

Environmental Protection Agency

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contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless §261.3(d) of this chapter applies; or

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in paragraph (a) of this section, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (§ 265.310).

[47 FR 32368, July 26, 1982]

§ 265.259 Response actions.

(a) The owner or operator of waste pile units subject to §265.254 must submit a response action plan to the Regional Administrator when submitting the proposed action leakage rate under §265.255. 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 determination 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 receipts 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 3494, Jan. 29, 1992]

§ 265.260 Monitoring and inspection.

An owner or operator required to have a leak detection system under §265.254 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.

[57 FR 3494, Jan. 29, 1992]

Subpart M—Land Treatment

§ 265.270 Applicability.

The regulations in this subpart apply to owners and operators of hazardous waste land treatment facilities, except as §265.1 provides otherwise.

§ 265.271 [Reserved]

§ 265.272 General operating requirements.

(a) Hazardous waste must not be placed in or on a land treatment facility unless the waste can be made less

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hazardous or nonhazardous by degradation, transformation, or immobilization processes occurring in or on the soil.

(b) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portions of the facility during peak discharge from at least a 25-year storm.

(c) The owner or operator must design, construct, operate, and maintain a run-off management system capable of collecting and controlling a water volume at least equivalent to a 24-hour, 25-year storm.

(d) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(e) If the treatment zone contains particulate matter which may be subject to wind dispersal, the owner or operator must manage the unit to control wind dispersal.

[45 FR 33232, May 19, 1980, as amended at 47 FR 32368, July 26, 1982; 50 FR 16048, Apr. 23, 1985]

§ 265.273 Waste analysis.

In addition to the waste analyses required by § 265.13, before placing a hazardous waste in or on a land treatment facility, the owner or operator must:

(a) Determine the concentrations in the waste of any substances which equal or exceed the maximum concentrations contained in Table 1 of § 261.24 of this chapter that cause a waste to exhibit the Toxicity Characteristic;

(b) For any waste listed in part 261, subpart D, of this chapter, determine the concentrations of any substances which caused the waste to be listed as a hazardous waste; and

(c) If food chain crops are grown, determine the concentrations in the waste of each of the following constituents: arsenic, cadmium, lead, and mercury, *unless* the owner or operator has written, documented data that show that the constituent is not present.

[*Comment:* Part 261 of this chapter specifies the substances for which a waste is listed as a hazardous waste. As required by § 265.13, the waste analysis plan must include anal-

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yses needed to comply with §§ 265.281 and 265.282. As required by § 265.73, the owner or operator must place the results from each waste analysis, or the documented information, in the operating record of the facility.]

[45 FR 33232, May 19, 1980, as amended at 55 FR 11876, Mar. 29, 1990]

§§ 265.274-265.275 [Reserved]

§ 265.276 Food chain crops.

(a) An owner or operator of a hazardous waste land treatment facility on which food chain crops are being grown, or have been grown and will be grown in the future, must notify the Regional Administrator within 60 days after the effective date of this part.

[*Comment:* The growth of food chain crops at a facility which has never before been used for this purpose is a significant change in process under § 122.72(c) of this chapter. Owners or operators of such land treatment facilities who propose to grow food chain crops after the effective date of this part must comply with § 122.72(c) of this chapter.]

(b)(1) Food chain crops must not be grown on the treated area of a hazardous waste land treatment facility unless the owner or operator can demonstrate, based on field testing, that any arsenic, lead, mercury, or other constituents identified under § 265.273(b):

(i) Will not be transferred to the food portion of the crop by plant uptake or direct contact, and will not otherwise be ingested by food chain animals (e.g., by grazing); or

(ii) Will not occur in greater concentrations in the crops grown on the land treatment facility than in the same crops grown on untreated soils under similar conditions in the same region.

(2) The information necessary to make the demonstration required by paragraph (b)(1) of this section must be kept at the facility and must, at a minimum:

(i) Be based on tests for the specific waste and application rates being used at the facility; and

(ii) Include descriptions of crop and soil characteristics, sample selection criteria, sample size determination, analytical methods, and statistical procedures.