

§ 265.222

to § 268.5 of this chapter, within this 48-month period.

[50 FR 16048, Apr. 23, 1985. Redesignated at 57 FR 3492, Jan. 29, 1992. 50 FR 28749, July 15, 1985, as amended at 55 FR 11876, Mar. 29, 1990; 57 FR 3492, Jan. 29, 1992; 57 FR 37267, Aug. 18, 1992]

§ 265.222 Action leakage rate.

(a) The owner or operator of surface impoundment units subject to § 265.221(a) must submit a proposed action leakage rate to the Regional Administrator when submitting the notice required under § 265.221(b). Within 60 days of receipt of the notification, the Regional Administrator will: Establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this section; or extend the review period for up to 30 days. If no action is taken by the Regional Administrator before the original 60 or extended 90 day review periods, the action leakage rate will be approved as proposed by the owner or operator.

(b) The Regional Administrator shall approve an action leakage rate for surface impoundment units subject to § 265.221(a). The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding 1 foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

(c) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under § 265.226(b), to an average daily flow rate (gallons per acre per day) for each sump. Unless the Regional Administrator approves a dif-

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ferent calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period, and if the unit closes in accordance with § 265.228(a)(2), monthly during the post-closure care period when monthly monitoring is required under § 265.226(b).

[57 FR 3492, Jan. 29, 1992]

§ 265.223 Containment system.

All earthen dikes must have a protective cover, such as grass, shale, or rock, to minimize wind and water erosion and to preserve their structural integrity.

EDITORIAL NOTE: At 57 FR 3492, Jan. 29, 1992 the Environmental Protection Agency added § 265.223, effective July 29, 1992. Since a § 265.223 already exists, both sections appear.

§ 265.223 Response actions.

(a) The owner or operator of surface impoundment units subject to § 265.221(a) must submit a response action plan to the Regional Administrator when submitting the proposed action leakage rate under § 265.222. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in paragraph (b) of this section.

(b) If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator must:

(1) Notify the Regional Administrator in writing of the exceedence within 7 days of the determination;

(2) Submit a preliminary written assessment to the Regional Administrator within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

(3) Determine to the extent practicable the location, size, and cause of any leak;

(4) Determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;

(5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

(6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the Regional Administrator the results of the analyses specified in paragraphs (b)(3), (4), and (5) of this section, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the Regional Administrator a report summarizing the results of any remedial actions taken and actions planned.

(c) To make the leak and/or remediation determinations in paragraphs (b)(3), (4), and (5) of this section, the owner or operator must:

(1)(i) Assess the source of liquids and amounts of liquids by source,

(ii) Conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

(iii) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

(2) Document why such assessments are not needed.

[57 FR 3492, Jan. 29, 1992]

§ 265.224 [Reserved]

§ 265.225 Waste analysis and trial tests.

(a) In addition to the waste analyses required by § 265.13, whenever a surface impoundment is to be used to:

(1) Chemically treat a hazardous waste which is substantially different from waste previously treated in that impoundment; or

(2) Chemically treat hazardous waste with a substantially different process than any previously used in that impoundment; the owner or operator must, before treating the different waste or using the different process:

(i) Conduct waste analyses and trial treatment tests (e.g., bench scale or pilot plant scale tests); or

(ii) Obtain written, documented information on similar treatment of similar waste under similar operating

conditions; to show that this treatment will comply with § 265.17(b).

[*Comment:* As required by § 265.13, the waste analysis plan must include analyses needed to comply with §§ 265.229 and 265.230. As required by § 265.73, the owner or operator must place the results from each waste analysis and trial test, or the documented information, in the operating record of the facility.]

(b) [Reserved]

§ 265.226 Monitoring and inspection.

(a) The owner or operator must inspect:

(1) The freeboard level at least once each operating day to ensure compliance with § 265.222, and

(2) The surface impoundment, including dikes and vegetation surrounding the dike, at least once a week to detect any leaks, deterioration, or failures in the impoundment.

(b)(1) An owner or operator required to have a leak detection system under § 265.221(a) must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

(2) After the final cover is installed, the amount of liquids removed from each leak detection system sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semi-annually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semi-annual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

(3) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the Regional Administrator based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump. The timing for submission and approval of the