

maintenance of any institutional controls.

The Agency received many comments on those two types of completion.

While commenters generally agreed with the two types of completion, there was widespread concern among the commenters that they would not be useful for many facilities. Commenters believed that Corrective Action Complete (without controls), as described, may never be achieved by some facilities, and that Corrective Action Complete with Controls, because of the third criterion (that final remedy cleanup objectives have been met) would not be attainable by many facilities within a reasonable timeframe, particularly in the case of restoration of contaminated groundwater. Commenters expressed the need for a formal and public recognition of progress that could be achieved within a reasonable timeframe. Some requested that the Agency modify the definition of Corrective Action Complete with Controls to remove the criteria that cleanup objectives be met to provide a measure that can be achieved within a timeframe that is reasonable. Others suggested that the Agency establish a provisional type of corrective action complete designation.

The Agency recognizes that in carrying out an extensive and complex corrective action a facility can achieve several significant milestones, and recently described in detail a strategy for RCRA corrective action that includes short-term protection goals, intermediate performance goals, and final cleanup goals (see *Handbook of Groundwater Protection and Cleanup Policies for RCRA Corrective Action*, September, 2001, Sections 1.2–1.3, (<http://www.epa.gov/epaoswer/hazwaste/ca>), and Environmental Indicator Guidance, February, 1999, (<http://www.epa.gov/epaoswer/hazwaste/ca/eis>)).

This final guidance was not designed to guide regulators in recognizing progress at facilities where short-term protection goals or intermediate performance goals have been achieved. Rather, it was designed to recommend steps that regulators might take where the site-specific media cleanup objectives, identified based on the current and reasonably anticipated use of the site, have been met.

The Agency continues to believe that it is important to distinguish between situations where significant progress has been made toward final cleanup, and situations where corrective action is actually complete. The Agency believes that a “completion” determination signals to all parties involved that

corrective action activities no longer are necessary (though controls to ensure the remedy remains protective may be necessary), and thus are preferably reserved for situations where there is no further cleanup activity to conduct—regardless of how long it might take to achieve site-specific media cleanup objectives. The Agency is concerned that making “completion” determinations at facilities that have not yet achieved final cleanup goals would jeopardize the integrity of that distinction, potentially be misleading, and minimize the accomplishment of facilities that truly have completed corrective action.

At the same time, the Agency recognizes that the commenters raised a valid concern—that owners and operators often need a formal recognition of progress at a landmark that can be achieved within a reasonable timeframe. Rather than encourage regulators to recognize completion prematurely, however, the Agency would prefer to address commenters’ concern by formally recognizing progress at an earlier step in the corrective action process—where remedial measures are in place and operating, but cleanup objectives have not yet been met—in addition to recognizing completion of corrective action. The Superfund program makes “Construction Complete” designations at this point in its cleanups; EPA believes it is appropriate to recognize the analogous stage in RCRA corrective action as well. At that point in the cleanup process, while remedial measures continue to be implemented, final remedial decisions have been made and, at some facilities, environmental and human health risks may have been controlled such that the facility is ready for reuse. In recognition of the valid concerns raised by commenters, the Agency plans to investigate, in another forum, how it might formally and publicly recognize an earlier milestone in the corrective action process, analogous to Superfund’s “construction complete.”²

Some commenters were concerned that, because the criteria discussed in the draft guidance for “Corrective Action Complete with Controls” determinations included achievement of site-specific media cleanup objectives, which were selected based on current and reasonably expected future land use and maximum beneficial groundwater use, the guidance would be interpreted

to mean that groundwater would be restored to drinking water standards in all cases. The Agency disagrees with that interpretation of the draft guidance, and believes that interpretation is inconsistent with the September, 2001 *Handbook of Groundwater Protection and Cleanup Policies for RCRA Corrective Action*, which is the Agency’s most current guidance on groundwater issues related to RCRA corrective action. However, the Agency removed references to “maximum beneficial use of groundwater” from this final guidance for two other reasons. First, the draft guidance did not discuss cleanup standards for all media—in fact, the discussion was limited to groundwater. The Agency did not intend this guidance to address the issue of cleanup standards for the various media addressed through corrective action, and saw no reason to single out groundwater for discussion. Second, the Agency was concerned that provisions of the *Groundwater Handbook* when discussed in this guidance might be interpreted differently than they would within the context of the handbook itself. The September, 2001 *Groundwater Handbook* represents current Agency guidance on groundwater issues for the corrective action program, and EPA does not intend for this final Completion Guidance to address, or modify its guidance on, groundwater issues. The Agency is exploring a cross-program “Ground Water Working Group,”³ as a forum to identify and discuss groundwater issues of importance to multiple EPA programs, and to develop options for addressing those issues.⁴

Finally, some commenters were concerned that Corrective Action Complete with Controls would be considered a stepping stone toward Corrective Action Complete without Controls, rather than a form of completion in and of itself. Commenters requested that the Agency clarify that Corrective Action Complete with Controls is a form of completion. The Agency agrees with commenters that Corrective Action Complete with Controls is a form of completion, and

³ See memorandum dated September 18, 2002 from Michael B. Cook to EPA Addressees entitled “Cross-Program Ground Water Working Group.”

⁴ It should be noted that the Agency also removed language regarding land use from the description of corrective action complete with controls. Again, EPA simply removed the language because the Agency is not discussing media cleanup standards in this guidance. For a discussion of reasonably foreseeable land use, see *Reuse Assessments: A Tool to Implement the Superfund Land Use Directive*, June 4, 2001, OSWER Directive 9355.7–06p.

² One likely forum is the “One Cleanup Program” initiative currently under development by the Agency. As part of that initiative, the Agency is examining ways to promote consistency, where appropriate, among all of its cleanup programs.