

Environmental Protection Agency

§ 264.118

(i) Monitoring and reporting in accordance with the requirements of subparts F, K, L, M, N, and X of this part; and

(ii) Maintenance and monitoring of waste containment systems in accordance with the requirements of subparts F, K, L, M, N, and X of this part.

(2) Any time preceding partial closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular unit, the Regional Administrator may, in accordance with the permit modification procedures in parts 124 and 270:

(i) Shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if he finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground-water monitoring results, characteristics of the hazardous wastes, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the hazardous waste management unit or facility is secure); or

(ii) Extend the post-closure care period applicable to the hazardous waste management unit or facility if he finds that the extended period is necessary to protect human health and the environment (e.g., leachate or ground-water monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

(b) The Regional Administrator may require, at partial and final closure, continuation of any of the security requirements of § 264.14 during part or all of the post-closure period when:

(1) Hazardous wastes may remain exposed after completion of partial or final closure; or

(2) Access by the public or domestic livestock may pose a hazard to human health.

(c) Post-closure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the facility's moni-

toring systems, unless the Regional Administrator finds that the disturbance:

(1) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(2) Is necessary to reduce a threat to human health or the environment.

(d) All post-closure care activities must be in accordance with the provisions of the approved post-closure plan as specified in § 264.118.

[51 FR 16444, May 2, 1986, as amended at 52 FR 46963, Dec. 10, 1987]

§ 264.118 Post-closure plan; amendment of plan.

(a) *Written Plan.* The owner or operator of a hazardous waste disposal unit must have a written post-closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous wastes at partial or final closure are required by §§ 264.228(c)(1)(ii) and 264.258(c)(1)(ii) to have contingent post-closure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent post-closure plans under §§ 264.228(c)(1)(ii) and 264.258(c)(1)(ii) must submit a post-closure plan to the Regional Administrator within 90 days from the date that the owner or operator or Regional administrator determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of §§ 264.117 through 264.120. The plan must be submitted with the permit application, in accordance with § 270.14(b)(13) of this chapter, and approved by the Regional Administrator as part of the permit issuance procedures under part 124 of this chapter. In accordance with § 270.32 of this chapter, the approved post-closure plan will become a condition of any RCRA permit issued.

(b) For each hazardous waste management unit subject to the requirements of this section, the post-closure plan must identify the activities that will be carried on after closure of each disposal unit and the frequency of these activities, and include at least:

(1) A description of the planned monitoring activities and frequencies at

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which they will be performed to comply with subparts F, K, L, M, N, and X of this part during the post-closure care period; and

(2) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

(i) The integrity of the cap and final cover or other containment systems in accordance with the requirements of subparts F, K, L, M, N, and X of this part; and

(ii) The function of the monitoring equipment in accordance with the requirements of subparts F, K, L, M, N, and X of this part; and

(3) The name, address, and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the post-closure care period.

(4) For facilities where the Regional Administrator has applied alternative requirements at a regulated unit under §§ 264.90(f), 264.110(c), and/or §§ 264.140(d), either the alternative requirements that apply to the regulated unit, or a reference to the enforceable document containing those requirements.

(c) Until final closure of the facility, a copy of the approved post-closure plan must be furnished to the Regional Administrator upon request, including request by mail. After final closure has been certified, the person or office specified in § 264.118(b)(3) must keep the approved post-closure plan during the remainder of the post-closure period.

(d) *Amendment of plan.* The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved post-closure plan in accordance with the applicable requirements in parts 124 and 270. The written notification or request must include a copy of the amended post-closure plan for review or approval by the Regional Administrator.

(1) The owner or operator may submit a written notification or request to the Regional Administrator for a permit modification to amend the post-closure plan at any time during the active life of the facility or during the post-closure care period.

(2) The owner or operator must submit a written notification of or request

for a permit modification to authorize a change in the approved post-closure plan whenever:

(i) Changes in operating plans or facility design affect the approved post-closure plan, or

(ii) There is a change in the expected year of final closure, if applicable, or

(iii) Events which occur during the active life of the facility, including partial and final closures, affect the approved post-closure plan.

(iv) The owner or operator requests the Regional Administrator to apply alternative requirements to a regulated unit under §§ 264.90(f), 264.110(c), and/or § 264.140(d).

(3) The owner or operator must submit a written request for a permit modification at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to submit a contingent post-closure plan under §§ 264.228(c)(1)(ii) and 264.258(c)(1)(ii) must submit a post-closure plan to the Regional Administrator no later than 90 days after the date that the owner or operator or Regional Administrator determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of § 264.310. The Regional Administrator will approve, disapprove or modify this plan in accordance with the procedures in parts 124 and 270. In accordance with § 270.32 of this chapter, the approved post-closure plan will become a permit condition.

(4) The Regional Administrator may request modifications to the plan under the conditions described in § 264.118(d)(2). The owner or operator must submit the modified plan no later than 60 days after the Regional Administrator's request, or no later than 90 days if the unit is a surface impoundment or waste pile not previously required to prepare a contingent post-closure plan. Any modifications requested by the Regional Administrator

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will be approved, disapproved, or modified in accordance with the procedures in parts 124 and 270.

[51 FR 16444, May 2, 1986, as amended at 52 FR 46964, Dec. 10, 1987; 53 FR 37935, Sept. 28, 1988; 63 FR 56733, Oct. 22, 1998; 71 FR 40272, July 14, 2006]

§ 264.119 Post-closure notices.

(a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Regional Administrator a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

(b) Within 60 days of certification of closure of the first hazardous waste disposal unit and within 60 days of certification of closure of the last hazardous waste disposal unit, the owner or operator must:

(1) Record, in accordance with State law, a notation on the deed to the facility property—or on some other instrument which is normally examined during title search—that will in perpetuity notify any potential purchaser of the property that:

(i) The land has been used to manage hazardous wastes; and

(ii) Its use is restricted under 40 CFR part 264, subpart G regulations; and

(iii) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by §§ 264.116 and 264.119(a) have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Regional Administrator; and

(2) Submit a certification, signed by the owner or operator, that he has recorded the notation specified in paragraph (b)(1) of this section, including a copy of the document in which the no-

tation has been placed, to the Regional Administrator.

(c) If the owner or operator or any subsequent owner or operator of the land upon which a hazardous waste disposal unit is located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, or contaminated soils, he must request a modification to the post-closure permit in accordance with the applicable requirements in parts 124 and 270. The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of § 264.117(c). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of this chapter. If he is granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the Regional Administrator approve either:

(1) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

(2) The addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

[51 FR 16444, May 2, 1986, as amended at 71 FR 40272, July 14, 2006]

§ 264.120 Certification of completion of post-closure care.

No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Regional Administrator, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and a qualified Professional Engineer. Documentation supporting the Professional Engineer's certification must be furnished to the Regional Administrator upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under § 264.145(i).

[71 FR 16904, Apr. 4, 2006]