(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.


§ 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 analyses 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.]


§§ 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.

(c) Food chain crops must not be grown on a land treatment facility receiving waste that contains cadmium unless all requirements of paragraphs (c)(1)(i) through (iii) of this section or all requirements of paragraphs (c)(2)(i) through (iv) of this section are met.

(1)(i) The pH of the waste and soil mixture is 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

(ii) The annual application of cadmium from waste does not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food chain crops, the annual cadmium application rate does not exceed: 

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(iii) The cumulative application of cadmium from waste does not exceed the levels in either paragraph (c)(1)(iii)(A) or (B) of this section.

(A)

<table>
<thead>
<tr>
<th>Time period</th>
<th>Annual Cd application rate (kg/ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Present to June 30, 1984</td>
<td>2.0</td>
</tr>
<tr>
<td>July 1, 1984 to December 31, 1986</td>
<td>1.25</td>
</tr>
<tr>
<td>Beginning January 1, 1987</td>
<td>0.5</td>
</tr>
</tbody>
</table>

(B) For soils with a background pH of less than 6.5, the cumulative cadmium application rate does not exceed the levels below: *Provided*, that the pH of the waste and soil mixture is adjusted to and maintained at 6.5 or greater whenever food chain crops are grown.

<table>
<thead>
<tr>
<th>Soil caption exchange capacity (meq/100g)</th>
<th>Maximum cumulative application (kg/ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 5</td>
<td>5</td>
</tr>
<tr>
<td>5 to 15</td>
<td>10</td>
</tr>
<tr>
<td>Greater than 15</td>
<td>20</td>
</tr>
</tbody>
</table>

(2)(i) The only food chain crop produced is animal feed.
(ii) The pH of the waste and soil mixture is 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level is maintained whenever food chain crops are grown.
(iii) There is a facility operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The facility operating plan describes the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses.
(iv) Future property owners are notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food chain crops must not be grown except in compliance with paragraph (c)(2) of this section.

[Comment: As required by §265.73, if an owner or operator grows food chain crops on his land treatment facility, he must place the information developed in this section in the operating record of the facility.]

§ 265.277 Unsaturated zone (zone of aeration) monitoring.

(a) The owner or operator must have in writing, and must implement, an unsaturated zone monitoring plan which is designed to:
   (1) Detect the vertical migration of hazardous waste and hazardous waste constituents under the active portion of the land treatment facility, and
   (2) Provide information on the background concentrations of the hazardous waste and hazardous waste constituents in similar but untreated soils nearby; this background monitoring must be conducted before or in conjunction with the monitoring required under paragraph (a)(1) of this section.
(b) The unsaturated zone monitoring plan must include, at a minimum:
   (1) Soil monitoring using soil cores, and
   (2) Soil-pore water monitoring using devices such as lysimeters.
(c) To comply with paragraph (a)(1) of this section, the owner or operator must demonstrate in his unsaturated zone monitoring plan that:
   (1) The depth at which soil and soil-pore water samples are to be taken is below the depth to which the waste is incorporated into the soil;
   (2) The number of soil and soil-pore water samples to be taken is based on the variability of:
      (i) The hazardous waste constituents (as identified in §265.273(a) and (b)) in the waste and in the soil; and
      (ii) The soil type(s); and
   (3) The frequency and timing of soil and soil-pore water sampling is based on the frequency, time, and rate of waste application, proximity to ground water, and soil permeability.
(d) The owner or operator must keep at the facility his unsaturated zone monitoring plan.