

9476.1991(02)

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

OCTOBER 1991

2. TSDF Closure/Post-Closure After Loss of Interim Status

Pursuant to 40 CFR §270.73(c)(2), a Subtitle C land disposal facility lost its interim status due to the owner operator's failure to submit certification that the facility was in compliance with all applicable groundwater monitoring and financial responsibility requirements. The owner operator has been told by his enforcement agency that he is required to close his facility in accordance with 40 CFR Part 265, Subpart G closure standards. If the facility has lost its interim status to operate, why should the owner/ operator be required to comply with interim status standards to close the facility?

According to 40 CFR §265.1 (b), the standards of Part 265 are applicable to interim status facilities until Part 265 closure and post-closure responsibilities are fulfilled. As EPA explained in the preamble to its November 21, 1984, amendments to the applicability sections of Part 265 (49 FR 46094), EPA has statutory authority under §3004 to enforce the Part 265 standards at facilities which no longer have interim status to operate. The preamble explains that such facilities must close in accordance, with 40 CFR Part 265, Subpart G.

The September 25, 1985, Federal Register (50 FR 38949), specifically indicates that compliance with all applicable closure and post-closure requirements specified in 40 CFR 265, Subpart G is required when a facility has lost its interim status due to the owner/operator's failure to submit certification of compliance with all applicable groundwater monitoring and financial requirements (40 CFR §270.73(c)(2)) to the Regional Administrator. Such a facility owner/operator must, in accordance with 40 CFR §§265.112(d) (3)(i) and 265.118(e)(1), submit a closure and post-closure plan to the Regional Administrator no later than 15 days after termination of interim status.