

## PERMIT PART 8

### CLOSURE AND POST-CLOSURE CARE

#### HIGHLIGHTS

This Permit Part contains closure and post-closure care conditions for each permitted unit at the Facility. Also included are financial responsibility requirements for the Permittee for closure and post-closure care.

The Permittee may close the entire Facility (final closure) or any permitted unit at the Facility (partial closure) after notification to the Secretary. The Permittee will update Permit Attachment O, *Closure Plan*, for the Surface Impoundment and the Landfill through Permit modification prior to closure of these units to more accurately reflect unit conditions existing at the time of closure. The Permit modification may also include modification of Permit Attachment P, *Post-Closure Care Plan*.

All permitted units except the Landfill are expected to clean close. The term "clean closure" is defined as a closure performance standard requiring removal of hazardous waste and/or hazardous constituents to statistically-based background concentrations, rather than to health-based risk concentrations. Any unit that cannot be clean closed must be closed as a landfill through Permit modification of Permit Attachments O and P. Remediation activities that may be necessary at any permitted unit will be regulated under Permit Parts 9 and 10.

Post-closure care requirements at the completion of closure include maintenance and monitoring of the Landfill Phase 1A cap, the storm water collection system, leak and leachate detection and collection systems, and Vadose Zone Monitoring System (VZMS); site inspections and security; and, if necessary, a ground water monitoring system. The Permittee must modify the Permit to include post-closure care requirements, including maintenance, monitoring, reporting, and, if necessary, corrective action, at any other permitted unit(s) at the Facility that cannot be clean closed by removal and decontamination in accordance with Permit Attachment O.

## **1.1 CLOSURE**

### **1.1.1 Performance Standards for Closure**

The Permittee shall close the Facility, or any permitted unit at the Facility, as specified at Permit Attachment O; and as required by this Permit Part and 20.4.1.500 NMAC (incorporating 40 CFR 264.110 through 264.116); and in accordance with the time schedules contained at Permit Attachment O1, *Compliance Schedules for Closure*. The Permittee shall keep Permit Attachments O; O1, *Compliance Schedules for Closure*; and O2, *Financial Assurance for Closure*; at the Facility or at another location approved by the Secretary until the completion of Facility closure has been approved by the Secretary.

#### **1.1.1.a General Performance Standard**

At closure of the Facility or any unit at the Facility, the Permittee shall, as required by the performance standard contained at 20.4.1.500 NMAC (incorporating 40 CFR 264.111):

- minimize the need for further maintenance; and
- control, minimize, or eliminate, to the extent necessary to protect human health and the environment, the post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to surface or subsurface soils, ground or surface waters, or the atmosphere.

#### **1.1.1.b Clean Closure Performance Standard**

At closure, the Permittee shall ensure that all permitted units, with the exception of the Landfill, shall close in accordance with the clean closure performance standard specified at Permit Attachment O, Section 8.3, *Closure Performance Standard*.

Clean closure is achieved for a permitted unit when chemical analysis of potentially contaminated materials, soils, or leachate does not detect the presence of hazardous waste or hazardous constituents, or when any hazardous waste or hazardous constituent contained in soils or fluids removed from, below, or adjacent to a permitted unit is not above background concentrations identified at Permit Attachment U, *Action Levels for Corrective Action*; Appendix U1, *Background Concentrations for Soil*; and Appendix U3, *Background Concentrations for Ground*

Water; in statistically significant concentrations, as determined using the methodology contained at Permit Attachment Q, *Statistics for Release Determination*, or as determined by the Secretary.

### **1.1.2 Closure Plan Modification**

#### **1.1.2.a Amendment When Necessary**

The Permittee shall amend the Closure Plan through Permit modification, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.112(c)(2)), whenever:

- changes in operating plans or Facility design affect the Closure Plan;
- there is a change in the expected year of closure;
- unexpected events during partial or final closure require a modification of the approved Closure Plan;
- changes in statutory or regulatory requirements;  
or
- changes in available technology.

The modified Closure Plan shall identify the steps necessary to perform closure of a permitted unit or the Facility at any point during its active life, in accordance with the requirements of 20.4.1.500 NMAC (incorporating 40 CFR 264.112(b)).

The modified Closure Plan shall be approved by the Secretary, in writing, prior to implementation. If the Secretary does not approve the modified Closure Plan submitted by the Permittee, the Secretary will notify the Permittee, in writing, of Closure Plan deficiencies and will specify a due date for submission of a revised Closure Plan. Upon approval by the Secretary, the modified Closure Plan, including revised schedules of implementations and revised cost estimates, shall be incorporated into this Permit by replacement or modification, as appropriate, of Permit Attachments O and O1 and made an enforceable part of this Permit.

**1.1.2.b Landfill and Surface Impoundment Closure Plan  
Modification Prior to Closure**

The Permittee shall amend the Closure Plan for the Landfill and, if necessary, the Surface Impoundment through Permit modification, and shall submit the amended Plan to the Secretary for approval 60 calendar days prior to the commencement of partial or final closure activities. The Permit modification must provide revised implementation schedules and cost estimates, a discussion of closure activities in accordance with appropriate parts of Permit Conditions 8.1.10, 8.1.11, and 8.3, and detailed plans and specifications for the Landfill cover and, if necessary, the Surface Impoundment cover, and revegetation of the Landfill and Surface Impoundment areas. In its submittal on the re-vegetation of the Landfill and Surface Impoundment areas, Permittee shall address soil quality, the seed mix planned in order to establish native grasses, the maintenance of the vegetation, and plans for re-seeding in the event the original vegetation planted fails.

**1.1.2.c Storage and Treatment Units, Closure Plan  
Modification**

If, at closure, the Permittee determines that the clean closure performance standard contained at Permit Condition 8.1.1.b cannot be met at any of the hazardous waste storage or treatment units, the Permittee shall prepare and submit to the Secretary for approval a Permit modification request to amend Permit Attachment O, as it pertains to the affected area or unit, in accordance with all the closure, post-closure, and financial responsibility requirements that apply to landfills, and as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.310), pursuant to 20.4.1.500 NMAC (incorporating 40 CFR 264.112(c)(3) and 264.197(b)).

This Permit modification request shall be submitted no later than 60 calendar days after the Permittee or Secretary has determined that the affected unit must close as a landfill, or no later than 30 calendar days if the determination is made during partial or final closure of the affected unit.

**1.1.2.d Receipt of Non-Hazardous Waste**

The Permittee may request a modification to receive nonhazardous waste for disposal in the Landfill or the Surface Impoundment after the final receipt of hazardous waste at either unit, in accordance with 20.4.1.500 NMAC (incorporating 40 CFR 264.113(d)).

### **1.1.2.e Modification Required by the Secretary**

The Secretary may require Closure Plan modification under the conditions described at Permit Condition 8.1.2.a, in accordance with 20.4.1.500 NMAC (incorporating 40 CFR 264.112(c)(4)).

### **1.1.3 Closure Schedule**

#### **1.1.3.a Notification of Closure**

The Permittee shall notify the Secretary of the start of Closure Plan implementation at least 60 calendar days prior to the date on which the Permittee expects to commence closure of any facility unit as specified at Permit Attachment O, Section 8.1, *Closure Activities*; and as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.112(d)(1)).

#### **1.1.3.b Time Schedule for Closure**

Within 90 calendar days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes if receipt of non-hazardous wastes is approved by the Secretary in accordance with Permit Condition 8.1.2.d, the Permittee shall remove all hazardous wastes from the unit to be clean closed and shall meet the conditions for closure contained at 20.4.1.500 NMAC (incorporating 40 CFR 264.113). Such removed hazardous wastes shall be treated, if appropriate, and properly disposed of in the Landfill or at an off-site permitted hazardous waste disposal facility.

The Secretary may approve a longer closure period if the Permittee complies with all applicable requirements for requesting a Permit modification for this purpose and submits the demonstrations to justify a time extension required at 20.4.1.500 NMAC (incorporating 40 CFR 264.113(a)(1) and 264.113(a)(2)).

### **1.1.4 Closure Activities**

#### **1.1.4.a Proper Disposal of Equipment, Structures, and Soils**

During the partial and/or final closure periods, the Permittee shall properly dispose of or decontaminate all contaminated equipment, structures, and soils as specified at Permit Attachment O, Section 8.1; and as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.114).

By removing any hazardous wastes or hazardous constituents during closure activities, the Permittee may become a generator of hazardous waste, and shall handle that waste in accordance with all applicable requirements of 20.4.1.300 NMAC (incorporating 40 CFR Part 262). Closure of Facility units by removal or decontamination shall include removal of all hazardous waste and contaminated media.

The soil performance standard for closure shall be based upon background analyte soil concentrations.

#### **1.1.4.b Clean Closure Confirmation**

The Permittee shall confirm that contamination is no longer present at, beneath, or outside the boundaries of any permitted unit(s) undergoing clean closure in accordance with the requirements of 20.4.1.500 NMAC (incorporating 40 CFR Part 264.115). Confirmation of the removal of all waste and contaminated media shall include sampling of surface water, ground water, and other fluids beneath or outside the boundaries of the Facility or unit(s) being closed; and collecting surface soil samples within the unit(s) at intervals of one per every 500 square feet and one per every 20 linear feet and/or at unit-specific intervals, depths, and locations specified by the Secretary. Sampling shall be conducted at the locations specified at Permit Attachment O and at any additional locations that may be required under Permit Parts 9 and 10.

#### **1.1.4.c Updated Sampling Plan**

Ninety days prior to implementation of the Closure Plan for the Facility or for any permitted unit at the Facility undergoing closure, the Permittee shall submit to the Secretary for approval, as part of the Closure Plan, an updated Sampling and Analysis Plan, as specified at Permit Attachment O, Section 8.1.1.2, *Decontamination of equipment and Dismantling of Building Structure*. The Sampling Plan shall meet the requirements of 20.4.1.500 NMAC (incorporating 40 CFR 264.112(b)(4)).

#### **1.1.5 Closure Certification**

Within 60 calendar days following completion of closure of the Facility or of any permitted unit at the Facility, the Permittee shall submit to the Secretary, by registered mail, hand delivery, or special delivery service, a certification that the Facility or the permitted unit undergoing closure has been closed in accordance with the specifications contained in Permit

Attachment O, this Permit Part, and 20.4.1.500 NMAC (incorporating 40 CFR 264.110 through 116). The certification shall be signed by the Permittee and by an independent professional engineer registered in New Mexico, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.115). Documentation supporting the independent registered professional engineer's certification, in the form of a Final Closure Report specified at Permit Condition 8.1.7.c, must be furnished to the Secretary concurrent with the certification. The closure certification and the Final Closure Report must be delivered to the Secretary, and the Secretary must verify the closure certification before he releases the Permittee from the financial assurance requirements for closure under 20.4.1.500 NMAC (incorporating 40 CFR 264.143(i)).

#### **1.1.6 Survey Plat**

No later than the date of submission of the closure certification of each permitted unit that has not attained clean closure, the Permittee shall submit a survey plat of the closed permitted unit to the local zoning authority or the authority with jurisdiction over local land use, and to the Secretary, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.116). The survey plat shall indicate the location and dimensions of Landfill cells or any other waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a New Mexico registered, professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use, must contain a note, prominently displayed, which states the Permittee's obligation to restrict disturbance of any hazardous waste disposal unit which is not clean closed, in accordance with the applicable regulations found at 20.4.1.500 NMAC (incorporating 40 CFR 264, Subpart G).

#### **1.1.7 Recordkeeping and Reporting Requirements**

##### **1.1.7.a Sampling Records**

The Permittee shall ensure that the records for sampling and analysis activities of all media required in accordance with Permit Conditions 8.1.4.b and 8.1.4.c are maintained by the Facility. This documentation must include records for sampling of soil, surface water, and groundwater (including vadose zone). Vadose zone monitoring records shall be maintained as specified at Permit Attachment I, *Vadose Zone Monitoring System Work Plan*, Section 6.1, *Field Documentation*. The sampling record shall

include the monthly Well Inspection Logs and Monitoring Field Logs.

#### **1.1.7.b Quarterly Reports**

During the partial and final closure periods, the Permittee shall submit Quarterly Status Reports on closure activities for the Facility or a permitted unit undergoing closure until closure certification for the Facility or the permitted unit undergoing closure is submitted to the Secretary in accordance with Permit Condition 8.1.5. These reports are in addition to the applicable Quarterly Reports requirements at Permit Condition 2.12.2.b. The reports must summarize:

- closure activities during the previous quarter;
- activities planned for the next quarter; and
- any variance from the approved Closure Plan and the reason for the variance.

#### **1.1.7.c Final Closure Report**

Within 60 calendar days following completion of closure of the Facility or any permitted unit at the facility, the Permittee shall submit a Final Closure Report to the Secretary, with submittal of the closure certification required under Permit Condition 8.1.5, as required by 20.4.1.500 NMAC, (incorporating 40 CFR 264.115). The Report must contain, at a minimum:

- a summary of activities conducted under closure;
- a summary of variances from the approved Closure Plan;
- laboratory sample analysis sheets for all analysis conducted during closure, including raw data;
- laboratory analysis summary tables;
- site plans displaying the locations where all media samples were obtained during closure activities;
- sampling and analysis quality assurance/quality control (QA/QC) documentation; and

- types, amounts, and disposal locations of all hazardous wastes placed in the Landfill.

#### **1.1.8 Closure Requirements for Containers**

The Permittee shall conduct closure activities for the Drum Handling Unit and the Roll-Off Container Storage Unit as specified at Permit Attachment O, Sections 8.1.1, *Drum Handling Unit*, and 8.1.5, *Roll-Off Storage Area*, and other pertinent sections; and as required by this Permit Part and 20.4.1.500 NMAC (incorporating 40 CFR 264.111 through 264.116 and 264.178). The Drum Handling Unit and the Roll-Off Storage Area shall be clean closed as specified at Permit Attachment O, Section 8.3 through removal, decontamination, and proper disposal of remaining containers, liners, bases, buildings, ancillary equipment and soil, in accordance with Permit Condition 8.1.1.b.

#### **1.1.9 Closure Requirements for Tanks**

The Permittee shall conduct closure activities for the hazardous waste storage and treatment units, as specified at Permit Attachment O, Sections 8.1.3, *Liquid Waste Receiving and Storage Unit*, and 8.1.4, *Stabilization Unit*, and other pertinent sections; and as required by this Permit Part and 20.4.1.500 NMAC (incorporating 40 CFR 264.111 through 264.116 and 264.197).

The Permittee shall achieve the clean closure performance standard specified at Permit Attachment O, Section 8.3, for all tank areas or tank units, in accordance with Permit Condition 8.1.1.b, through removal or decontamination of all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste. If a tank storage or treatment area or a tank system cannot be clean closed, the Permittee shall submit a request for Permit modification to the Secretary to close the unit as a landfill, in accordance with Permit Condition 8.1.2.c. The Permit modification must contain plans and specifications for a final cover, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.310(a)).

#### **1.1.10 Closure Requirements for the Surface Impoundment**

##### **1.1.10.a Surface Impoundment Closure Activities**

The Permittee shall conduct closure activities for the Surface Impoundment in compliance with Permit Attachment O, Section 8.1.2, *Evaporation Pond*, and other pertinent sections; and the

modified Closure Plan required at Permit Condition 8.1.10.b; and as required by this Permit Part and 20.4.1.500 NMAC, (incorporating 40 CFR 264.111 through 264.116 and 264.228). The Permittee shall achieve the clean closure performance standard identified at Permit Condition 8.1.1.b.

**1.1.10.b Surface Impoundment Permit Modification**

Prior to closure, the Permittee shall submit a request for Permit modification of the Closure Plan as it pertains to the Surface Impoundment to the Secretary in accordance with Permit Condition 8.1.2.b. The Permit modification must describe closure activities to meet the clean closure standard specified at Permit Condition 8.1.1.b.

**1.1.10.c Permit Modification for Closure as a Landfill**

If the Surface Impoundment cannot be clean closed, the Permit modification required in accordance with Permit Condition 8.1.10.b must include closure and post-closure care activities and financial responsibility requirements to close the Surface Impoundment as a Landfill, in accordance with Permit Condition 8.1.2.c. This Permit modification request shall be submitted no later than 90 days after the Permittee or Secretary has determined that the Surface Impoundment must close as a landfill.

**1.1.10.d Removal of Hazardous Waste**

At clean closure of the Surface Impoundment, the Permittee shall eliminate free liquids by evaporation of the liquid wastes and solidification of all remaining hazardous wastes and hazardous waste residues, as specified at Permit Attachment O, Section 8.1.2, *Evaporation Pond*; and as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.228(a)).

**1.1.10.e Decontamination**

At closure of the Surface Impoundment, the Permittee shall remove or decontaminate all waste residue, contaminated containment systems and LDRS and VZMS sump components, contaminated subsoils, and any contaminated structures and equipment at the Surface Impoundment, as specified at Permit Attachment O, Section 8.1.2.3, *Removal and Disposal of Liner and Leachate Collection System*; and in accordance with Permit Condition 8.1.4.a; and as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.228(a)). Liners and sump systems may be disposed of as hazardous debris.

**1.1.10.f Restoration**

At closure, the Permittee shall ensure that the Surface Impoundment area is restored to the approximate original grade, and revegetated, as specified at Permit Attachment O, Section 8.1.2.5, *Filling and Revegetating*; and as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.228).

**1.1.10.g Surface Impoundment Well Monitoring**

The Permittee shall continue the Surface Impoundment vadose zone well monitoring required at Permit Condition 5.6.2 on a monthly basis during the closure period, as specified at Permit Attachment I, Section 4.1, *Monitoring Frequency*. The Permittee shall sample at each monitoring point containing fluid, and shall otherwise comply with the requirements of Permit Conditions 7.4.3 through 7.4.9. If a release has occurred, the Permittee shall comply with all the release assessment requirements contained at Permit Condition 7.5.

**1.1.11 Closure Requirements for the Landfill**

**1.1.11.a Landfill Closure Activities**

The Permittee shall conduct closure activities as specified at Permit Attachment O, Section 8.1.6, *Landfill*, and other pertinent sections; and the modified Closure Plan required at Permit Condition 8.1.11.b; and as required by this Permit Part and 20.4.1.500 NMAC (incorporating 40 CFR 264.111 through 264.116 and 264.310).

**1.1.11.b Landfill Permit Modification**

Prior to closure, the Permittee shall submit a request for Permit modification of the Closure Plan as it pertains to the Landfill to the Secretary, in accordance with Permit Condition 8.1.2.b. The Permit modification shall provide details on a final Landfill cover and revegetation that meet all the requirements of 20.4.1.500 NMAC (incorporating 40 CFR 264.310(a)).

**1.1.11.c Landfill Cover**

The Permittee shall cover the Landfill at closure with a final cover as specified at Permit Attachments L, *Engineering Report*, Section 3.1.5, *Final Cover*; and O, Section 8.1.6; and as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.310(a)).

#### **1.1.11.d Landfill VZMS Monitoring**

The Permittee shall continue the vadose zone monitoring required at Permit Condition 6.6.2 on a monthly basis during the closure period, as specified at Permit Attachment I, Section 4.0, *Monitoring Procedures*. The Permittee shall sample at each monitoring point containing fluid, and shall otherwise comply with the requirements of Permit Conditions 7.4.2. If waste analysis shows that a release has occurred, the Permittee shall comply with the release assessment requirements contained at Permit Condition 7.5. Recordkeeping shall be performed in accordance with Permit Condition 2.12.1.k.i.

### **1.2 POST-CLOSURE CARE**

#### **1.2.1 General Post-Closure Care Requirements**

##### **1.2.1.a Landfill**

The Permittee shall ensure that post-closure care activities at the Landfill are conducted as specified at Permit Attachment P, *Post-Closure Care Plan*, Section 8.2, *Post-closure Activities*; and as required by this Permit Part and 20.4.1.500 NMAC (incorporating 40 CFR 264.117 through 264.120). The Permittee shall keep Permit Attachments P, and P1, *Financial Assurance for Post-Closure Care*, at the Facility or at a location approved by the Secretary until the completion of post-closure care has been approved by the Secretary.

##### **1.2.1.b Other Permitted Units Which Cannot Clean Close**

The Permittee shall provide post-closure care through Permit modification, in accordance with Permit Condition 8.2.2, for any permitted unit where clean closure of the units by decontamination and removal is not accomplished.

#### **1.2.2 Post-Closure Care Plan Modification**

##### **1.2.2.a Amendment When Necessary**

The Permittee shall submit an updated or amended Post-Closure Care Plan to the Secretary for approval, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.118(d)), whenever:

- changes in operating plans or Facility design affect the Post-Closure Care Plan;

- there is a change in the expected year of final closure;
- events that occur during the active life of the Facility, including partial and final closures, affect the approved Post-Closure Care Plan;
- changes in statutory or regulatory requirements; or
- changes in available technology.

The Permittee shall submit a written request for a Permit modification at least 60 calendar days prior to the proposed change in Facility design or operation, or no later than 60 calendar days after an unexpected event has occurred which has affected the Post-Closure Care Plan, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.118(d)(3)).

The updated Post-Closure Care Plan shall be approved by the Secretary, in writing, prior to implementation, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.118(d)(3)). If the Secretary does not approve the updated Post-Closure Care Plan, the Secretary will notify the Permittee, in writing, of the Post-Closure Care Plan deficiencies, and will specify a due date for submittal of a revised Post-Closure Care Plan. Upon approval by the Secretary, the updated or amended Post-Closure Care Plan will be incorporated into this Permit by modification or replacement of Permit Attachment P, and made an enforceable part of this Permit.

#### **1.2.2.b Surface Impoundment Post-Closure Care Plan Modification**

If the Permittee or the Secretary determines that the Surface Impoundment must be closed as a landfill, the Permittee shall, within 90 days of such determination, submit to the Secretary for approval a revised Post-Closure Care Plan detailing post-closure care requirements for the Surface Impoundment, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.117 through 264.120, 264.228(b), and 264.310); and as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.118(a)).

#### **1.2.2.c Tank System Post-Closure Care Plan Modification**

If the Permittee determines that any hazardous waste tank treatment or storage units cannot clean close in accordance with Permit Condition 8.1.1.a, the Permittee shall submit to the

Secretary for approval a revised Post-Closure Care Plan detailing post-closure care requirements, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.117 through 264.120, 264.197, and 264.310), for the affected tank area or unit, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.197(b)). The Permittee shall initiate the Permit modification process required by Permit Condition 8.2.1.b.

#### **1.2.2.d Modification Requested by the Secretary**

The Secretary may request Post-Closure Care Plan modification under the conditions described at Permit Condition 8.2.2.a, in accordance with 20.4.1.500 NMAC (incorporating 40 CFR 264.118(d)(4)).

#### **1.2.3 Post-Closure Care Time Schedules**

The Permittee shall implement post-closure care requirements for 30 years after completion of closure of the Landfill or any permitted unit(s) closed with contamination in place, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.117(a)(1)).

At any time, the Secretary may, in accordance with 20.4.1.500 NMAC (incorporating 40 CFR 264.117(a)(2)):

- shorten the post-closure period if the Secretary finds that human health and the environment are protected sufficiently (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 unit or Facility is secure); or
- extend the post-closure care period if the Secretary determines that this 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 or the environment).

#### **1.2.4 Post-Closure Care Requirements for the Landfill**

The Permittee shall comply with the post-closure care requirements for the Landfill specified at Permit Attachment P, Section 8.2.2, *Landfill Final Cover*, and 20.4.1.500 NMAC

(incorporating 40 CFR 264.310(b)). The Permittee shall maintain and monitor the leachate and vadose zone monitoring systems (and ground water monitoring system, if one is required by the Secretary), the Landfill cover, and the storm water collection system, and shall comply with all other applicable requirements of 20.4.1.500 NMAC (incorporating 40 CFR 264, Subpart F and 264.310(b)), during the post-closure care period, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.117(a)(1)).

**1.2.4.a Cover Maintenance**

The Permittee shall maintain the integrity and effectiveness of the final Landfill cover, including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.310(b)(1)).

**1.2.4.b Leak Detection Systems Monitoring**

The Permittee shall continue to operate the LDRS and LCRS until leachate is no longer detected, as determined by the Secretary, in accordance with 20.4.1.500 NMAC (incorporating 40 CFR 264.310(b)(2)).

**1.2.4.c Landfill VZMS Monitoring**

The Permittee shall maintain and monitor the Landfill VZMS sump and wells semi-annually throughout the post-closure period, as specified at Permit Attachment I, Section 4.1, *Monitoring Frequency*, and comply with all other applicable requirements of 20.4.1.500 NMAC (incorporating 40 CFR 264, Subpart F and 264.310(b)).

**1.2.4.d Run-On/Run-Off Control**

Surface water diversions or surface drainage ditches shall be installed as necessary to prevent gullies from forming. The Permittee shall maintain the run-on and run-off control system for the Landfill to prevent erosion or other damage to the final cover, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.310(b)(4)).

**1.2.4.e Surveyed Benchmarks**

The Permittee shall protect and maintain surveyed benchmarks used in complying with the surveying and recordkeeping requirements of 20.4.1.500 NMAC (incorporating 40 CFR 264.309),

and pursuant to 20.4.1.500 NMAC (incorporating 40 CFR 264.310(b)(6)).

### **1.2.5 Surface Impoundment VZMS Monitoring**

The Permittee shall maintain and monitor the Surface Impoundment VZMS sump and wells semi-annually throughout the post-closure care period, as specified at Permit Attachment I, Section 4.1.

### **1.2.6 Security**

#### **1.2.6.a Security Requirements**

The Permittee shall comply with all security requirements during the post-closure care period specified at Permit Attachment P, Section 8.2.1, *Security Systems*, and as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.117(b)).

#### **1.2.6.b Property Use**

The Permittee shall not allow any use of the Facility property that will disturb the integrity of the final cover, liners, any components of the containment system, or the function of the Facility's monitoring systems, during the post-closure care period, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.117(c)).

### **1.2.7 Inspections**

The Permittee shall inspect the Landfill cover, run-on/run-off controls, the LDRS, LCRS, and VZMS sumps at the Landfill, and the Landfill and Surface Impoundment monitoring wells during the post-closure care period in accordance with the inspection schedules contained at Permit Attachments D, *Inspection Procedures*; D1, *Inspection Schedules and Checklists*; O, Section 8.1.6,; and P, Sections 8.2.1, *Security Systems*, 8.2.4.3, *Leak Detection System*, and 8.2.5.2, *Inspection and Maintenance*; and as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.117(a)(1)).

### **1.2.8 Reporting**

The Permittee shall submit annual reports to the Secretary throughout the post-closure care period that summarize inspection and maintenance activities and monitoring results, as required by 20.4.1.900 NMAC (incorporating 40 CFR 270.31(b)).

### **1.2.9 Certification of Post-Closure Care Completion**

No later than 60 calendar days after completion of the established post-closure care period for the Facility or any unit undergoing post-closure care, the Permittee shall submit to the Secretary, by registered mail, hand delivery, or special delivery service, a certification that the post-closure care for the hazardous waste unit was performed in accordance with the specifications contained in the approved Post-closure Plan. The certification shall be signed by the Permittee and an independent, professional engineer registered in New Mexico. Documentation supporting the engineer's certification shall be furnished to the Secretary upon request, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.120), until the Secretary releases the Permittee from the financial assurance requirements for post-closure care contained at Permit Condition 8.3.2, in accordance with 20.4.1.500 NMAC (incorporating 40 CFR 264.145(i)).

### **1.2.10 Verification of Post-Closure Care Completion**

The Secretary will, within 60 calendar days of receipt of the certification of post-closure care completion from the Permittee, verify through a site visit and examination of documents that post-closure care was completed as required under the approved Post-Closure Care Plan, in accordance with 20.4.1.900 NMAC (incorporating 40 CFR 270.32(b)(2)).

### **1.2.11 Post-Closure Notices**

#### **1.2.11.a Hazardous Waste Records**

No later than 60 days after certification of closure of each hazardous waste disposal unit, the Permittee must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Secretary a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.119(a)).

#### **1.2.11.b Notation on Property Deed**

##### **1.2.11.b.i Record of Notation**

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 Permittee must record, as required by 20.4.1.500 NMAC

(incorporating 40 CFR 264.119(b)(1)), 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:

- the land has been used to manage hazardous wastes;
- its use is restricted, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264 Subpart G) regulations; and
- 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, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.116 and 264.119(a)), have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Secretary.

#### **1.2.11.b.ii Certification of Deed Notification**

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 Permittee must submit a certification, signed by the Permittee, that he has recorded the notation specified in Permit Condition 8.2.11.b.i, including a copy of the document in which the notation has been placed, to the Secretary, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.119(b)(2)).

#### **1.2.12 Removal of Hazardous Materials**

If the Permittee 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 soils, then the Permittee or the subsequent owner or operator shall request a modification to this Permit in accordance with the applicable requirements contained at 20.4.1.900 and 901 NMAC (incorporating 40 CFR Parts 124 and 270).

The Permittee or the subsequent owner or operator, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.119(c)), shall demonstrate that the removal of hazardous wastes will satisfy all HWA and RCRA requirements for generation and transport of

hazardous waste, and that such an action, in accordance with 20.4.1.500 NMAC (incorporating 40 CFR 264.117(c)):

- is necessary to the proposed use of the property and will not increase the potential hazard to human health and the environment; or
- is necessary to reduce a threat to human health or the environment.

### **1.3 FINANCIAL RESPONSIBILITY**

#### **1.3.1 Cost Estimates for Closure and Post-Closure Care**

The Permittee shall maintain financial assurance for both closure and post-closure care costs, and comply with all applicable requirements of 20 4.1.500 NMAC (incorporating 40 CFR Part 264, Subpart H). The Permittee shall demonstrate continuous compliance with financial assurance requirements by providing documentation of financial assurance as required by 20 4.1.500 NMAC (incorporating 40 CFR 264.143, 264.145 and 264.151), in at least the amount of the closure and post-closure care cost estimate required by 20 4.1.500 NMAC (incorporating 40 CFR 264.142 and 264.144). Changes in financial assurance mechanisms must be approved by the Secretary pursuant to 20 4.1.500 NMAC (incorporating 40 CFR 264.145). The closure and post-closure cost estimates, prepared in accordance with 20 4.1.500 NMAC (incorporating 40 CFR 264.142 and 144), are specified at Attachments O2, *Financial Assurance for Closure*, and P1, *Financial Assurance for Post-Closure Care*, respectively.

##### **1.3.1.a Most Recent Cost Estimates**

The NMED's cost estimates for closure and post-closure care, prepared in accordance with 20.4.1.500 NMAC, (incorporating 40 CFR 264.142 and 264.144), respectively, are specified at Permit Attachment O2, and Permit Attachment P1, respectively. When closure or post-closure care cost estimates are adjusted or revised in accordance with Permit Conditions 8.3.1.b and 8.3.1.c, respectively, the Permittee shall submit these adjusted or revised cost estimates to the Secretary by the anniversary date of the establishment of the financial instrument(s) used to comply with Permit Condition 8.3.2.

The latest closure cost estimates will be inserted as replacement pages in Attachment O2. The latest post-closure care cost estimates will be inserted as replacement pages in Attachment P1.

**1.3.1.b Adjustment for Inflation**

The Permittee shall adjust the closure and post-closure care cost estimates for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with Permit Condition 8.3.2, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.142(b) and 264.144(b)).

**1.3.1.c Cost Estimate Revisions**

No later than 30 days after the Secretary has approved a request to modify the Closure Plan or Post-Closure Care Plan, the applicable cost estimate shall be revised if the change increases the cost of closure or of post-closure care, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.142(c) and 264.144(c)), respectively.

**1.3.1.d Recordkeeping - Cost Estimates for Closure and Post-Closure Care**

The Permittee shall keep at the Facility the latest closure and post-closure care cost estimates during the operating life of the Facility, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.142(d) and 264.144(d)).

**1.3.2 Financial Assurance for Closure and Post-Closure Care**

**1.3.2.a Continuous Compliance with Financial Assurance Requirements**

The Permittee shall demonstrate continuous compliance with 20.4.1.500 NMAC (incorporating 40 CFR 264.143, 264.145, and 264.146) by providing documentation of financial assurance, in at least the amount of the cost estimates required by Permit Condition 8.3.1.d, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.143 and 264.151). This demonstration shall be submitted to the Secretary for approval so that it may be implemented at least 60 days prior to the initial receipt of waste at the Facility as specified at Permit Attachments O2, Section 8.8.1, *Financial Assurance for Closure*, and P1, Section 8.8.2, *Financial Assurance for Post-Closure Care*; and in accordance with Permit Condition 1.10; and as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.143(f)(3), 264.143(f)(5), 264.145(f)(3), and 264.145(f)(5)).

Changes in financial assurance mechanisms for closure and/or post-closure care must be approved by the Secretary, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.143(f)(6) and 264.145(f)(6)).

