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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

APRIL 88

8. Ground-Water Monitoring Compliance Period/Post-Closure Care Period

The "compliance period" is defined in 40 CFR Section 264.96(a) as "the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period)." The compliance period begins when a compliance monitoring program is initiated (40 CFR Section 264.96(b)). Section 270.1(c) states that the regulations in Part 264, Subpart F apply during the post-closure care period if the land disposal facility receives waste after July 26, 1982, or certified closure after January 26, 1983 (see December 1, 1987 Federal Register, 52 FR 45798). The post-closure care period "must begin after completion of closure of the unit and continue for 30 years after that date" (emphasis added). (See 40 CFR Section 264.117(a).) If the compliance period ends before the post-closure care period ends, do the requirements to perform ground-water monitoring also cease at the facility?

No. The July 26, 1982 Federal Register, (47 FR 32287) discusses the concept behind the establishment of the compliance period. EPA views the active life of a land unit as the "time period during which the release of leachate to the [ground-water] is likely to be greatest." Therefore the timeframe for the ground-water compliance period must be at least equal to the active life of the facility to allow sufficient time to track the plume of contamination.

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The July 26, 1982 Federal Register (47 FR 32294) also states that when the compliance period ends before the close of the post-closure care period, a detection monitoring program must be reinstalled. Section 264.90(c)(2) infers that a detection monitoring program (Section 264.98) should be conducted during the post-closure care period when the facility is not implementing a compliance or corrective action program. Once the detection monitoring program is reinstated, the facility could conceivably proceed to a compliance or corrective action program. If a statistically significant increase over background values for the parameters and constituents of concern is identified, a compliance program or a corrective program must be initiated (see 40 CFR Section 264.98(h)). If, after the compliance period ends, there are still "hazardous constituents under Section 264.93...at the compliance point under Section 264.93, the owner or operator must institute a compliance monitoring program under Section 264.99" (Section 264.91(a)(1)). Once the post-closure compliance monitoring program recommences, the compliance period "clock" would begin anew. (See 40 CFR Section 264.96(b).)

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