

§ 265.142

40 CFR Ch. I (7-1-07 Edition)

or operator is demonstrated to the satisfaction of the applicable EPA Regional Administrator.

[47 FR 16558, Apr. 16, 1982, as amended at 51 FR 16456, May 2, 1986; 53 FR 33959, Sept. 1, 1988]

§ 265.142 Cost estimate for closure.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in §§ 265.111 through 265.115 and applicable closure requirements in §§ 265.197, 265.228, 265.258, 265.280, 265.310, 265.351, 265.381, 265.404, and 265.1102.

(1) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see § 265.112(b)); and

(2) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in § 265.141(d).) The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.

(3) The closure cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous wastes, or non-hazardous wastes if applicable under § 265.113(d), facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure.

(4) The owner or operator may not incorporate a zero cost for hazardous wastes, or non-hazardous wastes if applicable under § 265.113(d), that might have economic value.

(b) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with § 265.143. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal

year and before submission of updated information to the Regional Administrator as specified in § 265.143(e)(3). The adjustment may be made by recalculating the closure cost estimate in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its *Survey of Current Business*, as specified in paragraphs (b)(1) and (2) of this section. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(1) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(2) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(c) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than 30 days after a revision has been made to the closure plan which increases the cost of closure. If the owner or operator has an approved closure plan, the closure cost estimate must be revised no later than 30 days after the Regional Administrator has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in § 265.142(b).

(d) The owner or operator must keep the following at the facility during the operating life of the facility: The latest closure cost estimate prepared in accordance with §§ 265.142 (a) and (c) and, when this estimate has been adjusted in accordance with § 265.142(b), the latest adjusted closure cost estimate.

[47 FR 15064, Apr. 7, 1982, as amended at 50 FR 4514, Jan. 31, 1985; 51 FR 16456, May 2, 1986; 54 FR 33397, Aug. 14, 1989; 57 FR 37267, Aug. 18, 1992; 71 FR 40275, July 14, 2006]

§ 265.143 Financial assurance for closure.

By the effective date of these regulations, an owner or operator of each facility must establish financial assurance for closure of the facility. He