

Environmental Protection Agency

§ 264.280

significant increase of hazardous constituents below the treatment zone, he may demonstrate that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this paragraph in addition to, or in lieu of, submitting a permit modification application under paragraph (g)(2) of this section, he is not relieved of the requirement to submit a permit modification application within the time specified in paragraph (g)(2) of this section unless the demonstration made under this paragraph successfully shows that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. In making a demonstration under this paragraph, the owner or operator must:

(1) Notify the Regional Administrator in writing within seven days of determining a statistically significant increase below the treatment zone that he intends to make a determination under this paragraph;

(2) Within 90 days, submit a report to the Regional Administrator demonstrating that a source other than the regulated units caused the increase or that the increase resulted from error in sampling, analysis, or evaluation;

(3) Within 90 days, submit to the Regional Administrator an application for a permit modification to make any appropriate changes to the unsaturated zone monitoring program at the facility; and

(4) Continue to monitor in accordance with the unsaturated zone monitoring program established under this section.

[47 FR 32361, July 26, 1982, as amended at 50 FR 4514, Jan. 31, 1985]

§ 264.279 Recordkeeping.

The owner or operator must include hazardous waste application dates and rates in the operating record required under § 264.73.

[47 FR 32361, July 26, 1982, as amended at 50 FR 4514, Jan. 31, 1985]

§ 264.280 Closure and post-closure care.

(a) During the closure period the owner or operator must:

(1) Continue all operations (including pH control) necessary to maximize degradation, transformation, or immobilization of hazardous constituents within the treatment zone as required under § 264.273(a), except to the extent such measures are inconsistent with paragraph (a)(8) of this section.

(2) Continue all operations in the treatment zone to minimize run-off of hazardous constituents as required under § 264.273(b);

(3) Maintain the run-on control system required under § 264.273(c);

(4) Maintain the run-off management system required under § 264.273(d);

(5) Control wind dispersal of hazardous waste if required under § 264.273(f);

(6) Continue to comply with any prohibitions or conditions concerning growth of food-chain crops under § 264.276;

(7) Continue unsaturated zone monitoring in compliance with § 264.278, except that soil-pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone; and

(8) Establish a vegetative cover on the portion of the facility being closed at such time that the cover will not substantially impede degradation, transformation, or immobilization of hazardous constituents in the treatment zone. The vegetative cover must be capable of maintaining growth without extensive maintenance.

(b) For the purpose of complying with § 264.115 of this chapter, when closure is completed the owner or operator may submit to the Regional Administrator certification by an independent, qualified soil scientist, in lieu of a qualified Professional Engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(c) During the post-closure care period the owner or operator must:

(1) Continue all operations (including pH control) necessary to enhance degradation and transformation and sustain immobilization of hazardous constituents in the treatment zone to the

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extent that such measures are consistent with other post-closure care activities;

(2) Maintain a vegetative cover over closed portions of the facility;

(3) Maintain the run-on control system required under § 264.273(c);

(4) Maintain the run-off management system required under § 264.273(d);

(5) Control wind dispersal of hazardous waste if required under § 264.273(f);

(6) Continue to comply with any prohibitions or conditions concerning growth of food-chain crops under § 264.276; and

(7) Continue unsaturated zone monitoring in compliance with § 264.278, except that soil-pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone.

(d) The owner or operator is not subject to regulation under paragraphs (a)(8) and (c) of this section if the Regional Administrator finds that the level of hazardous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in paragraph (d)(3) of this section. The owner or operator may submit such a demonstration to the Regional Administrator at any time during the closure or post-closure care periods. For the purposes of this paragraph:

(1) The owner or operator must establish background soil values and determine whether there is a statistically significant increase over those values for all hazardous constituents specified in the facility permit under § 264.271 (b).

(i) Background soil values may be based on a one-time sampling of a background plot having characteristics similar to those of the treatment zone.

(ii) The owner or operator must express background values and values for hazardous constituents in the treatment zone in a form necessary for the determination of statistically significant increases under paragraph (d)(3) of this section.

(2) In taking samples used in the determination of background and treatment zone values, the owner or operator must take samples at a sufficient number of sampling points and at ap-

propriate locations and depths to yield samples that represent the chemical make-up of soil that has not been affected by leakage from the treatment zone and the soil within the treatment zone, respectively.

(3) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent in the treatment zone to the background value for that constituent using a statistical procedure that provides reasonable confidence that constituent presence in the treatment zone will be identified. The owner or operator must use a statistical procedure that:

(i) Is appropriate for the distribution of the data used to establish background values; and

(ii) Provides a reasonable balance between the probability of falsely identifying hazardous constituent presence in the treatment zone and the probability of failing to identify real presence in the treatment zone.

(e) The owner or operator is not subject to regulation under Subpart F of this chapter if the Regional Administrator finds that the owner or operator satisfies paragraph (d) of this section and if unsaturated zone monitoring under § 264.278 indicates that hazardous constituents have not migrated beyond the treatment zone during the active life of the land treatment unit.

[47 FR 32361, July 26, 1982, as amended at 71 FR 16906, Apr. 4, 2006; 71 FR 40273, July 14, 2006]

§ 264.281 Special requirements for ignitable or reactive waste.

The owner or operator must not apply ignitable or reactive waste to the treatment zone unless the waste and the treatment zone meet all applicable requirements of 40 CFR part 268, and:

(a) The waste is immediately incorporated into the soil so that:

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

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