropriate cooperative actions that you recommend to maximize the benefit of the reforms in each State.

Should you have any thoughts or questions about this memo, please let me know, or you may contact Dana Tulis directly at (703) 308-8404. Thanks for your work and your support in the continuing effort to revitalize RCRA Corrective Action.

Attachment

cc: RCRA Key Contacts, Regions I - X  
Steve Heare, PSPD  
Dana Tulis, PSPD  
Robert Hall, PSPD  
Michaelle Wilson, FSTPB  
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Guy Tomassoni, CAPB  
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Barbara Simcoe, ASTSWMO  
Jill Pafford, NCDENR  
Ann Dobbs, TNRCC

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### **Top-Ten EPA Office of Solid Waste References for RCRA Corrective Action**

This list represents EPA’s “top-ten” recent and/or commonly used guidance documents that individuals should be aware of and turn to for guidance on implementing RCRA corrective action. This list is not all-inclusive; there are other EPA guidance documents that may be appropriate at a specific facility. Program implementers should

recognize that guidance documents do not substitute for EPA's statutes or regulations; furthermore, certain guidance documents may not apply to a particular situation based upon the circumstance. In the future, EPA may change existing guidance and develop new guidance as appropriate. These top-ten items are listed in reverse chronological order. A more comprehensive list of corrective action related guidance is available at <http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance.htm>

EPA, 2001. RCRA Cleanup Reforms II: Fostering Creative Solutions (EPA530-F-01-01; January 2001). Available at <http://www.epa.gov/epaoswer/hazwaste/ca/reforms/reforms2.pdf>

EPA, 2000. Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups. OSWER Policy Directive 9355.0-74-FS-P. Available at <http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/ics/icfactfinal.pdf>.

EPA, 1999. Corrective Action for Solid Waste Management Units at Hazardous Waste Management Facilities (64 FR 54604, October 7) - [partial withdrawal of proposed Subpart S regulations]. Available at [http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen\\_ca/withdrwl.htm](http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen_ca/withdrwl.htm)

EPA, 1999. RCRA Cleanup Reforms (EPA530-F-99-018; July 1999). For more information, refer to <http://www.epa.gov/epaoswer/osw/factsheet1.pdf>.

EPA, 1999. Use of Monitored Natural Attenuation at Superfund, RCRA Corrective Action and Underground Storage Tank Sites (April 21). OSWER Policy Directive 9200.4-17P. Available at <http://www.epa.gov/swrust1/directiv/d9200417.htm>.

EPA, 1999. Interim Final Guidance for RCRA Corrective Action Environmental Indicators (February 5). Available at [www.epa.gov/epaoswer/osw/ei\\_guida.pdf](http://www.epa.gov/epaoswer/osw/ei_guida.pdf).

EPA, 1998. Management of Remediation Waste Under RCRA (EPA530-F-98-026). Available at [http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/remwaste/pspd\\_mem.pdf](http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/remwaste/pspd_mem.pdf)

EPA, 1996. Memorandum from Steven A. Herman and Elliott P. Laws to RCRA/CERCLA Senior Policy Managers titled, "Coordination between RCRA Corrective Action and Closure and CERCLA Site Activities" (September 24). Available at [http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen\\_ca/coordmem.pdf](http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen_ca/coordmem.pdf).

EPA, 1996. Advance Notice of Proposed Rulemaking (61 FR 19432, May 1). Available at <http://www.epa.gov/docs/fedrgstr/EPA-WASTE/1996/May/Day-01/pr-547.pdf>.

EPA, 1994. RCRA Corrective Action Plan. OSWER Directive 9902.3-2A. Available at [http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen\\_ca/rcracap.pdf](http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen_ca/rcracap.pdf).

