

Environmental Protection Agency

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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 265, 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 §§ 265.116 and 265.119(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 and 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 of the land upon which a hazardous waste disposal unit was located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, and all contaminated structures, equipment, and soils, he must request a modification to the approved post-closure plan in accordance with the requirements of § 265.118(g). The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of § 265.117(c). By removing hazardous waste, the owner or operator may be-

come a generator of hazardous waste and must manage it in accordance with all applicable requirements of this chapter. If the owner or operator is granted approval to conduct the 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 16451, May 2, 1986, as amended at 71 FR 40275, July 14, 2006]

§ 265.120 Certification of completion of post-closure care.

No later than 60 days after the 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 § 265.145(h).

[71 FR 16909, Apr. 4, 2006]

§ 265.121 Post-closure requirements for facilities that obtain enforceable documents in lieu of post-closure permits.

(a) Owners and operators who are subject to the requirement to obtain a post-closure permit under 40 CFR 270.1(c), but who obtain enforceable documents in lieu of post-closure permits, as provided under 40 CFR 270.1(c)(7), must comply with the following requirements:

(1) The requirements to submit information about the facility in 40 CFR 270.28;

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(2) The requirements for facility-wide corrective action in §264.101 of this chapter;

(3) The requirements of 40 CFR 264.91 through 264.100.

(b)(1) The Regional Administrator, in issuing enforceable documents under §265.121 in lieu of permits, will assure a meaningful opportunity for public involvement which, at a minimum, includes public notice and opportunity for public comment:

(i) When the Agency becomes involved in a remediation at the facility as a regulatory or enforcement matter;

(ii) On the proposed preferred remedy and the assumptions upon which the remedy is based, in particular those related to land use and site characterization; and

(iii) At the time of a proposed decision that remedial action is complete at the facility. These requirements must be met before the Regional Administrator may consider that the facility has met the requirements of 40 CFR 270.1(c)(7), unless the facility qualifies for a modification to these public involvement procedures under paragraph (b)(2) or (3) of this section.

(2) If the Regional Administrator determines that even a short delay in the implementation of a remedy would adversely affect human health or the environment, the Regional Administrator may delay compliance with the requirements of paragraph (b)(1) of this section and implement the remedy immediately. However, the Regional Administrator must assure involvement of the public at the earliest opportunity, and, in all cases, upon making the decision that additional remedial action is not needed at the facility.

(3) The Regional Administrator may allow a remediation initiated prior to October 22, 1998 to substitute for corrective action required under a post-closure permit even if the public involvement requirements of paragraph (b)(1) of this section have not been met so long as the Regional Administrator assures that notice and comment on the decision that no further remediation is necessary to protect human health and the environment takes place at the earliest reasonable opportunity after October 22, 1998.

[63 FR 56734, Oct. 22, 1998]

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Subpart H—Financial Requirements

SOURCE: 47 FR 15064, Apr. 7, 1982, unless otherwise noted.

§ 265.140 Applicability.

(a) The requirements of §§265.142, 265.143 and 265.147 through 265.150 apply to owners or operators of all hazardous waste facilities, except as provided otherwise in this section or in §265.1.

(b) The requirements of §§265.144 and 265.145 apply only to owners and operators of:

(1) Disposal facilities;

(2) Tank systems that are required under §265.197 of this chapter to meet the requirements for landfills; and

(3) Containment buildings that are required under §265.1102 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 §265.90(f) and/or 265.110(d), 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 15064, Apr. 7, 1982, as amended at 51 FR 16455, May 2, 1986; 51 FR 25479, July 14, 1986; 57 FR 37267, Aug. 18, 1992; 63 FR 56734, Oct. 22, 1998; 71 FR 40275, July 14, 2006]

§ 265.141 Definitions of terms as used in this subpart.

(a) *Closure plan* means the plan for closure prepared in accordance with the requirements of §265.112.

(b) *Current closure cost estimate* means the most recent of the estimates prepared in accordance with §265.142 (a), (b), and (c).

(c) *Current post-closure cost estimate* means the most recent of the estimates