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September 5, 1984

Mr. Thomas P. Eichler
Regional Administrator
United States Environmental Protection Agency
Region III, (3RA00)
Sixth and Walnut Streets
Philadelphia, Pennsylvania 19106

Dear Mr. Eichler:

This is in response to Region III's comment about my June 26, 1984 statement in support of the Virginia application for final authorization. Specifically, you asked whether § 9.01(b) of the Virginia Hazardous Waste Management Regulations can be interpreted to be as broad as the provision of 40 C.F.R. 265.1.

On November 22, 1983, the Environmental Protection Agency amended 40 C.F.R. 265.1 to make clear that the interim status standards of 40 C.F.R. Part 265 applied to hazardous waste management facilities in existence on November 19, 1980 who failed to file the notification required by § 3010(c) of RCRA as well as to those facilities which had filed the notification. Although § 9.01(b) of the Virginia regulations states that the interim status standards apply to those facilities "which have fully complied with the requirements for interim status," § 1.04.03 provides that "[A]ll persons who did not notify the U.S. Environmental Protection Agency under the authorities of Section 3010 of the Resource Conservation and Recovery Act, but that generate, transport, store, treat or dispose of a hazardous waste shall also comply with the provisions of these regulations."

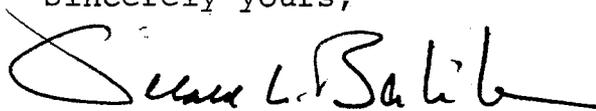
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Accordingly, the Virginia regulations control the activities of all facilities regardless of their compliance with the requirements for interim status. The Board of Health can compel compliance with the final standards found in Part 10.00 of the regulations or in an appropriate case, pursuant to § 32.1-26 of the Code of Virginia and § 1.07.03 of the regulations, the Board can compel compliance with the interim status standards found in Part 9.00. This rationale applies equally to facilities that did not file Part A of the Permit Application as required by 40 C.F.R. 270.10. It is, therefore, my opinion that the Virginia laws and regulations ensure control over the same universe of facilities as the federal law and regulations.

With kindest regards, I am

Sincerely yours,



Gerald L. Baliles
Attorney General

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