

tor shall, within 90 days of making the determination, submit an application for a permit modification to make any appropriate changes to the program.

(j) Any time the Department determines that the corrective action program does not satisfy the requirements of this section, the owner or operator shall, within 90 days of notification of such determination by the Department, submit an application for a permit modification to make any appropriate changes to the program.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25150, 25159, and 25159.5, Health and Safety Code; 40 CFR Section 66264.100.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66264.101. Corrective Action for Waste Management Units.

(a) The owner or operator of a facility seeking a permit for the transfer, treatment, storage, or disposal of hazardous waste shall institute corrective action as necessary to protect human health and the environment for all releases of hazardous waste or constituents from any solid or hazardous waste management unit at the facility, regardless of the time at which waste was placed in such unit.

(b) Corrective action will be specified in the permit or order in accordance with this article, article 15.5, or article 17, and Health and Safety Code sections 25200.10, 25187, or 25200.14, or section 25358.9 where as provided for under the provisions of that section the Department has excluded the removal or remedial action at a site from the hazardous waste facilities permit required by Health and Safety Code section 25201. The permit or order will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action.

(c) The owner or operator shall implement corrective actions beyond the facility property boundary, where necessary to protect human health or the environment, unless the owner or operator demonstrates to the satisfaction of the Department, that despite the owner or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such actions. The owner or operator is not relieved of all responsibility to cleanup a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such release will be determined on a case-by-case basis. Assurances of financial responsibility for such corrective action shall be provided.

NOTE: Authority cited: Sections 208, 25150, 25159, 25187, 25200.10, 25355.5, 25356.9, 25358.3, 25358.9 and 58102, Health and Safety Code. Reference: Sections 25150, 25159.5, 25187, 25200, 25200.10, 25355.5, 25356.9, 25358.3 and 25358.9, Health and Safety Code; 40 CFR Section 264.101.

HISTORY

1. New section filed 12-23-93 as an emergency; operative 12-23-93 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-9-94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4-25-94 as an emergency; operative 4-25-94 (Register 94, No. 17). A Certificate of Compliance must be transmitted to OAL by 8-23-94 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 8-22-94 as an emergency; operative 8-22-94 (Register 94, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-20-94 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12-22-94 as an emergency, including amendment of subsection (b) and (c) and NOTE; operative 12-22-94 (Register 94, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-21-95 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 6-29-95 as an emergency; operative 6-29-95 (Register 95, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-27-95 or emergency language will be repealed by operation of law on the following day.

Article 7. Closure and Post-Closure

§ 66264.110. Applicability.

Except as section 66264.1 provides otherwise:

(a) sections 66264.111 through 66264.115 (which concern closure) apply to the owners and operators of all hazardous waste management facilities; and

(b) sections 66264.116 through 66264.120 (which concern post-closure care) apply to the owners and operators of:

(1) all hazardous waste disposal facilities;

(2) waste piles and surface impoundments from which the owner or operator intends to remove the wastes at closure to the extent that these sections are made applicable to such facilities in sections 66264.228 or 66264.258;

(3) tank systems that are required under section 66264.197 to meet the requirements for landfills; and

(4) containment buildings that are required under section 66264.1102 to meet the requirement for landfills.

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 25179.6, 25245 and 58012, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245, 25246 and 58012, Health and Safety Code; 40 CFR Section 264.110.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).
2. Amendment of subsection (b)(3), new subsection (b)(4) and amendment of NOTE filed 10-24-94 as an emergency; operative 10-24-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-20-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (b)(3), new subsection (b)(4) and amendment of NOTE refiled 2-21-95 as an emergency; operative 2-21-95 (Register 95, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-21-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsections (b)(2)-(3), new subsection (b)(4) and amendment of NOTE refiled 6-19-95 as an emergency; operative 6-19-95 (Register 95, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-17-95 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsections (b)(2)-(3), new subsection (b)(4) and amendment of NOTE refiled 10-16-95 as an emergency; operative 10-16-95 (Register 95, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-96 or emergency language will be repealed by operation of law on the following day.

§ 66264.111. Closure Performance Standard.

The owner or operator shall close the facility in a manner that:

(a) minimizes the need for further maintenance; and

(b) controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated rainfall or runoff, or waste decomposition products to the ground or surface waters or to the atmosphere; and

(c) complies with the closure requirements of this chapter including, but not limited to, the requirements of sections 66264.178, 66264.197, 66264.228, 66264.258, 66264.280, 66264.310, 66264.351, 66264.601 through 66264.603, and 66264.1102.

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 25179.6, 25245 and 58012, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 58012, Health and Safety Code; 40 CFR Section 264.111.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).
2. Amendment of subsection (c) and NOTE filed 10-24-94 as an emergency; operative 10-24-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-20-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (c) and NOTE refiled 2-21-95 as an emergency; operative 2-21-95 (Register 95, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-21-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (c) and NOTE refiled 6-19-95 as an emergency; operative 6-19-95 (Register 95, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-17-95 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (c) and NOTE refiled 10-16-95 as an emergency; operative 10-16-95 (Register 95, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-96 or emergency language will be repealed by operation of law on the following day.

§ 66264.112. Closure Plan; Amendment of Plan.

(a) Written plan.

(1) The owner or operator of a hazardous waste management facility shall have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to re-

6. Certificate of Compliance as to 10-24-94 order transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).

§ 66264.112. Closure Plan; Amendment of Plan.

(a) Written plan.

(1) The owner or operator of a hazardous waste management facility shall have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous waste at partial or final closure are required by sections 66264.228(c)(1)(A) and 66264.258(c)(1)(A) to have contingent closure plans. The plan shall be submitted with the permit application, in accordance with section 66270.14(b)(13) of this division, or when otherwise requested by the Department. The plan shall be approved by the Department as part of the permit issuance procedures under chapter 21 of this division. In accordance with section 66270.32 of this division, the approved closure plan will become a condition of any permit.

(2) The Department's approval of the plan shall ensure that the approved closure plan is consistent with sections 66264.111 through 66264.115 and the applicable requirements of article 6 of this chapter and sections 66264.178, 66264.197, 66264.228, 66264.258, 66264.280, 66264.310, 66264.351, 66264.601 and 66264.1102. Until final closure is completed and certified in accordance with section 66264.115, a copy of the approved plan and all approved revisions shall be kept at the facility and furnished to the Department upon request, including request by mail.

(b) Content of plan. The plan shall identify steps necessary to perform partial or final closure of the facility at any point during its active life and to perform final closure of the facility at the end of its active life. The closure plan shall include, at least:

(1) a description of how and when each hazardous waste management unit at the facility will be closed in accordance with section 66264.111;

(2) a description of how and when final closure of the facility will be conducted in accordance with section 66264.111. The description shall identify the maximum extent of the operations which will be unclosed during the active life of the facility;

(3) an estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility and a detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all hazardous wastes, and identification of the type(s) of the off-site hazardous waste management units to be used, if applicable;

(4) a detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard;

(5) a detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground-water monitoring, leachate collection, and run-on and run-off control;

(6) a schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule shall include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all hazardous waste inventory and of the time required to place a final cover shall be included);

(7) an estimate of the expected year of final closure.

(c) Amendment of plan. The owner or operator shall submit a written notification of or request for a permit modification to authorize a change in the approved closure plan in accordance with the applicable procedures in chapters 20 and 21 of this division. The written notification re-

quest shall include a copy of the amended closure plan for review or approval by the Department.

(1) The owner or operator may submit a written notification or request to the Department for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

(2) The owner or operator shall submit a written notification or request for a permit modification to authorize a change in the approved closure plan whenever:

(A) changes in operating plans or facility design affect the closure plan, or

(B) there is a change in the expected year of closure, or

(C) in conducting partial or final closure activities, unexpected events require a modification of the approved closure plan.

(3) The owner or operator shall submit a written request for a permit modification including a copy of the amended closure plan for approval at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator shall request a permit modification no later than 30 days after the unexpected event. The Department will approve, disapprove, or modify this amended plan in accordance with the procedures in chapters 20 and 21 of this division. In accordance with section 66270.32 of this division, the approved closure plan will become a condition of any permit issued.

(4) The Department may request modifications to the plan under the conditions described in section 66264.112(c)(2). The owner or operator shall submit the modified plan within 60 days of the Department's request, or within 30 days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the Department will be approved in accordance with the procedures in chapters 20 and 21 of this division.

(d) Notification of partial closure and final closure.

(1) The owner or operator shall notify the Department in writing at least 60 days prior to the date on which the owner or operator expects to begin closure of a surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit. The owner or operator shall notify the Department in writing at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only tanks or containers used for transfer, treatment or storage, or incinerator units to be closed. The owner or operator shall notify the Department in writing at least 45 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace, whichever is earlier. The Department may require a longer notice period of up to 180 days for any facility or unit by giving written notice of the longer period if the Department determines that additional time would be required to review and make necessary amendments to the closure plan prior to the initiation of closure. Within 90 days after receiving a notification, the Department may review the closure plan to determine whether any factor has significantly changed since a prior review was undertaken, or determine whether the plan is otherwise adequate or inadequate, and may prescribe additional requirements or request modifications to the plan.

(2) The date when the owner or operator "expects to begin closure" shall be either no later than the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. The Department may approve an extension to this one-year limit if the owner or operator of a hazardous waste management unit demonstrates to the satisfaction of the Department that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, the owner or operator has taken, and will continue to take, all steps necessary to comply with all applicable permit requirements, and the extension will not pose a threat to human health and the environment.

(3) For units meeting the requirements of section 66264.113(d), the date when the owner or operator "expects to begin closure" shall be no later than the date on which the hazardous waste management unit receives the known final volume of non-hazardous wastes, or if there is a reasonable possibility that the hazardous waste management unit will receive additional non-hazardous wastes, no later than one year after the date on which the unit received the most recent volume of non-hazardous wastes. If the owner or operator can demonstrate to the Department that the hazardous waste management unit has the capacity to receive additional non-hazardous wastes and the owner or operator has taken, and will continue to take, all steps to prevent threats to human health and threats to the environment, including compliance with all applicable permit requirements, the Department may approve an extension to this one-year limit. A facility operating under the requirements of section 66264.113(d) shall be subject to the facility fee specified in Health and Safety Code, Division 20, section 25205.2(d), until the facility has complied with the requirements of section 66264.113(a). Health and Safety Code, Division 20, section 25205.2(d)(4) shall not apply to a facility operating pursuant to section 66264.113(d).

(4) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order under Health and Safety Code section 25358.3 or article 8 of chapter 6.5 of division 20 of the Health and Safety Code, to cease receiving hazardous wastes or to close, then the requirements of this section do not apply. However, the owner or operator shall close the facility in accordance with the deadlines established in section 66264.113.

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 25179.6, 25205.2, 25245, 58004 and 58012, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 264.112.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).
2. Amendment of subsection (a)(2) and NOTE filed 10-24-94 as an emergency; operative 10-24-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-20-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (a)(2) and NOTE refiled 2-21-95 as an emergency; operative 2-21-95 (Register 95, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-21-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a)(2) and NOTE refiled 6-19-95 as an emergency; operative 6-19-95 (Register 95, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-17-95 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (a)(2) and NOTE refiled 10-16-95 as an emergency; operative 10-16-95 (Register 95, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-24-94 order transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
7. New subsection (d)(3), subsection renumbering, and amendment of newly designated subsection (d)(4) and NOTE: filed 6-20-96; operative 7-20-96 (Register 96, No. 25).
8. Amendment of subsection (d)(1) and NOTE: filed 7-1-96; operative 7-31-96 (Register 96, No. 27).
9. Change without regulatory effect amending subsection (d)(2) filed 10-22-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 43).
10. Change without regulatory effect amending subsection (d)(3) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
11. Change without regulatory effect amending subsection (d)(3) filed 1-7-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 2).
12. Change without regulatory effect amending subsection (a)(2) filed 8-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 33).

§ 66264.113. Closure; Time Allowed for Closure.

(a) Within 90 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes if the owner or operator complies with all applicable requirements in subsections (d) and (e) of this section, at a hazardous waste management unit or facility, the owner or operator shall treat, remove from the unit or facility, or dispose of on-site, all hazardous wastes in accordance with the approved closure

plan. The Department may approve a longer period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates to the satisfaction of the Department that:

(1)(A) the activities required to comply with this subsection will, of necessity, take longer than 90 days to complete: or

(B) 1. the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes if the owner or operator complies with subsections (d) and (e) of this section: and

2. there is a reasonable likelihood that a person other than the owner or operator will recommence operation of the hazardous waste management unit or the facility within one year: and

3. closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site: and

(2) the owner or operator has taken and will continue to take all steps to comply with all applicable permit requirements and the longer period will not pose a threat to human health and the environment.

(b) The owner or operator shall complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes if the owner or operator complies with all applicable requirements in subsections (d) and (e) of this section, at the hazardous waste management unit or facility. The Department may approve an extension to the closure period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that:

(1)(A) the partial or final closure activities will, of necessity, take longer than 180 days to complete: or

(B) 1. the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes if the owner or operator complies with subsections (d) and (e) of this section: and

2. there is reasonable likelihood that a person other than the owner or operator will recommence operation of the hazardous waste management unit or the facility within one year: and

3. closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site: and

(2) the owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed, but not operating, hazardous waste management unit or facility, including compliance with all applicable permit requirements.

(c) The demonstrations referred to in subsections (a) and (b) of this section shall be made as follows:

(1) The demonstrations in subsection (a) of this section shall be made at least 30 days prior to the expiration of the 90-day period in subsection (a); and

(2) the demonstration in subsection (b) shall be made at least 30 days prior to the expiration of the 180-day period in subsection (b) of this section, unless the owner or operator is otherwise subject to the deadlines in subsection (d) of this section.

(d) The Department may allow an owner or operator to receive only non-hazardous wastes in a landfill, land treatment, or surface impoundment unit after the final receipt of hazardous wastes at that unit, if:

(1) The owner or operator requests a permit modification in compliance with all applicable requirements in chapters 20 and 21 of this division and in the permit modification request demonstrates to the Department that:

(A) the unit has the existing design capacity as indicated on the Part A application to receive non-hazardous wastes; and

(B) there is a reasonable likelihood that the owner or operator or another person will receive non-hazardous wastes in the unit within one year after the final receipt of hazardous wastes; and

(C) the non-hazardous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility under this chapter; and

(D) closure of the hazardous waste management unit would be incompatible with continued operation of the unit or facility; and

(E) the owner or operator is operating and will continue to operate in compliance with all applicable permit requirements of this chapter and with all applicable regulations promulgated by other state agencies governing discharges of hazardous or non-hazardous wastes to land and water, including, but not limited to, regulations promulgated by the California Integrated Waste Management Board and the State Water Resources Control Board; and

(2) The request to modify the permit includes an amended waste analysis plan, monitoring and response program for groundwater, air, soil, and soil-pore gas required under articles 6 and 17 of this chapter, human exposure assessment required under Title 42, U.S.C., Section 6939a, and closure and post-closure plans, and updated cost estimates and demonstrations of financial assurance for closure and post-closure care as necessary and appropriate, to reflect any changes due to the presence of hazardous constituents in the non-hazardous wastes, and changes in closure activities, including the expected year of closure, if applicable, under Title 22, CCR, section 66264.112(b)(7), as a result of the receipt of non-hazardous wastes following the final receipt of hazardous wastes; and

(3) The request to modify the permit includes revisions, as necessary and appropriate, to affected conditions of the permit to account for the receipt of non-hazardous wastes following receipt of the final volume of hazardous wastes; and

(4) The request to modify the permit and the demonstrations referred to in subsections (d)(1) and (d)(2) of this section are submitted to the Department no later than 180 days prior to the date on which the owner or operator of a facility receives the known final volume of hazardous wastes at the unit, or no later than 90 days after the effective date of this rule, whichever is later.

(e) In addition to the requirements in subsection (d) of this section, an owner or operator of a hazardous waste surface impoundment that is not in compliance with the liner and leachate collection system requirements pursuant to Title 22, CCR, Division 4.5, Chapter 14, Article 11 shall:

(1) Submit with the request to modify the permit:

(A) a contingent corrective measures plan, unless a corrective action program has already been submitted under sections 66264.99, 66264.100 and 66264.708; and

(B) a plan for removing hazardous wastes in compliance with subsection (e)(2) of this section; and

(2) Remove all hazardous wastes from the unit by removing all hazardous liquids, and by removing all hazardous sludges to the extent practicable without impairing the integrity of the liner(s), if any.

(3) Removal of hazardous wastes shall be completed no later than 90 days after the final receipt of hazardous wastes. The Department may approve an extension to this deadline if the owner or operator demonstrates that the removal of hazardous wastes will, of necessity, take longer than the allotted period to complete and that an extension will not pose a threat to human health or the environment.

(4) If a release that is a statistically significant increase (or decrease in the case of pH) over background values for detection monitoring parameters or constituents specified in the permit or that exceeds the facility's protection standards for groundwater, air, soil, or soil-pore gas at the points of compliance, if applicable, is detected in accordance with the requirements in articles 6, 15.5, or 17 of this chapter, the owner or operator of the unit:

(A) shall implement corrective measures in accordance with the approved contingent corrective measures plan required by subsection (e)(1) of this section no later than one year after detection of the release, or approval of the contingent corrective measures plan, whichever is later;

(B) may continue to receive wastes at the unit following detection of the release only if the approved corrective measures plan includes a dem-

onstration that continued receipt of wastes will not impede corrective action; and

(C) may be required by the Department to implement corrective measures in less than one year or to cease receipt of wastes until corrective measures have been implemented if necessary to protect human health or the environment.

(5) During the period of corrective action, the owner or operator shall provide semi-annual reports to the Department that describe the progress of the corrective action program, compile all monitoring data for groundwater, air, soil, and soil-pore gas, and evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

(6) The Department may require the owner or operator to commence closure of the unit if the owner or operator fails to implement corrective action measures in accordance with the approved contingent corrective measures plan within one year as required in subsection (e)(4) of this section, or fails to make substantial progress in implementing corrective action and achieving the facility's protection standards for groundwater, air, soil, or soil-pore gas, or background levels if the facility has not yet established a protection standard for groundwater, air, soil or soil-pore gas.

(7) If the owner or operator fails to implement corrective measures as required in subsection (e)(4) of this section, or if the Department determines that substantial progress has not been made pursuant to subsection (e)(6) of this section, the Department shall:

(A) notify the owner or operator in writing that the owner or operator shall begin closure in accordance with the deadlines in subsections (a) and (b) of this section and provide a detailed statement of reasons for this determination; and

(B) provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the decision no later than 20 days after the date of the notice.

(C) If the Department receives no written comments, the decision will become final five days after the close of the comment period. The Department shall notify the owner or operator that the decision is final, and that a revised closure plan, if necessary, shall be submitted within 15 days of the final notice and that closure shall begin in accordance with the deadlines in subsections (a) and (b) of this section.

(D) If the Department receives written comments on the decision, the Department shall make a final decision within 30 days after the end of the comment period, and shall provide the owner or operator in writing, and the public through a newspaper notice, a detailed statement of reasons for the final decision. If the Department determines that substantial progress has not been made, closure shall be initiated in accordance with the deadlines in subsections (a) and (b) of this section.

(E) The final determinations made by the Department under subsections (e)(7)(C)-(D) of this section are not subject to administrative appeal.

NOTE: Authority cited: Sections 25150, 25159, 25245, 58004 and 58012, Health and Safety Code. Reference: Sections 25159, 25159.5, 25200.10, 25245 and 25246, Health and Safety Code; 40 CFR Section 264.113.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).
2. Amendment of subsections (a), (a)(1)(B)1., (b), (b)(1)(B)1., and (c)(1)-(2), new subsections (d)-(e)(7)(E), and amendment of NOTE filed 6-20-96; operative 7-20-96 (Register 96, No. 25).
3. Change without regulatory effect amending subsections (a), (b), (c)(1)(A) and (e)(5) filed 10-22-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 43).
4. Change without regulatory effect amending subsections (d)(2) and (e)(1)(A) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 66264.114. Disposal or Decontamination of Equipment, Structures and Soils.

During the partial and final closure periods, all contaminated equipment, structures and soils shall be properly disposed of or decontami-

nated by removing all hazardous waste and residues, unless otherwise specified in sections 66264.197, 66264.228, 66264.258, 66264.280, or 66264.310. By removing all hazardous wastes and residues or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and shall handle that waste in accordance with all applicable requirements of chapter 12 of this division.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 264.114.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66264.115. Certification of Closure.

Within 60 days of completion of partial closure, and within 60 days of the completion of final closure, the owner or operator shall submit to the Department, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification shall be signed by the owner or operator and by an independent qualified professional engineer, registered in California. Documentation supporting the independent qualified registered professional engineer's certification shall be furnished to the Department upon request until the Department releases the owner or operator from the financial assurance requirements for closure under section 66264.143(i).

NOTE: Authority cited: Sections 208, 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 264.115.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66264.116. Survey Plat.

No later than the submission of the certification of closure of each hazardous waste disposal unit, the owner or operator shall submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Department, a survey plat indicating the location and dimensions of landfill cells or other hazardous waste disposal units with respect to permanently surveyed vertical and horizontal benchmarks. This plat shall be prepared and certified by a professional land surveyor licensed in California. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use, shall contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable regulations of this article.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25259, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 264.116.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66264.117. Post-Closure Care and Use of Property.

(a) This section pertains to facilities at which all hazardous wastes, waste residues, contaminated materials and contaminated soils will not be removed during closure. Additional requirements for such facilities are cited in title 23 of the California Code of Regulations.

(b)(1) Post-closure care for each hazardous waste management unit subject to the requirements of sections 66264.117 through 66264.120 shall begin after completion of closure of the unit and, except as provided in subsections (b)(2)(A) and (b)(2)(B), continue for 30 years after that date and shall consist of at least the following:

(A) monitoring and reporting in accordance with the requirements of articles 6, 11, 12, 13, 14, and 16 of this chapter; and

(B) maintenance and monitoring of waste containment systems in accordance with the requirements of articles 6, 11, 12, 13, 14, and 16 of this chapter.

(2) Any time preceding partial closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular unit, the Department shall, in accordance with the permit modification procedures in chapters 20 and 21 of this division:

(A) shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if the owner or operator demonstrates to the satisfaction of the Department and the Department finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground-water monitoring results, characteristics of the hazardous wastes, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the hazardous waste management unit or facility is secure); or

(B) extend the post-closure care period applicable to the hazardous waste management unit or facility if the Department finds that the extended period is necessary to protect human health and the environment (e.g., leachate or ground-water monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

(c) The Department shall require, at partial and final closure, continuation of any of the security requirements of section 66264.14 during part or all of the post-closure period when:

(1) hazardous wastes may remain exposed after completion of partial or final closure; or

(2) access by the public or domestic livestock may pose a hazard to human health.

(d) Post-closure use of property on or in which hazardous wastes remain after partial or final closure shall never be allowed to disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the facility's monitoring systems, unless the Department finds that the disturbance:

(1) is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(2) is necessary to reduce a threat to human health or the environment.

(e) All post-closure care activities shall be in accordance with the provisions of the approved post-closure plan as specified in section 66264.118.

(f) Upon closure of a hazardous waste facility wherein hazardous wastes remain on-site, no construction, filling, grading, excavating or mining shall occur without the issuance of a variance by the Department. No variance may be granted which is inconsistent with subsection (d) of this section.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 264.117.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66264.118. Post-Closure Plan; Amendment of Plan.

(a) Written Plan. The owner or operator of a hazardous waste disposal unit shall have a written post-closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous wastes at partial or final closure are required by sections 66264.228(c)(1)(B) and 66264.258(c)(1)(B) to have contingent post-closure plans. The plan shall be submitted with the permit application, in accordance with section 66270.14(b)(13) of this division, or when otherwise requested by the Department. The plan shall be approved by the Department as part of the permit issuance procedures under chapter 21 of this division. In accordance with section 66270.32 of this division, the approved post-closure plan will become a condition of any permit issued.

(b) For each hazardous waste management unit subject to the requirements of this section, the post-closure plan shall identify the activities that will be carried on after closure of each disposal unit and the frequency of these activities, and include at least:

(1) a description of the planned monitoring activities and frequencies at which they will be performed to comply with articles 6, 11, 12, 13, 14, and 16 of this chapter during the post-closure care period; and

(2) a description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

(A) the integrity of the cap and final cover and other containment systems in accordance with the requirements of articles 11, 12, 13, 14, and 16 of this chapter; and

(B) the function of the monitoring equipment in accordance with the requirements of articles 6, 11, 12, 13, 14, and 16 of this chapter; and

(3) the name, address, and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the post-closure care period.

(c) Until final closure of the facility, a copy of the approved post-closure plan and all revisions shall be kept at the facility and furnished to the Department upon request, including request by mail. After final closure, the person or office specified in section 66264.118(b)(3) shall keep an updated and approved post-closure plan during the remainder of the post-closure period.

~~(d) Amendment of plan.~~ The owner or operator shall submit a written notification of or request for a permit modification to authorize a change in the approved post-closure plan in accordance with the applicable requirements of chapters 20 and 21 of this division. The written notification or request shall include a copy of the amended post-closure plan for review or approval by the Department.

(1) The owner or operator may submit a written notification or request to the Department for a permit modification to amend the post-closure plan at any time during the active life of the facility or during the post-closure care period.

(2) The owner or operator shall submit a written notification of or request for a permit modification to authorize a change in the approved post-closure plan whenever:

(A) changes in operating plans or facility design affect the approved post-closure plan, or

(B) there is a change in the expected year of final closure, if applicable, or

(C) events which occur during the active life of the facility or the post-closure care period, including partial and final closures, affect the approved post-closure plan.

(3) The owner or operator shall submit a written request for a permit modification at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the post-closure plan. The Department will approve, disapprove or modify this amended plan in accordance with the procedures in chapters 20 and 21 of this division. ~~In accordance with section 66270.32 of this division, the approved post-closure plan will become a permit condition.~~

(4) The Department shall modify or request modifications to the plan under the conditions described in section 66264.118(d)(2) or for other causes if deemed necessary to prevent threats to human health and the environment. The owner or operator shall submit the modified plan no later than 60 days after the Department's request. Any modifications requested by the Department will be approved, disapproved, or modified in accordance with the procedures in chapters 20 and 21 of this division.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 264.118.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66264.119. Post-Closure Notices.

(a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator shall submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Department a record of the type, location, and quantity of hazardous wastes disposed of within each cell or area (not limited to only hazardous waste disposal unit) of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator shall identify the type, location, and quantity of the hazardous wastes to the best of the owner's or operator's knowledge and in accordance with any records the owner or operator has kept. Any changes in the type, location or quantity

of hazardous wastes disposed of within each cell or area of the facility that occur after the survey plat and record of wastes have been filed shall be reported to the local zoning authority or the authority with jurisdiction over local land use and to the Department.

(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 shall:

(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:

(A) the land has been used to manage hazardous wastes; and

(B) its use is restricted under article 7 of this chapter; and

(C) the survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or area (not limited to only hazardous waste disposal unit) of the facility required by sections 66264.116 and 66264.119(a) have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Department; and

(2) submit, to the Department, a certification, signed by the owner, that the notation specified in subsection (b)(1) of this section has been recorded, including a copy of the document in which the notation has been placed.

(c) If at any time the owner or operator or any subsequent owner or operator of the land upon which a hazardous waste disposal unit is located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, or contaminated underlying and surrounding soils, the owner or operator shall request a modification to the post-closure permit in accordance with the applicable requirements in chapters 20 and 21 of this division. The owner or operator shall demonstrate that the removal of hazardous wastes will satisfy the criteria of section 66264.117(d). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and shall manage it in accordance with all applicable requirements of this chapter. If the Department grants a permit modification or otherwise grants approval to conduct such removal activities, and the removal activities are completed to the satisfaction of the Department the owner or operator may request that the Department 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.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 264.119.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66264.120. Certification of Completion of Post-Closure Care.

No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator shall submit to the Department, 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 shall be signed by the owner or operator and an independent qualified professional engineer, registered in California. Documentation supporting the independent qualified registered professional engineer's certification shall be furnished to the Department upon request until the Department releases the owner or operator from the financial assurance requirements for post-closure care under section 66264.145(i).

NOTE: Authority cited: Sections 208, 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 264.120.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).