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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

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1. Secondary Containment Variances for Tanks

New regulations promulgated in the July 14, 1986 Federal Register (51 FR 25422) address secondary containment requirements for hazardous waste treatment and storage tanks. 40 CFR 264.193(g) and 265.193(g) allow the tank owner/operator to apply to the Regional Administrator for a variance from the secondary containment requirements. A tank owner/operator may apply for either a technology-based variance or a risk-based variance. How are these two kinds of variances different?

40 CFR 264.193(g) and 265.193(g) described the requirements for both technology-based and risk based variances. The Regional Administrator may grant a technology-based variance if the owner/operator can demonstrate that alternative design and operating practices, combined with location characteristics, will be at least as effective as secondary containment in preventing the migration of hazardous waste or hazardous constituents into the ground water or surface water. The Regional Administrator may grant a variance based on risk if the owner/operator can demonstrate that there will be no substantial present or potential hazard to human health or the environment if there is a release to the ground water or surface water. Risk-based variances will not be granted to new underground task systems.

According to §264.193(g)(1) and §265.193(g)(1), the Regional Administrator will base a decision to grant a technology-based variance on (1) the nature and quantity of wastes, (2) the proposed alternate designs and operation, (3) the hydrogeologic characteristics of the facility (e.g.,-thickness of soil between the tank system and ground water), and (4) other factors related to the potential for hazardous constituents to migrate into ground or surface water. For a risk-based variance, the Regional Administrator will consider, in addition to the nature and persistence of the waste and the facility's hydrogeology, the potential effects on human health and welfare (i.e.,-wildlife, crops, vegetation, physical structures). The Regional Administrator will evaluate these factors as they relate to the quality of ground water, surface water, and the land (see §§264.193(g)(2) and 265.193((g)(2)). In applying for a risk-based

variance, a tank owner/operator may demonstrate either that there will be no exposure pathways for hazardous constituents, or that exposure to hazardous constituents through ground or surface water will not be high enough to pose a substantial hazard to human health or the environment. In the latter approach, the variance would have to address current and potential hazards (51 FR 25453).

For both technology-based and risk-based variances, the burden will be on the applicant to demonstrate either that the alternate technology will be equivalent to secondary containment or that the tank system will present no current or potential risk to human health or the environment.

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