

Environmental Protection Agency

§ 265.406

this inflow (e.g., a waste feed cut-off system or by-pass system to a standby containment device).

[*Comment:* These systems are intended to be used in the event of a malfunction in the treatment process or equipment.]

§ 265.402 Waste analysis and trial tests.

(a) In addition to the waste analysis required by § 265.13, whenever:

(1) A hazardous waste which is substantially different from waste previously treated in a treatment process or equipment at the facility is to be treated in that process or equipment, or

(2) A substantially different process than any previously used at the facility is to be used to chemically treat hazardous waste;

the owner or operator must, before treating the different waste or using the different process or equipment:

(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 proposed treatment will meet all applicable requirements of § 265.401 (a) and (b).

(b) [Reserved]

[*Comment:* As required by § 265.13, the waste analysis plan must include analyses needed to comply with §§ 265.405 and 265.406. 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.]

§ 265.403 Inspections.

(a) The owner or operator of a treatment facility must inspect, where present:

(1) Discharge control and safety equipment (e.g., waste feed cut-off systems, by-pass systems, drainage systems, and pressure relief systems) at least once each operating day, to ensure that it is in good working order;

(2) Data gathered from monitoring equipment (e.g., pressure and temperature gauges), at least once each operating day, to ensure that the treatment process or equipment is being operated according to its design;

(3) The construction materials of the treatment process or equipment, at least weekly, to detect corrosion or leaking of fixtures or seams; and

(4) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes), at least weekly, to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

(b) [Reserved]

[*Comment:* As required by § 265.15(c), the owner or operator must remedy any deterioration or malfunction he finds.]

§ 265.404 Closure.

At closure, all hazardous waste and hazardous waste residues must be removed from treatment processes or equipment, discharge control equipment, and discharge confinement structures.

[*Comment:* At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with § 261.3 (c) or (d) of this chapter, that any solid waste removed from his treatment process or equipment is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of parts 262, 263, and 265 of this chapter.]

§ 265.405 Special requirements for ignitable or reactive waste.

(a) Ignitable or reactive waste must not be placed in a treatment process or equipment unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in the treatment process or equipment so that (i) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under § 261.21 or 261.23 or this chapter, and (ii) § 265.17(b) is complied with; or

(2) The waste is treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react.

(b) [Reserved]

§ 265.406 Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, (see appendix V for examples) must not be placed in the same treatment process

§ 265.430

or equipment, unless § 265.17(b) is complied with.

(b) Hazardous waste must not be placed in unwashed treatment equipment which previously held an incompatible waste or material, unless § 265.17(b) is complied with.

Subpart R—Underground Injection

§ 265.430 Applicability.

Except as § 265.1 provides otherwise:

(a) The owner or operator of a facility which disposes of hazardous waste by underground injection is excluded from the requirements of subparts G and H of this part.

(b) The requirements of this subpart apply to owners and operators of wells used to dispose of hazardous waste which are classified as Class I under § 144.6(a) of this chapter and which are classified as Class IV under § 144.6(d) of this chapter.

[*Comment:* In addition to the requirements of subparts A through E of this part, the owner or operator of a facility which disposes of hazardous waste by underground injection ultimately must comply with the requirements of §§ 265.431 through 265.437. These sections are reserved at this time. The Agency will propose regulations that would establish those requirements.]

[45 FR 33232, May 19, 1980, as amended at 48 FR 30115, June 30, 1983]

Subparts S–V [Reserved]

Subpart W—Drip Pads

SOURCE: 55 FR 50486, Dec. 6, 1990, unless otherwise noted.

§ 265.440 Applicability.

(a) The requirements of this subpart apply to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation, and/or surface water run-off to an associated collection system. Existing drip pads are those constructed before December 6, 1990 and those for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 6, 1990. All other drip pads are new drip pads. The requirement at § 265.443(b)(3) to install

40 CFR Ch. I (7–1–03 Edition)

a leak collection system applies only to those drip pads that are constructed after December 24, 1992 except for those constructed after December 24, 1992 for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 24, 1992.

(b) The owner or operator of any drip pad that is inside or under a structure that provides protection from precipitation so that neither run-off nor run-on is generated is not subject to regulation under § 265.443(e) or § 265.443(f), as appropriate.

(c) The requirements of this subpart are not applicable to the management of infrequent and incidental drippage in storage yards provided that:

(1) The owner or operator maintains and complies with a written contingency plan that describes how the owner or operator will respond immediately to the discharge of such infrequent and incidental drippage. At a minimum, the contingency plan must describe how the facility will do the following:

- (i) Clean up the drippage;
- (ii) Document the cleanup of the drippage;
- (iii) Retain documents regarding cleanup for three years; and
- (iv) Manage the contaminated media in a manner consistent with Federal regulations.

[55 FR 50486, Dec. 6, 1990, as amended by 56 FR 30198, July 1, 1991; 57 FR 61503, Dec. 24, 1992]

§ 265.441 Assessment of existing drip pad integrity.

(a) For each existing drip pad as defined in § 265.440 of this subpart, the owner or operator must evaluate the drip pad and determine that it meets all of the requirements of this subpart, except the requirements for liners and leak detection systems of § 265.443(b). No later than the effective date of this rule, the owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent, qualified registered professional engineer that attests to the results of the evaluation. The assessment must be reviewed, updated and re-certified annually until all upgrades, repairs, or