

Environmental Protection Agency

§ 264.113

modify this amended plan in accordance with the procedures in parts 124 and 270. In accordance with § 270.32 of this chapter, the approved closure plan will become a condition of any RCRA permit issued.

(4) The Regional Administrator may request modifications to the plan under the conditions described in § 264.112(c)(2). The owner or operator must submit the modified plan within 60 days of the Regional Administrator's request, or within 30 days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the Regional Administrator will be approved in accordance with the procedures in parts 124 and 270.

(d) *Notification of partial closure and final closure.* (1) The owner or operator must notify the Regional Administrator in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the Regional Administrator in writing at least 45 days prior to the date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed. The owner or operator must notify the Regional Administrator in writing at least 45 days prior to the date on which he expects to begin partial or final closure of a boiler or industrial furnace, whichever is earlier.

(2) The date when he "expects to begin closure" must be either:

(i) No later than 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes, or if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous wastes. If the owner or operator of a hazardous waste management unit can demonstrate to the Regional Administrator that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and he has taken all steps to

prevent threats to human health and the environment, including compliance with all applicable permit requirements, the Regional Administrator may approve an extension to this one-year limit; or

(ii) For units meeting the requirements of § 264.113(d), no later than 30 days after the date on which the hazardous waste management unit receives the known final volume of non-hazardous wastes, or if there is a reasonable possibility that the hazardous waste management unit will receive additional non-hazardous wastes, no later than one year after the date on which the unit received the most recent volume of non-hazardous wastes. If the owner or operator can demonstrate to the Regional Administrator that the hazardous waste management unit has the capacity to receive additional non-hazardous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the Regional Administrator may approve an extension to this one-year limit.

(3) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order under section 3008 of RCRA, to cease receiving hazardous wastes or to close, then the requirements of this paragraph do not apply. However, the owner or operator must close the facility in accordance with the deadlines established in § 264.113.

(e) *Removal of wastes and decontamination or dismantling of equipment.* Nothing in this section shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

[51 FR 16444, May 2, 1986, as amended at 52 FR 46963, Dec. 10, 1987; 53 FR 37935, Sept. 28, 1988; 54 FR 33394, Aug. 14, 1989; 56 FR 7207, Feb. 21, 1991; 57 FR 37265, Aug. 18, 1992; 63 FR 56733, Oct. 22, 1998; 71 FR 40272, July 14, 2006]

§ 264.113 Closure; time allowed for closure.

(a) Within 90 days after receiving the final volume of hazardous wastes, or

the final volume of non-hazardous wastes if the owner or operator complies with all applicable requirements in paragraphs (d) and (e) of this section, at a hazardous waste management unit or facility, the owner or operator must treat, remove from the unit or facility, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan. The Regional Administrator may approve a longer period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that:

(1)(i) The activities required to comply with this paragraph will, of necessity, take longer than 90 days to complete; or

(ii)(A) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes if the owner or operator complies with paragraphs (d) and (e) of this section; and

(B) There is a reasonable likelihood that he or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

(C) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements.

(b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes if the owner or operator complies with all applicable requirements in paragraphs (d) and (e) of this section, at the hazardous waste management unit or facility. The Regional Administrator may approve an extension to the closure period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that:

(1)(i) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

(ii)(A) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes if the owner or operator complies with paragraphs (d) and (e) of this section; and

(B) There is reasonable likelihood that he or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

(C) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable permit requirements.

(c) The demonstrations referred to in paragraphs (a)(1) and (b)(1) of this section must be made as follows:

(1) The demonstrations in paragraph (a)(1) of this section must be made at least 30 days prior to the expiration of the 90-day period in paragraph (a) of this section; and

(2) The demonstration in paragraph (b)(1) of this section must be made at least 30 days prior to the expiration of the 180-day period in paragraph (b) of this section, unless the owner or operator is otherwise subject to the deadlines in paragraph (d) of this section.

(d) The Regional Administrator may allow an owner or operator to receive only non-hazardous wastes in a landfill, land treatment, or surface impoundment unit after the final receipt of hazardous wastes at that unit if:

(1) The owner or operator requests a permit modification in compliance with all applicable requirements in parts 270 and 124 of this title and in the permit modification request demonstrates that:

(i) The unit has the existing design capacity as indicated on the part A application to receive non-hazardous wastes; and

(ii) There is a reasonable likelihood that the owner or operator or another

person will receive non-hazardous wastes in the unit within one year after the final receipt of hazardous wastes; and

(iii) The non-hazardous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility under this part; and

(iv) Closure of the hazardous waste management unit would be incompatible with continued operation of the unit or facility; and

(v) The owner or operator is operating and will continue to operate in compliance with all applicable permit requirements; and

(2) The request to modify the permit includes an amended waste analysis plan, ground-water monitoring and response program, human exposure assessment required under RCRA section 3019, and closure and post-closure plans, and updated cost estimates and demonstrations of financial assurance for closure and post-closure care as necessary and appropriate, to reflect any changes due to the presence of hazardous constituents in the non-hazardous wastes, and changes in closure activities, including the expected year of closure if applicable under § 264.112(b)(7), as a result of the receipt of non-hazardous wastes following the final receipt of hazardous wastes; and

(3) The request to modify the permit includes revisions, as necessary and appropriate, to affected conditions of the permit to account for the receipt of non-hazardous wastes following receipt of the final volume of hazardous wastes; and

(4) The request to modify the permit and the demonstrations referred to in paragraphs (d)(1) and (d)(2) of this section are submitted to the Regional Administrator no later than 120 days prior to the date on which the owner or operator of the facility receives the known final volume of hazardous wastes at the unit, or no later than 90 days after the effective date of this rule in the state in which the unit is located, whichever is later.

(e) In addition to the requirements in paragraph (d) of this section, an owner or operator of a hazardous waste surface impoundment that is not in com-

pliance with the liner and leachate collection system requirements in 42 U.S.C. 3004(o)(1) and 3005(j)(1) or 42 U.S.C. 3004(o) (2) or (3) or 3005(j) (2), (3), (4) or (13) must:

(1) Submit with the request to modify the permit:

(i) A contingent corrective measures plan, unless a corrective action plan has already been submitted under § 264.99; and

(ii) A plan for removing hazardous wastes in compliance with paragraph (e)(2) of this section; and

(2) Remove all hazardous wastes from the unit by removing all hazardous liquids, and removing all hazardous sludges to the extent practicable without impairing the integrity of the liner(s), if any.

(3) Removal of hazardous wastes must be completed no later than 90 days after the final receipt of hazardous wastes. The Regional Administrator may approve an extension to this deadline if the owner or operator demonstrates that the removal of hazardous wastes will, of necessity, take longer than the allotted period to complete and that an extension will not pose a threat to human health and the environment.

(4) If a release that is a statistically significant increase (or decrease in the case of pH) over background values for detection monitoring parameters or constituents specified in the permit or that exceeds the facility's ground-water protection standard at the point of compliance, if applicable, is detected in accordance with the requirements in subpart F of this part, the owner or operator of the unit:

(i) Must implement corrective measures in accordance with the approved contingent corrective measures plan required by paragraph (e)(1) of this section no later than one year after detection of the release, or approval of the contingent corrective measures plan, whichever is later;

(ii) May continue to receive wastes at the unit following detection of the release only if the approved corrective measures plan includes a demonstration that continued receipt of wastes will not impede corrective action; and

(iii) May be required by the Regional Administrator to implement corrective

measures in less than one year or to cease the receipt of wastes until corrective measures have been implemented if necessary to protect human health and the environment.

(5) During the period of corrective action, the owner or operator shall provide annual reports to the Regional Administrator describing the progress of the corrective action program, compile all ground-water monitoring data, and evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

(6) The Regional Administrator may require the owner or operator to commence closure of the unit if the owner or operator fails to implement corrective action measures in accordance with the approved contingent corrective measures plan within one year as required in paragraph (e)(4) of this section, or fails to make substantial progress in implementing corrective action and achieving the facility's ground-water protection standard or background levels if the facility has not yet established a ground-water protection standard.

(7) If the owner or operator fails to implement corrective measures as required in paragraph (e)(4) of this section, or if the Regional Administrator determines that substantial progress has not been made pursuant to paragraph (e)(6) of this section he shall:

(i) Notify the owner or operator in writing that the owner or operator must begin closure in accordance with the deadlines in paragraphs (a) and (b) of this section and provide a detailed statement of reasons for this determination, and

(ii) Provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the decision no later than 20 days after the date of the notice.

(iii) If the Regional Administrator receives no written comments, the decision will become final five days after the close of the comment period. The Regional Administrator will notify the owner or operator that the decision is final, and that a revised closure plan, if necessary, must be submitted within 15 days of the final notice and that closure must begin in accordance with the

deadlines in paragraphs (a) and (b) of this section.

(iv) If the Regional Administrator receives written comments on the decision, he shall make a final decision within 30 days after the end of the comment period, and provide the owner or operator in writing and the public through a newspaper notice, a detailed statement of reasons for the final decision. If the Regional Administrator determines that substantial progress has not been made, closure must be initiated in accordance with the deadlines in paragraphs (a) and (b) of this section.

(v) The final determinations made by the Regional Administrator under paragraphs (e)(7) (iii) and (iv) of this section are not subject to administrative appeal.

[51 FR 16444, May 2, 1986, as amended at 54 FR 33394, Aug. 14, 1989; 71 FR 16904, Apr. 4, 2006]

§ 264.114 Disposal or decontamination of equipment, structures and soils.

During the partial and final closure periods, all contaminated equipment, structures and soils must be properly disposed of or decontaminated unless otherwise specified in §§ 264.197, 264.228, 264.258, 264.280 or § 264.310. By removing any hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that waste in accordance with all applicable requirements of part 262 of this chapter.

[51 FR 16444, May 2, 1986, as amended at 52 FR 46963, Dec. 10, 1987; 53 FR 34086, Sept. 2, 1988]

§ 264.115 Certification of closure.

Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of the completion of final closure, the owner or operator must submit to the Regional Administrator, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner