

quality. Measurement of total recoverable metals captures both the particulate fraction and dissolved fraction of metals in natural waters. Groundwater samples shall not be field-filtered prior to analysis.

(j) The owner or operator of the CCR unit must comply with the record-keeping requirements specified in § 257.105(h), the notification requirements specified in § 257.106(h), and the Internet requirements specified in § 257.107(h).

[80 FR 21468, Apr. 17, 2015, as amended at 83 FR 36453, July 30, 2018]

**§ 257.94 Detection monitoring program.**

(a) The owner or operator of a CCR unit must conduct detection monitoring at all groundwater monitoring wells consistent with this section. At a minimum, a detection monitoring program must include groundwater monitoring for all constituents listed in appendix III to this part.

(b) Except as provided in paragraph (d) of this section, the monitoring frequency for the constituents listed in appendix III to this part shall be at least semiannual during the active life of the CCR unit and the post-closure period. For existing CCR landfills and existing CCR surface impoundments, a minimum of eight independent samples from each background and downgradient well must be collected and analyzed for the constituents listed in appendix III and IV to this part no later than October 17, 2017. For new CCR landfills, new CCR surface impoundments, and all lateral expansions of CCR units, a minimum of eight independent samples for each background well must be collected and analyzed for the constituents listed in appendices III and IV to this part during the first six months of sampling.

(c) The number of samples collected and analyzed for each background well and downgradient well during subsequent semiannual sampling events must be consistent with § 257.93(e), and must account for any unique characteristics of the site, but must be at least one sample from each background and downgradient well.

(d) The owner or operator of a CCR unit may demonstrate the need for an

alternative monitoring frequency for repeated sampling and analysis for constituents listed in appendix III to this part during the active life and the post-closure care period based on the availability of groundwater. If there is not adequate groundwater flow to sample wells semiannually, the alternative frequency shall be no less than annual. The need to vary monitoring frequency must be evaluated on a site-specific basis. The demonstration must be supported by, at a minimum, the information specified in paragraphs (d)(1) and (2) of this section.

(1) Information documenting that the need for less frequent sampling. The alternative frequency must be based on consideration of the following factors:

(i) Lithology of the aquifer and unsaturated zone;

(ii) Hydraulic conductivity of the aquifer and unsaturated zone; and

(iii) Groundwater flow rates.

(2) Information documenting that the alternative frequency will be no less effective in ensuring that any leakage from the CCR unit will be discovered within a timeframe that will not materially delay establishment of an assessment monitoring program.

(3) The owner or operator must obtain a certification from a qualified professional engineer or approval from the Participating State Director or approval from EPA where EPA is the permitting authority stating that the demonstration for an alternative groundwater sampling and analysis frequency meets the requirements of this section. The owner or operator must include the demonstration providing the basis for the alternative monitoring frequency and the certification by a qualified professional engineer or the approval from the Participating State Director or approval from EPA where EPA is the permitting authority in the annual groundwater monitoring and corrective action report required by § 257.90(e).

(e) If the owner or operator of the CCR unit determines, pursuant to § 257.93(h) that there is a statistically significant increase over background levels for one or more of the constituents listed in appendix III to this part at any monitoring well at the waste

## § 257.95

## 40 CFR Ch. I (7–1–22 Edition)

boundary specified under § 257.91(a)(2), the owner or operator must:

(1) Except as provided for in paragraph (e)(2) of this section, within 90 days of detecting a statistically significant increase over background levels for any constituent, establish an assessment monitoring program meeting the requirements of § 257.95.

(2) The owner or operator may demonstrate that a source other than the CCR unit caused the statistically significant increase over background levels for a constituent or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. The owner or operator must complete the written demonstration within 90 days of detecting a statistically significant increase over background levels to include obtaining a certification from a qualified professional engineer or approval from the Participating State Director or approval from EPA where EPA is the permitting authority verifying the accuracy of the information in the report. If a successful demonstration is completed within the 90-day period, the owner or operator of the CCR unit may continue with a detection monitoring program under this section. If a successful demonstration is not completed within the 90-day period, the owner or operator of the CCR unit must initiate an assessment monitoring program as required under § 257.95. The owner or operator must also include the demonstration in the annual groundwater monitoring and corrective action report required by § 257.90(e), in addition to the certification by a qualified professional engineer or approval from the Participating State Director or approval from EPA where EPA is the permitting authority.

(3) The owner or operator of a CCR unit must prepare a notification stating that an assessment monitoring program has been established. The owner or operator has completed the notification when the notification is placed in the facility's operating record as required by § 257.105(h)(5).

(f) The owner or operator of the CCR unit must comply with the record-keeping requirements specified in

§ 257.105(h), the notification requirements specified in § 257.106(h), and the Internet requirements specified in § 257.107(h).

[80 FR 21468, Apr. 17, 2015, as amended at 83 FR 36453, July 30, 2018]

### § 257.95 Assessment monitoring program.

(a) Assessment monitoring is required whenever a statistically significant increase over background levels has been detected for one or more of the constituents listed in appendix III to this part.

(b) Within 90 days of triggering an assessment monitoring program, and annually thereafter, the owner or operator of the CCR unit must sample and analyze the groundwater for all constituents listed in appendix IV to this part. The number of samples collected and analyzed for each well during each sampling event must be consistent with § 257.93(e), and must account for any unique characteristics of the site, but must be at least one sample from each well.

(c) The owner or operator of a CCR unit may demonstrate the need for an alternative monitoring frequency for repeated sampling and analysis for constituents listed in appendix IV to this part during the active life and the post-closure care period based on the availability of groundwater. If there is not adequate groundwater flow to sample wells semiannually, the alternative frequency shall be no less than annual. The need to vary monitoring frequency must be evaluated on a site-specific basis. The demonstration must be supported by, at a minimum, the information specified in paragraphs (c)(1) and (2) of this section.

(1) Information documenting that the need for less frequent sampling. The alternative frequency must be based on consideration of the following factors:

- (i) Lithology of the aquifer and unsaturated zone;
- (ii) Hydraulic conductivity of the aquifer and unsaturated zone; and
- (iii) Groundwater flow rates.

(2) Information documenting that the alternative frequency will be no less effective in ensuring that any leakage from the CCR unit will be discovered