

PPC 9522.1986(03)

POST-CLOSURE PERMIT REQUIREMENT (ARMCO STEEL)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

NOV 20 1986

MEMORANDUM

SUBJECT: Applicability of Post-Closure Permit Requirements

FROM: Marcia Williams, Director  
Office of Solid Waste

TO: David Wagoner, Director  
Waste Management Division, Region VII

In your memorandum of October 30, 1986, you requested clarification as to the applicability of post-closure permit requirements to the Armco Steel facility in Kansas City, Missouri. Based on our understanding of the facts of this particular situation, we offer the following guidance.

The basic question posed by Armco is whether or not their facility requires a post-closure permit under current regulations, based on the facility's having ceased receiving hazardous wastes at their landfill on January 25, 1983, and having certified closure of the landfill in September 1984. Armco's interpretation that the facility is not required to obtain a post-closure permit, based on the fact that waste was not received after the January 26, 1983 effective date, is incorrect. The requirement to obtain a post-closure permit [§270.1(c)] is tied to the date on which the unit is closed. The concept of "closure" in this context is discussed in the preamble to the July 15, 1985 Final Codification Rule, as follows:

"...closure...does not mean simply ceasing to place waste in a unit. Closure, as a regulatory concept under these rules, is a proceeding during which EPA determines, after public review, that the facility has an adequate closure plan and that the facility implements that plan. Thus closure is not complete under the hazardous waste regulations until a certification of closure has been given under 40 CFR 265.115." (50 FR 28712 n. 14)

Clearly, since the Armco landfill did not certify closure until after January 26, 1983, the facility is required to obtain a post-closure permit.

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The language in the preamble to the proposed codification rule (51 FR 10715), which is cited by Armco as supporting its contention that the facility is not subject to a post-closure permit, has been misinterpreted. This preamble discussion, parts which are quoted in Armco's letter of June 11, 1986, explains the §3005(i) provision of RCRA, and the proposed approach for codifying it. As explained in the preamble, the applicability of post-closure permits is tied to the date of closure of regulated units [§270.1(c)], while the applicability of Subpart F requirements is tied to the date of last receipt of hazardous wastes [§270.1(c)]. The March 28 proposed rule would have created a consistent test for applying post-closure permits and Subpart F requirements; i.e., receipt of wastes after July 26, 1982. It should be understood that the March 28 proposed rule would thus have changed the test for post-closure permit applicability from the current requirements. Note that under either situation, the Armco facility would be subject to the post-closure requirement, since wastes were received after July 26, 1982.

Because post-closure permit requirements are explicitly spelled out in the July 15, 1985 rule and elsewhere, we do not believe it is necessary at this point to publish a Federal Register notice clarifying these requirements. However, we will address the question specifically in the rule finalizing the March 28 proposal. In addition, we are sending a copy of this memorandum to RCRA Branch and Section Chiefs in the other regions.

If you have any further questions, please contact George Faison at FTS 382-4422.

cc: RCRA Branch Chiefs, Regions I-X  
RCRA Permit Section Chiefs, Regions I-X