

Environmental Protection Agency

§ 264.92

subsoils are removed or decontaminated at closure;

(2) Apply during the post-closure care period under §264.117 if the owner or operator is conducting a detection monitoring program under §264.98; or

(3) Apply during the compliance period under §264.96 if the owner or operator is conducting a compliance monitoring program under §264.99 or a corrective action program under §264.100.

(d) Regulations in this subpart may apply to miscellaneous units when necessary to comply with §§264.601 through 264.603.

(e) The regulations of this subpart apply to all owners and operators subject to the requirements of 40 CFR 270.1(c)(7), when the Agency issues either a post-closure permit or an enforceable document (as defined in 40 CFR 270.1(c)(7)) at the facility. When the Agency issues an enforceable document, references in this subpart to "in the permit" mean "in the enforceable document."

(f) The Regional Administrator may replace all or part of the requirements of §§264.91 through 264.100 applying to a regulated unit with alternative requirements for groundwater monitoring and corrective action for releases to groundwater set out in the permit (or in an enforceable document) (as defined in 40 CFR 270.1(c)(7)) where the Regional Administrator determines that:

(1) The regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management unit(s) (or areas of concern) are likely to have contributed to the release; and

(2) It is not necessary to apply the groundwater monitoring and corrective action requirements of §§264.91 through 264.100 because alternative requirements will protect human health and the environment.

[47 FR 32350, July 26, 1982, as amended at 50 FR 28746, July 15, 1985; 52 FR 46963, Dec. 10, 1987; 63 FR 56733, Oct. 22, 1998]

§ 264.91 Required programs.

(a) Owners and operators subject to this subpart must conduct a monitoring and response program as follows:

(1) Whenever hazardous constituents under §264.93 from a regulated unit are detected at a compliance point under §264.95, the owner or operator must institute a compliance monitoring program under §264.99. Detected is defined as statistically significant evidence of contamination as described in §264.98(f);

(2) Whenever the ground-water protection standard under §264.92 is exceeded, the owner or operator must institute a corrective action program under §264.100. Exceeded is defined as statistically significant evidence of increased contamination as described in §264.99(d);

(3) Whenever hazardous constituents under §264.93 from a regulated unit exceed concentration limits under §264.94 in ground water between the compliance point under §264.95 and the downgradient facility property boundary, the owner or operator must institute a corrective action program under §264.100; or

(4) In all other cases, the owner or operator must institute a detection monitoring program under §264.98.

(b) The Regional Administrator will specify in the facility permit the specific elements of the monitoring and response program. The Regional Administrator may include one or more of the programs identified in paragraph (a) of this section in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the Regional Administrator will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

[47 FR 32350, July 26, 1982, as amended at 53 FR 39728, Oct. 11, 1988]

§ 264.92 Ground-water protection standard.

The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that hazardous constituents under §264.93