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## RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

OCTOBER 86

### 5. Termination of Permits

A permitted facility closes all its tanks and container storage areas, its only RCRA-regulated units. The region now wishes to terminate the permit because the facility no longer has any active units and is not subject to the post-closure care requirements of 40 CFR 264.117. The facility has complied with all the permit conditions and has disclosed all relevant facts for the permit. On what basis may EPA terminate the facility's permit?

40 CFR 270.43(a) presents the reasons for which EPA may terminate a facility's permit or deny a permit renewal application. EPA may terminate a permit if the facility fails to comply with any condition of the permit, or if the permittee fails to fully disclose relevant information during the permit application or issuance process.

EPA may also terminate a permit if the permittee misrepresents any relevant facts, or if the permitted activity endangers human health or the environment. A different type of permit termination occurs when a permit is revoked and reissued during transfer of a permit to a new owner/operator, per §270.30(1)(3) and §270.41 (b)(2) or the Regional Administrator and the permittee agree to termination in the course of transferring permit responsibility to an authorized state under §271.8(b)(6). Nothing in the regulations allows for permit termination because permit conditions no longer apply to a facility. Normally the owner/operator of a facility that has closed all its RCRA units and has no post-closure care requirements would allow the permit to expire. Although the owner/operator is still subject to Part 264 standards, there are no hazardous waste management activities to regulate. The owner/operator's financial responsibilities should end after the region receives certification of closure (§§264.143(i), 264.147(e)). According to §124.5(a) the permittee may request termination, but EPA may still only terminate a permit for the reasons given in §270.43.

Nevertheless, EPA does have authority to modify a permit if the Director receives new information, or there are material and substantial alterations to the permitted activity, that justify permit conditions different from

those in the existing permit (§270.41(a)(1)(2)). According to §270.50, the maximum permit duration is ten years, but a permit may cover a shorter time period. In this situation, EPA could modify the permit so that it would expire shortly after the earlier closure date.

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