

(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 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 notation 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

§ 264.120

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]

Subpart H—Financial Requirements

SOURCE: 47 FR 15047, Apr. 7, 1982, unless otherwise noted.

§ 264.140 Applicability.

(a) The requirements of §§264.142, 264.143, and 264.147 through 264.151 apply to owners and operators of all hazardous waste facilities, except as

40 CFR Ch. I (7–1–23 Edition)

provided otherwise in this section or in §264.1.

(b) The requirements of §§264.144 and 264.145 apply only to owners and operators of:

(1) Disposal facilities;

(2) Piles, and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that these sections are made applicable to such facilities in §§264.228 and 264.258;

(3) Tank systems that are required under §264.197 to meet the requirements for landfills; and

(4) Containment buildings that are required under §264.1102 to meet the requirements for landfills.

(c) States and the Federal government are exempt from the requirements of this subpart.

(d) The Regional Administrator may replace all or part of the requirements of this subpart applying to a regulated unit with alternative requirements for financial assurance set out in the permit or in an enforceable document (as defined in 40 CFR 270.1(c)(7)), where the Regional Administrator:

(1) Prescribes alternative requirements for the regulated unit under §264.90(f) and/or §264.110(c); and

(2) Determines that it is not necessary to apply the requirements of this subpart because the alternative financial assurance requirements will protect human health and the environment.

[47 FR 15047, Apr. 7, 1982, as amended at 47 FR 32357, July 26, 1982; 51 FR 25472, July 14, 1986; 57 FR 37265, Aug. 18, 1992; 63 FR 56733, Oct. 22, 1998; 71 FR 40272, July 14, 2006]

§ 264.141 Definitions of terms as used in this subpart.

(a) *Closure plan* means the plan for closure prepared in accordance with the requirements of §264.112.

(b) *Current closure cost estimate* means the most recent of the estimates prepared in accordance with §264.142 (a), (b), and (c).

(c) *Current post-closure cost estimate* means the most recent of the estimates prepared in accordance with §264.144 (a), (b), and (c).

(d) *Parent corporation* means a corporation which directly owns at least 50 percent of the voting stock of the