

(1) Control of the migration of hazardous waste and hazardous waste constituents from the treated area into the ground water;

(2) Control of the release of contaminated run-off from the facility into surface water;

(3) Control of the release of airborne particulate contaminants caused by wind erosion; and

(4) Compliance with § 265.276 concerning the growth of food-chain crops.

(b) The owner or operator must consider at least the following factors in addressing the closure and post-closure care objectives of paragraph (a) of this section:

(1) Type and amount of hazardous waste and hazardous waste constituents applied to the land treatment facility;

(2) The mobility and the expected rate of migration of the hazardous waste and hazardous waste constituents;

(3) Site location, topography, and surrounding land use, with respect to the potential effects of pollutant migration (e.g., proximity to ground water, surface water and drinking water sources);

(4) Climate, including amount, frequency, and pH of precipitation;

(5) Geological and soil profiles and surface and subsurface hydrology of the site, and soil characteristics, including cation exchange capacity, total organic carbon, and pH;

(6) Unsaturated zone monitoring information obtained under § 265.278; and

(7) Type, concentration, and depth of migration of hazardous waste constituents in the soil as compared to their background concentrations.

(c) The owner or operator must consider at least the following methods in addressing the closure and post-closure care objectives of paragraph (a) of this section:

(1) Removal of contaminated soils;

(2) Placement of a final cover, considering:

(i) Functions of the cover (e.g., infiltration control, erosion and run-off control, and wind erosion control); and

(ii) Characteristics of the cover, including material, final surface contours, thickness, porosity and permeability, slope, length of run of slope,

and type of vegetation on the cover; and

(3) Monitoring of ground water.

(d) In addition to the requirements of subpart G of this part, during the closure period the owner or operator of a land treatment facility must:

(1) Continue unsaturated zone monitoring in a manner and frequency specified in the closure plan, except that soil pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone;

(2) Maintain the run-on control system required under § 265.272(b);

(3) Maintain the run-off management system required under § 265.272(c); and

(4) Control wind dispersal of particulate matter which may be subject to wind dispersal.

(e) For the purpose of complying with § 265.115, when closure is completed the owner or operator may submit to the Regional Administrator certification both by the owner or operator and by an independent, qualified soil scientist, in lieu of a qualified Professional Engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(f) In addition to the requirements of § 265.117, during the post-closure care period the owner or operator of a land treatment unit must:

(1) Continue soil-core monitoring by collecting and analyzing samples in a manner and frequency specified in the post-closure plan;

(2) Restrict access to the unit as appropriate for its post-closure use;

(3) Assure that growth of food chain crops complies with § 265.276; and

(4) Control wind dispersal of hazardous waste.

[45 FR 33232, May 19, 1980, as amended at 47 FR 32368, July 26, 1982; 71 FR 16911, Apr. 4, 2006; 71 FR 40275, July 14, 2006]

#### **§ 265.281 Special requirements for ignitable or reactive waste.**

The owner or operator must not apply ignitable or reactive waste to the treatment zone unless the waste and treatment zone meet all applicable requirements of 40 CFR part 268, and:

(a) The waste is immediately incorporated into the soil so that:

(1) The resulting waste, mixture, or dissolution of material no longer meets

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the definition of ignitable or reactive waste under § 261.21 or § 261.23 of this chapter; and

(2) Section 264.17(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

[47 FR 32368, July 26, 1982, as amended at 55 FR 22686, June 1, 1990; 71 FR 40275, July 14, 2006]

### § 265.282 Special requirements for incompatible wastes.

Incompatible wastes, or incompatible wastes and materials (see appendix V for examples), must not be placed in the same land treatment area, unless § 265.17(b) is complied with.

## Subpart N—Landfills

### § 265.300 Applicability.

The regulations in this subpart apply to owners and operators of facilities that dispose of hazardous waste in landfills, except as § 265.1 provides otherwise. A waste pile used as a disposal facility is a landfill and is governed by this subpart.

### § 265.301 Design and operating requirements.

(a) The owner or operator of each new landfill unit, each lateral expansion of a landfill unit, and each replacement of an existing landfill unit must install two or more liners and a leachate collection and removal system above and between such liners, and operate the leachate collection and removal system, in accordance with § 264.301(c), unless exempted under § 264.301(d), (e), or (f) of this chapter.

(b) The owner or operator of each unit referred to in paragraph (a) of this section must notify the Regional Administrator at least sixty days prior to receiving waste. The owner or operator of each facility submitting notice must file a part B application within six months of the receipt of such notice.

(c) The owner or operator of any replacement landfill unit is exempt from paragraph (a) of this section if:

(1) The existing unit was constructed in compliance with the design standards of section 3004(o)(1)(A)(i) and (o)(5)

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of the Resource Conservation and Recovery Act; and

(2) There is no reason to believe that the liner is not functioning as designed.

(d) The double liner requirement set forth in paragraph (a) of this section may be waived by the Regional Administrator for any monofill, if:

(1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes hazardous for reasons other than the Toxicity Characteristic in § 261.24 of this chapter, with EPA Hazardous Waste Numbers D004 through D017; and

(2)(i)(A) The monofill has at least one liner for which there is no evidence that such liner is leaking;

(B) The monofill is located more than one-quarter mile from an “underground source of drinking water” (as that term is defined in 40 CFR 270.2); and

(C) The monofill is in compliance with generally applicable ground-water monitoring requirements for facilities with permits under RCRA section 3005(c); or

(ii) The owner or operator demonstrates that the monofill is located, designed and operated so as to assure that there will be no migration of any hazardous constituent into ground water or surface water at any future time.

(e) In the case of any unit in which the liner and leachate collection system has been installed pursuant to the requirements of paragraph (a) of this section and in good faith compliance with paragraph (a) of this section and with guidance documents governing liners and leachate collection systems under paragraph (a) of this section, no liner or leachate collection system which is different from that which was so installed pursuant to paragraph (a) of this section will be required for such unit by the Regional Administrator when issuing the first permit to such facility, except that the Regional Administrator will not be precluded from requiring installation of a new liner when the Regional Administrator has