

§ 264.198

containment that meets the requirements of § 264.193 (b) through (f) and has not been granted a variance from the secondary containment requirements in accordance with § 264.193(g), then:

(1) The closure plan for the tank system must include both a plan for complying with paragraph (a) of this section and a contingent plan for complying with paragraph (b) of this section.

(2) A contingent post-closure plan for complying with paragraph (b) of this section must be prepared and submitted as part of the permit application.

(3) The cost estimates calculated for closure and post-closure care must reflect the costs of complying with the contingent closure plan and the contingent post-closure plan, if those costs are greater than the costs of complying with the closure plan prepared for the expected closure under paragraph (a) of this section.

(4) Financial assurance must be based on the cost estimates in paragraph (c)(3) of this section.

(5) For the purposes of the contingent closure and post-closure plans, such a tank system is considered to be a landfill, and the contingent plans must meet all of the closure, post-closure, and financial responsibility requirements for landfills under subparts G and H of this part.

[51 FR 25472, July 14, 1986; 51 FR 29430, Aug. 15, 1986]

§ 264.198 Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in tank systems, unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in the tank system so that:

(i) The resulting waste, mixture, or dissolved material no longer meets the definition of ignitable or reactive waste under §§ 261.21 or 261.23 of this chapter, and

(ii) Section 264.17(b) is complied with; or

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

40 CFR Ch. I (7–1–10 Edition)

(3) The tank system is used solely for emergencies.

(b) The owner or operator of a facility where ignitable or reactive waste is stored or treated in a tank must comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in Tables 2–1 through 2–6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981), (incorporated by reference, see § 260.11).

§ 264.199 Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank system, unless § 264.17(b) is complied with.

(b) Hazardous waste must not be placed in a tank system that has not been decontaminated and that previously held an incompatible waste or material, unless § 264.17(b) is complied with.

§ 264.200 Air emission standards.

The owner or operator shall manage all hazardous waste placed in a tank in accordance with the applicable requirements of subparts AA, BB, and CC of this part.

[61 FR 59950, Nov. 25, 1996]

Subpart K—Surface Impoundments

SOURCE: 47 FR 32357, July 26, 1982, unless otherwise noted.

§ 264.220 Applicability.

The regulations in this subpart apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste except as § 264.1 provides otherwise.

§ 264.221 Design and operating requirements.

(a) Any surface impoundment that is not covered by paragraph (c) of this section or § 265.221 of this chapter must

Environmental Protection Agency

§ 264.221

have a liner for all portions of the impoundment (except for existing portions of such impoundments). The liner must be designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with § 264.228(a)(1). For impoundments that will be closed in accordance with § 264.228(a)(2), the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(1) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(2) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(3) Installed to cover all surrounding earth likely to be in contact with the waste or leachate.

(b) The owner or operator will be exempted from the requirements of paragraph (a) of this section if the Regional Administrator finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents (see § 264.93) into the ground water or surface water at any future time. In deciding whether to grant an exemption, the Regional Administrator will consider:

(1) The nature and quantity of the wastes;

(2) The proposed alternate design and operation;

(3) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(4) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) The owner or operator of each new surface impoundment unit on which construction commences after January 29, 1992, each lateral expansion of a surface impoundment unit on which construction commences after July 29, 1992 and each replacement of an existing surface impoundment unit that is to commence reuse after July 29, 1992 must install two or more liners and a leachate collection and removal system between such liners. "Construction commences" is as defined in § 260.10 of this chapter under "existing facility".

(1)(i) The *liner system* must include:

(A) A top liner designed and constructed of materials (e.g., a geomembrane) to prevent the migration of hazardous constituents into such liner during the active life and post-closure care period; and

(B) A composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g., a geomembrane) to prevent the migration of hazardous constituents into this component during the active life and post-closure care period. The lower component must be designed and constructed of materials to minimize the migration of hazardous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least 3 feet (91 cm) of compacted soil material with a hydraulic conductivity of no more than 1×10^{-7} cm/sec.

(ii) The liners must comply with paragraphs (a) (1), (2), and (3) of this section.

(2) The *leachate collection and removal system* between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also

a *leak detection system*. This leak detection system must be capable of detecting, collecting, and removing leaks of hazardous constituents at the earliest practicable time through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period. The requirements for a leak detection system in this paragraph are satisfied by installation of a system that is, at a minimum:

(i) Constructed with a bottom slope of one percent or more;

(ii) Constructed of granular drainage materials with a hydraulic conductivity of 1×10^{-1} cm/sec or more and a thickness of 12 inches (30.5 cm) or more; or constructed of synthetic or geonet drainage materials with a transmissivity of 3×10^{-4} m²/sec or more;

(iii) Constructed of materials that are chemically resistant to the waste managed in the surface impoundment and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes and any waste cover materials or equipment used at the surface impoundment;

(iv) Designed and operated to minimize clogging during the active life and post-closure care period; and

(v) Constructed with sumps and liquid removal methods (e.g., pumps) of sufficient size to collect and remove liquids from the sump and prevent liquids from backing up into the drainage layer. Each unit must have its own sump(s). The design of each sump and removal system must provide a method for measuring and recording the volume of liquids present in the sump and of liquids removed.

(3) The owner or operator shall collect and remove pumpable liquids in the sumps to minimize the head on the bottom liner.

(4) The owner or operator of a leak detection system that is not located completely above the seasonal high water table must demonstrate that the operation of the leak detection system will not be adversely affected by the presence of ground water.

(d) The Regional Administrator may approve alternative design or operating practices to those specified in para-

graph (c) of this section if the owner or operator demonstrates to the Regional Administrator that such design and operating practices, together with location characteristics:

(1) Will prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as the liners and leachate collection and removal system specified in paragraph (c) of this section; and

(2) Will allow detection of leaks of hazardous constituents through the top liner at least as effectively.

(e) The double liner requirement set forth in paragraph (c) of this section may be waived by the Regional Administrator for any monofill, if:

(1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes hazardous for reasons other than the toxicity characteristic in § 261.24 of this chapter; and

(2)(i)(A) The monofill has at least one liner for which there is no evidence that such liner is leaking. For the purposes of this paragraph, the term "liner" means a liner designed, constructed, installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility, or a liner designed, constructed, installed, and operated to prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, ground water, or surface water at any time during the active life of the facility. In the case of any surface impoundment which has been exempted from the requirements of paragraph (c) of this section on the basis of a liner designed, constructed, installed, and operated to prevent hazardous waste from passing beyond the liner, at the closure of such impoundment, the owner or operator must remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment will comply with appropriate post-closure requirements, including but not limited to ground-water monitoring and corrective action;

(B) The monofill is located more than one-quarter mile from an “underground source of drinking water” (as that term is defined in 40 CFR 270.2); and

(C) The monofill is in compliance with generally applicable ground-water monitoring requirements for facilities with permits under RCRA section 3005(c); or

(ii) The owner or operator demonstrates that the monofill is located, designed and operated so as to assure that there will be no migration of any hazardous constituent into ground water or surface water at any future time.

(f) The owner or operator of any replacement surface impoundment unit is exempt from paragraph (c) of this section if:

(1) The existing unit was constructed in compliance with the design standards of sections 3004 (o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act; and

(2) There is no reason to believe that the liner is not functioning as designed.

(g) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(h) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

(i) The Regional Administrator will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

[47 FR 32357, July 26, 1982, as amended at 50 FR 4514, Jan. 31, 1985; 50 FR 28747, July 15, 1985; 57 FR 3487, Jan. 29, 1992; 71 FR 40273, July 14, 2006]

§ 264.222 Action leakage rate.

(a) The Regional Administrator shall approve an action leakage rate for sur-

face impoundment units subject to § 264.221 (c) or (d). 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.).

(b) 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 § 264.226(d) to an average daily flow rate (gallons per acre per day) for each sump. Unless the Regional Administrator approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period, and if the unit is closed in accordance with § 264.228(b), monthly during the post-closure care period when monthly monitoring is required under § 264.226(d).

[57 FR 3487, Jan. 29, 1992]

§ 264.223 Response actions.

(a) The owner or operator of surface impoundment units subject to § 264.221 (c) or (d) must have an approved response action plan before receipt of waste. 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 exceedance within 7 days of the determination;