

## § 264.120

## 40 CFR Ch. I (7–1–23 Edition)

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

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

corporation which is the facility owner or operator; the latter corporation is deemed a “subsidiary” of the parent corporation.

(e) *Post-closure plan* means the plan for post-closure care prepared in accordance with the requirements of §§ 264.117 through 264.120.

(f) The following terms are used in the specifications for the financial tests for closure, post-closure care, and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

*Assets* means all existing and all probable future economic benefits obtained or controlled by a particular entity.

*Current assets* means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

*Current liabilities* means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

*Current plugging and abandonment cost estimate* means the most recent of the estimates prepared in accordance with § 144.62(a), (b), and (c) of this title.

*Independently audited* refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

*Liabilities* means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

*Net working capital* means current assets minus current liabilities.

*Net worth* means total assets minus total liabilities and is equivalent to owner's equity.

*Tangible net worth* means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(g) In the liability insurance requirements the terms *bodily injury* and *property damage* shall have the meanings given these terms by applicable State law. However, these terms do not include those liabilities which, consistent with standard industry practices, are excluded from coverage in liability policies for bodily injury and property damage. The Agency intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

*Accidental occurrence* means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

*Legal defense costs* means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

*Nonsudden accidental occurrence* means an occurrence which takes place over time and involves continuous or repeated exposure.

*Sudden accidental occurrence* means an occurrence which is not continuous or repeated in nature.

(h) *Substantial business relationship* means the extent of a business relationship necessary under applicable State law to make a guarantee contract issued incident to that relationship valid and enforceable. A “substantial business relationship” must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the owner or operator is demonstrated to the satisfaction of the applicable EPA Regional Administrator.

[47 FR 16554, Apr. 16, 1982, as amended at 51 FR 16447, May 2, 1986; 53 FR 33950, Sept. 1, 1988]