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PUBLIC PARTICIPATION REQUIREMENTS FOR CLOSURE PLAN
APPROVAL

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

SEP 7 1989

MEMORANDUM

TO: Terry Anderson, Chief
Wyoming/South Dakota Section
EPA Region VIII

FROM: Frank McAlister, Chief
Permits Policy Section
Office of Solid Waste

Barbara Foster, Acting Chief
Closure and Financial Responsibility Section
Office of Solid Waste

SUBJECT: Public Participation Requirements for Closure Plan
Approval

This memorandum responds to your letter of August 7, 1989 in which you requested clarification of the public participation requirements of the closure plan approval process. You questioned whether public notification is required when the Agency modifies an approved closure plan for an interim status facility. The specific case you discussed involves several changes to the liner system of a landfill that will be used for closure. We have examined this request and discussed it with the Office of General Counsel. Our response is as follows.

The regulations governing amendment of interim status closure plans are found at 40 CFR 265.112. Section 265.112(c)(3) states that if an amendment to an approved closure plan is a Class 2 or 3 modification according to the criteria in § 270.42, the modification to the closure plan must be approved according to the procedures in § 265.112(d)(4). Based on your description, we believe that the modifications to the closure plan would likely be classified as Class 3, and that the procedures in

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§ 265.112(d)(4) must be followed. Under these procedures, the Regional Administrator will provide the owner and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications to the plan no later than 30 days from the date of the notice. He will also, in response to a request from the public or at his own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The Regional Administrator will give public notice of the hearing at least 30 days before it occurs. The amendment cannot be approved until these procedures have been followed.

The specific case you discussed involves the closure of five surface impoundments. The closure plan discusses the construction of a landfill on the location of two of the five closing surface impoundments. The Region should also consider whether the creation of this new landfill constitutes a change in interim status under § 270.72 and therefore requires submission of a revised Part A application and EPA approval.

If a public hearing is held, it may be held concurrently with one being held by the Wyoming Department of Environmental Quality (WDEQ), provided that the Federal procedural requirements are satisfied. In addition, notice should be given that there is a separate Federal action.

We hope that this memorandum answers your questions on this matter. If you have any further questions please call Wayne Roepe at FTS 475-7245.

cc: Denise Keehner
Wayne Roepe
Margaret Schneider, OGC
Nandam Kenkeremath, OGC
Pat Godsil, Region VIII
David Christenson, Region VIII