

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460**

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Mark A. Franchi
Landfill Manager
Refuse, Inc.
100 Vassar Street
Reno, Nevada 89520

Dear Mr. Franchi:

Thank you for your letter of August 18, 1997, requesting an interpretation of 40 CFR Part 258.21 regarding a definition of the end of the operating day. The municipal solid waste landfill (MSWLF) Criteria do not contain a definition of "an operating day." The Criteria do say that daily cover must be applied "at the end of each operating day or at more frequent intervals."

I would like to provide some background information regarding these rules. Congress, in Subtitle D of the Resource Conservation and Recovery Act (RCRA), required the Environmental Protection Agency (EPA) to revise the MSWLF Criteria, taking into consideration both protection of human health and the environment and the "practicable capability" of facility owners and operators. EPA issued national minimum standards for MSWLFs to implement Congress' mandate that we believe are protective of human health and the environment. Further, when we developed the rules, we provided flexibility to states to both minimize costs and address local circumstances. These Federal rules are national minimum standards that contain requirements for location, design, operation (including daily cover), groundwater monitoring, closure, post-closure care, and financial assurance for landfills.

The State solid waste management program must incorporate these minimum standards into their permitting standards. The State is then responsible for issuing the permit, conducting site visits, enforcement, and all the other implementation activities. EPA does not issue permits, review individual permit decisions made by the State, and has very limited enforcement authority.

As you are probably aware, Nevada's MSWLF permit program was approved by EPA on March 7, 1994. As such, the State of Nevada is now responsible for implementing the MSWLF criteria. Therefore, owners and operators of landfills should work with the State-solid waste management program officials to determine the best

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approach to achieve compliance with the regulations, including the requirement to provide daily cover. The approval of Nevada's program provides the State with the flexibility to consider site-specific characteristics when interpreting and applying many of the Subtitle D Criteria including the daily cover requirement. I suggest that you contact Mr. Les Gould at the Nevada Division of Environmental Protection for further assistance.

Mr. Les Gould, Supervisor
Solid Waste Branch
Waste Management Bureau
Division of Environmental Protection
NV Department of Conservation and Natural Resources
333 W. Nye Lane
Carson City, NV 89710
(702) 687-4670

I hope this information together with your discussions with the State of Nevada will be helpful in addressing your concerns.

Sincerely yours,

Robert W. Dellinger, Director
Municipal and Industrial Solid
Waste Division

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REFUSE, INC.
100 VASSAR STREET o RENO, NEVADA 89520
TELEPHONE (702) 329-8822

August 18, 1997

Office of Solid Waste
Municipal and Industrial Solid Waste Division
401 "M" Street Southwest
Washington, D.C. 20460

RE: Definition of End of Operating Day
40 C.F.R., Part 258.21

I called your Hotline number (1-800-424-9346) on August 14, 1997 to get a definition or interpretation of an "End of an Operating Day." Our interpretation of Part 258.21 is that we have a continuous operation, never closing, therefore our operating day never ends resulting in no daily cover but intermediate cover.

The individual I spoke with at the E.P.A. Hotline stated that there was no Federal definition and that it was at the discretion of the individual approved States. It would be appreciated if you could put your interpretation in a letter and mail it to me. My business card is attached with the correct mailing address, please put it to my attention,

If you have any questions on the matter, please contact me at (702) 329-2036 or by fax (702) 329-2009. Your immediate attention to this matter is appreciated.

Sincerely,

Mark A. Franchi
Landfill Manager

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