

PPC 9502.1986(13)

FINANCIAL ASSURANCE FOR CORRECTIVE ACTION

August 22, 1986

MEMORANDUM

SUBJECT: Applicability of Regulations on Financial Assurance for
Corrective Action

FROM: Deborah L. Wolpe

TO: Gary Gosbee, Region I

You have asked for an interpretation of the applicability of the financial assurance for corrective action requirement to both regulated units and other solid waste management units. The July 15, 1985, final codification rule contained two references to the financial assurance for corrective action. Section 264.101 entitled "Corrective Action for solid waste management units" states that permits shall contain "...assurance of financial responsibility for completing such corrective action." Section 264.90(a)(2) entitled "Applicability", states that "...The financial responsibility requirements of §264.101 apply to regulated units." Your question appears to be whether §264.90(a)(2) supersedes §264.101(b), so that financial assurance only applies to regulated units.

As you know, regulated units are a subset of solid waste management units (see 50 Fed. Reg. 28702, 28714, July 15, 1985). Our interpretation is that the statement on financial assurance in §264.90(a)(2) is not necessary, but is there as a reminder that regulated units are subject to the requirement in §264.101. Ordinarily, an owner or operator of a facility with only regulated units complies with the requirement of §264.100, not 264.101, and therefore might miss the financial assurance requirement, which is only in §264.101. Financial assurance applies to all solid waste management units, including regulated units.