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(3) The construction materials of the treatment process or equipment, at least weekly, to detect corrosion or leaking of fixtures or seams; and

(4) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes), at least weekly, to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

(b) [Reserved]

[*Comment:* As required by §265.15(c), the owner or operator must remedy any deterioration or malfunction he finds.]

§ 265.404 Closure.

At closure, all hazardous waste and hazardous waste residues must be removed from treatment processes or equipment, discharge control equipment, and discharge confinement structures.

[*Comment:* At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with §261.3 (c) or (d) of this chapter, that any solid waste removed from his treatment process or equipment is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of parts 262, 263, and 265 of this chapter.]

§ 265.405 Special requirements for ignitable or reactive waste.

(a) Ignitable or reactive waste must not be placed in a treatment process or equipment unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in the treatment process or equipment so that (i) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under §261.21 or 261.23 of this chapter, and (ii) §265.17(b) is complied with; or

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

(b) [Reserved]

[45 FR 33232, May 19, 1980, as amended at 71 FR 40276, July 14, 2006]

§ 265.406 Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, (see ap-

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pendix V for examples) must not be placed in the same treatment process or equipment, unless §265.17(b) is complied with.

(b) Hazardous waste must not be placed in unwashed treatment equipment which previously held an incompatible waste or material, unless §265.17(b) is complied with.

Subpart R—Underground Injection

§ 265.430 Applicability.

Except as §265.1 provides otherwise:

(a) The owner or operator of a facility which disposes of hazardous waste by underground injection is excluded from the requirements of subparts G and H of this part.

(b) The requirements of this subpart apply to owners and operators of wells used to dispose of hazardous waste which are classified as Class I under §144.6(a) of this chapter and which are classified as Class IV under §144.6(d) of this chapter.

[*Comment:* In addition to the requirements of subparts A through E of this part, the owner or operator of a facility which disposes of hazardous waste by underground injection ultimately must comply with the requirements of §§265.431 through 265.437. These sections are reserved at this time. The Agency will propose regulations that would establish those requirements.]

[45 FR 33232, May 19, 1980, as amended at 48 FR 30115, June 30, 1983]

Subparts S–V [Reserved]

Subpart W—Drip Pads

SOURCE: 55 FR 50486, Dec. 6, 1990, unless otherwise noted.

§ 265.440 Applicability.

(a) The requirements of this subpart apply to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation, and/or surface water run-off to an associated collection system. Existing drip pads are those constructed before December 6, 1990 and those for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 6, 1990. All

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other drip pads are new drip pads. The requirement at § 265.443(b)(3) to install a leak collection system applies only to those drip pads that are constructed after December 24, 1992 except for those constructed after December 24, 1992 for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 24, 1992.

(b) The owner or operator of any drip pad that is inside or under a structure that provides protection from precipitation so that neither run-off nor run-on is generated is not subject to regulation under § 265.443(e) or § 265.443(f), as appropriate.

(c) The requirements of this subpart are not applicable to the management of infrequent and incidental drippage in storage yards provided that:

(1) The owner or operator maintains and complies with a written contingency plan that describes how the owner or operator will respond immediately to the discharge of such infrequent and incidental drippage. At a minimum, the contingency plan must describe how the facility will do the following:

- (i) Clean up the drippage;
- (ii) Document the cleanup of the drippage;
- (iii) Retain documents regarding cleanup for three years; and
- (iv) Manage the contaminated media in a manner consistent with Federal regulations.

[55 FR 50486, Dec. 6, 1990, as amended at 56 FR 30198, July 1, 1991; 57 FR 61503, Dec. 24, 1992]

§ 265.441 Assessment of existing drip pad integrity.

(a) For each existing drip pad as defined in § 265.440, the owner or operator must evaluate the drip pad and determine that it meets all of the requirements of this subpart, except the requirements for liners and leak detection systems of § 265.443(b). No later than the effective date of this rule, the owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a qualified Professional Engineer that attests to the results of the evaluation. The assessment must be reviewed, updated, and re-certified

annually until all upgrades, repairs, or modifications necessary to achieve compliance with all the standards of § 265.443 are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of § 265.443, except the standards for liners and leak detection systems, specified in § 265.443(b).

(b) The owner or operator must develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of § 265.443(b), and submit the plan to the Regional Administrator no later than 2 years before the date that all repairs, upgrades, and modifications are complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of § 265.443. The plan must be reviewed and certified by a qualified Professional Engineer.

(c) Upon completion of all repairs and modifications, the owner or operator must submit to the Regional Administrator or State Director, the as-built drawings for the drip pad together with a certification by a qualified Professional Engineer attesting that the drip pad conforms to the drawings.

(d) If the drip pad is found to be leaking or unfit for use, the owner or operator must comply with the provisions of § 265.443(m) of this subpart or close the drip pad in accordance with § 265.445 of this subpart.

[55 FR 50486, Dec. 6, 1990, as amended at 57 FR 61504, Dec. 24, 1992; 71 FR 16912, Apr. 4, 2006; 71 FR 40276, July 14, 2006]

§ 265.442 Design and installation of new drip pads.

Owners and operators of new drip pads must ensure that the pads are designed, installed, and operated in accordance with one of the following:

(a) All of the applicable requirements of §§ 265.443 (except § 265.443(a)(4)), 265.444 and 265.445 of this subpart, or

(b) All of the applicable requirements of §§ 265.443 (except § 265.443(b)), 265.444 and 265.445 of this subpart.

[57 FR 61504, Dec. 24, 1992]

§ 265.443 Design and operating requirements.

(a) Drip pads must: