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CLOSURE AND POST-CLOSURE ISSUES FOR INTERIM  
STATUS SURFACE IMPOUNDMENTS

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

DEC 17 1987

MEMORANDUM

SUBJECT: Closure and Post-Closure Issues

FROM: Marcia E. Williams, Director  
Office of Solid Waste (WH-562)

TO: Robert E. Greaves, Chief  
Waste Management Branch (3HW30)  
Region III

Thank you for your November 4, 1987 memorandum in which you requested clarification of several issues relating to closure of interim status impoundments. The clarification of these issues follows the same format as presented in your memorandum. The answers to questions one and two are derived from the draft guidance, "Surface Impoundment Clean Closure Guidance Manual" (October 12, 1987).

1. For an interim status surface impoundment that is closing by removal under §265.228(a)(1), but has not triggered ground-water assessment under §265.93(d), it is not necessary to monitor ground water for the full list of Appendix VIII (or IX) constituents. A ground-water evaluation conducted as part of the clean-closure demonstration should establish the chemicals that may be reasonably associated with the wastes managed at the impoundment, including any decomposition products. While the most convincing means of demonstrating the absence of such chemicals is by performing an Appendix VIII analysis of the waste, this is not required if it can be demonstrated that only a subset of these constituents could reasonably be expected to exist at the impoundment.

On the other hand, if the interim status surface impoundment has triggered ground-water assessment under §265.93(d) and ground-water contamination is evident, clean closure is probably not a feasible option. However, should it be determined to be feasible (see issue 3), the same rationale should be used to determine constituents of concern as was used when ground-water assessment was not triggered.

2. As stated above, Appendix VIII (or IX) analysis of ground-water samples is not necessary for a clean closure demonstration. As you suggested, a combination of analyses for what is likely to be present in the waste coupled with an explanation of the basis for not analyzing the remaining hazardous constituents would be appropriate in most instances.
3. The general closure regulations (§265.113(b)(1)(i)) allow the 180 day closure period to be extended if the closure period will, of necessity, take longer than 180 days to complete. This rule allows for flexibility in complex closure situations, and in other situations where the owner or operator cannot practicably complete closure expeditiously.

However, we generally believe that ground-water contamination should be addressed under a corrective action program--preferably in the context of a permit, since ground-water contamination clean-up usually involves an extended clean-up period. Most operators attempting to close units that have ground-water contamination will need a post-closure permit and therefore are not likely to be able to clean close. We recognize, however, that under some limited circumstances an owner or operator may be able to demonstrate that clean closure is possible after a very short ground-water corrective action effort (perhaps less than one year).

Should this be the case, the Regional Administrator has the option under §265.113(b)(1)(1) of extending the closure period to implement such an effort. Protracted or indefinite closure periods designed solely for the purpose of ground-water clean-up are not acceptable. Under these circumstances a post-closure permit containing corrective action schedules of compliance should be used or a §3008(h) corrective action order.

4. The Final Codification Rule published in the Federal Register on December 1, 1987 (52 FR 45788) addresses this issue directly. In essence, the rule states that units closing by removal under Part 265 standards must obtain a post-closure permit unless the owner or operator can demonstrate to the Regional Administrator that the closure met the standards for closure by decontamination in section 264.228, 264.280(e) or 264.258, respectively. The rule further outlines approaches for making the demonstration. A copy of the rule is attached for your information.

5. When EPA has issued guidance that interprets a permit or closure requirement, States should follow that guidance for comparable State requirements or be able to explain why their approach is equivalent or more stringent than the Agency's approach. In reviewing State permits and closure plans the Region should follow the approach outlined in the permit quality and closure plan protocols which cross reference regulatory requirements and applicable guidance; the State administrative record should be consulted to determine how the State has interpreted those State regulations (comparable to the Federal) for which we have issued guidance. Of course, if a "more stringent" EPA regulatory amendment or rule clarification requires the State to amend its regulations, the State should follow the procedures and timeframes in Part 271 for program revisions.

Should you require further clarification of these issues please contact Chris Rhyne of my staff at FTS 382-4695.

Attachment

cc: RCRA Branch Chiefs, Regions I-X