

9483.1986(07)

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

OCTOBER 86

3. Hazardous Waste Tanks

New hazardous waste tank regulations were promulgated on July 14, 1986 (51 FR 25470). The Federal effective date for most of the new tank regulations in January 12, 1987. Existing tank systems are defined as those in use for the storage or treatment of hazardous waste or for which installation was commenced on or before to July 14, 1986 (40 CFR 260.10). New tank systems are those for which installation commenced after July 14, 1986. New tanks are required to have secondary containment (§265.193(a)(1)) and a leak detection system (§265.193(c)(3)). New tank systems must also be designed in accordance with the criteria in §265.192.

Existing tanks must be retrofitted for secondary containment and leak detection (§265.193(a)). The timing of the retrofit depends upon the age of the tank and what it contains. All existing tanks in which F020, F021, F022, F023, F026, and F027 is stored or treated must be retrofitted within two years of the effective date of the regulations (§265.193(a)(2)). Tanks of known, documented age must be retrofitted within two years of the effective date of the regulations or when the tank system has reached 15 years of age, whichever comes later (§265.193(a)(3)). When the age of the tank cannot be documented, it must be retrofitted within eight years of the effective date unless the facility is more than seven years old. In the latter case, secondary containment must be installed by the time the facility is 15 years old or within two years of the effective date, whichever comes later (§265.193(a)(4)).

- (a.) What is the status of the tanks at a new TSD facility if a RCRA permit is issued by EPA or an authorized state after July 14, 1986 but before the effective date of the Federal or state regulation?
- (b.) How would interim status and 90-day accumulation tanks be regulated if they are installed between July 14, 1986 and the effective date of the new tank regulations?
 - (a.) The permit would be written under the current regulations. Section 270.32(b) and (c) state that for an EPA or state-issued permit, an applicable requirement is a state statutory or regulatory requirement which tanks effect prior to final administrative disposition of a permit. However, §270.32(b)(2) (50 FR 28742) states that each permit issued shall contain terms and conditions as the Administrator or State Director determines necessary to protect human health and the environment. The Administrator or the State Directory may incorporate the new tank regulations under this provision. This general omnibus authority is a creation of HSWA and thus is implemented by EPA until the State is authorized.

When the permit is reviewed (in 10 years or less) under §270.50, all regulations in effect at the time of the review must be incorporated into the reissued permit per §270.32(d), including the tank regulations promulgated in 51 FR 25470. The 15 year age limit for secondary containment retrofitting for "existing" tank systems (§264.193(a)(3)) would not apply to tanks built after July 14, 1986 because the tanks are, by definition, "new" tanks.

Under the current regulations, a permit may only be modified to incorporate new regulations at the request of the permittee (§270.41(a)(3)(c)). However, EPA proposed a change to this regulation in the March 28, 1986 Federal Register. Under the proposed §270.41(a)(3) permits could be modified by EPA or a state when the standards or regulations on which the permit was based have been changed by statute or new or amended standards or regulations. If this regulation is promulgated as proposed, permits could be modified to include the requirements of the revised tank regulations.

(b.) Before the effective date of the new hazardous waste tank regulations, interim status tanks may be installed under the current regulations for Subpart J. However, since these tanks meet the definition of new tank systems because they were installed after July 14, 1986, they must comply with all of the standards in the new regulations (§265.192, §265.193) once the regulation becomes effective. Therefore, if the tank is installed under the old standards, it must be retrofitted or replaced to comply with the new tank standard in §265.193 by the Federal effective date which is January 12, 1987. These tanks are also subject to the design standards in §265.192 including all certifications required in §265.192(a) and the inspections and certifications required in §265.192(b) and (g).

Source: Bill Kline (202) 382-4623
Lillian Bagus (202) 382-2233
Chet Oszman (202) 382-4499

Research: Betty Wilson