the effectiveness of the corrective action. Such a ground-water monitoring program may be based on a compliance monitoring program developed to meet the requirements of this section.

(i) If the owner or operator determines, pursuant to paragraph (d) of this section, that the ground-water concentration limits under this section are being exceeded at any monitoring well at the point of compliance, he or she may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. In making a demonstration under this paragraph, the owner or operator must:

(1) Notify the Regional Administrator in writing within seven days that he intends to make a demonstration under this paragraph;

(2) Within 90 days, submit a report to the Regional Administrator which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

(3) Within 90 days, submit to the Regional Administrator an application for a permit modification to make any appropriate changes to the compliance monitoring program at the facility; and

(4) Continue to monitor in accord with the compliance monitoring program established under this section.

(j) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, he must, within 90 days, submit an application for a permit modification to make any appropriate changes to the program.

[47 FR 32350, July 26, 1982, as amended at 50 FR 4514, Jan. 31, 1985; 52 FR 25946, July 9, 1987; 53 FR 39730, Oct. 11, 1988]

§ 264.100 Corrective action program.

An owner or operator required to establish a corrective action program under this subpart must, at a minimum, discharge the following responsibilities:

(a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground-water protection standard under § 264.92. The Regional Administrator will specify the ground-water protection standard in the facility permit, including:

(1) A list of the hazardous constituents identified under § 264.93;

(2) Concentration limits under § 264.94 for each of those hazardous constituents;

(3) The compliance point under § 264.95; and

(4) The compliance period under § 264.96.

(b) The owner or operator must implement a corrective action program that prevents hazardous constituents from exceeding their respective concentration limits at the compliance point by removing the hazardous waste constituents or treating them in place. The permit will specify the specific measures that will be taken.

(c) The owner or operator must begin corrective action within a reasonable time period after the ground-water protection standard is exceeded. The Regional Administrator will specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of § 264.99(i)(2).

(d) In conjunction with a corrective action program, the owner or operator must establish and implement a ground-water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under § 264.99 and must be as effective as that program in determining compliance with the ground-water protection standard under § 264.92 and in determining the success of a corrective action program under paragraph (e) of this section, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in

place any hazardous constituents under § 264.93 that exceed concentration limits under § 264.94 in groundwater:

(1) Between the compliance point under § 264.95 and the downgradient property boundary; and

(2) Beyond the facility boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the Regional Administrator that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner/operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis.

(3) Corrective action measures under this paragraph must be initiated and completed within a reasonable period of time considering the extent of contamination.

(4) Corrective action measures under this paragraph may be terminated once the concentration of hazardous constituents under § 264.93 is reduced to levels below their respective concentration limits under § 264.94.

(f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground-water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, he must continue that corrective action for as long as necessary to achieve compliance with the ground-water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground-water monitoring program under paragraph (d) of this section, that the ground-water protection standard of § 264.92 has not been exceeded for a period of three consecutive years.

(g) The owner or operator must report in writing to the Regional Administrator on the effectiveness of the corrective action program. The owner or operator must submit these reports semi-annually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, he must, within 90 days, submit an application for a permit modification to make any appropriate changes to the program.

[47 FR 32350, July 26, 1985, as amended at 50 FR 4514, Jan. 31, 1985; 52 FR 45798, Dec. 1, 1987]

§ 264.101 Corrective action for solid waste management units.

(a) The owner or operator of a facility seeking a permit for the treatment, storage or disposal of hazardous waste must institute corrective action as necessary to protect human health and the environment for all releases of hazardous waste or constituents from any solid 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 in accordance with this section and subpart S of this part. The permit 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 must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the Regional Administrator that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such actions. The owner/operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis. Assurances of financial responsibility for such corrective action must be provided.

(d) This does not apply to remediation waste management sites unless they are part of a facility subject to a