

9476.1985(04)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

SEP 25 1985

POST-CLOSURE PERMITTING REQUIREMENTS FOR NON-REGULATED
UNITS

SUBJECT: Applicability of Post-Closure Permitting
Requirements to Non-Regulated Units

FROM: Marcia E. Williams, Director
Office of Solid Waste

TO: Charles E. Finley, Director
Hazardous Waste Division, Region X

In your memorandum of May 20 (attached) and in phone conversations with Jeff Webb of your staff, you requested clarification on several points regarding closure for disposal facilities that stopped receiving waste prior to July 26, 1982. Outlined below is a discussion of those points.

We agree with your interpretation that land disposal units that stopped receiving wastes prior to July 26, 1982 and closed after January 26, 1983 are subject to the post-closure permit requirements of §270.1(c), but not ground-water monitoring requirements of Part 264 Subpart F. We do not agree with your conclusion, however, that such a permit could require compliance with Part 265 ground-water monitoring requirements. Part 265 is applicable only to interim status units and cannot be incorporated into a permit.

If the unit described above is the only unit at the facility subject to permitting, issuance of a post-closure permit would have little benefit since ground-water monitoring requirements cannot be applied. The unit/facility in this case should be closed under interim status, and thus subject to the general closure performance standards of Part 265 and post-closure ground-water monitoring (§265.117), as applicable. If the unit has caused ground-water contamination, enforcement action to compel corrective action under §3008(h) should be initiated. Alternatively, if the unit is located at a facility which has another unit(s)

requiring a permit, the 3004(u) corrective action authority would apply when the permit is issued since the unit is a "solid waste management unit."

If you have any further questions regarding this issue, please contact Dave Fagan, Acting Manager, Permits Policy Program at 382-4740.

Attachment

cc: RCRA Branch Chiefs
Permit Section Chiefs

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

Seattle, Washington 98101

MAY 20 1985

REPLY TO
ATTN OF: M/S 533

MEMORANDUM

SUBJECT: Applicability of 40 CFR Part 264, Subpart G
to Non-Regulated Units

FROM: Charles E. Findley, Director
Hazardous Waste Division

TO: John H. Skinner, Director
Office of Solid Waste (WH-562B)

The purpose of this correspondence is to confirm our interpretation of 270.1(c) which states that all owners and operators of hazardous waste management units must have permits during the active life (including the closure period) and for units which close after the effective date of the Part 264 standards for any post-closure care period required under 264.117.

We are interpreting this to require permits for the closure and post-closure care of any unit not closed (including certification of closure) prior to permit issuance. If the unit ceased receipt of wastes prior to July 26, 1982, the permit would not require compliance with Subpart F of Part 264, but with the ground water monitoring requirements of Part 265 interim status. All other applicable requirements of Part 264, particularly the closure performance standards of Subparts G, K, L, M, and N, would also be imposed through the permit.

Such an interpretation would subject the facility to the provisions of the 1984 Amendments, particularly Section 3004(u).

We would appreciate confirmation of this interpretation.