

2. Definition of “Annually” for Interim Status Tank Inspections

Owners and operators of hazardous waste storage tanks which do not have secondary containment must conduct periodic leak assessments to ensure the tank poses no threat to human health and the environment. An existing, unenterable, underground storage tank becomes subject to hazardous waste regulation due to a new hazardous waste listing. Since the tank does not yet have secondary containment, the owner/operator must conduct an initial leak assessment within 12 months after the date the tank became subject to Subtitle C hazardous waste regulation (i.e., the effective date of the listing) (§265.191(c)). Subsequently, leak tests must be conducted “at least annually” until secondary containment is installed (40 CFR §265.193(i)(1)). How is the phrase “at least annually” defined for purposes of this requirement?

In terms of leak assessments for tanks, annual means once every 12 months, not just once every calendar year. Therefore, the initial leak assessment must be conducted within the 12-month period of the anniversary date of when the tank became subject to the Subtitle C standards. Subsequent leak tests must continue to be conducted within 12-month intervals of the most recent test until secondary containment that complies with §§264 and 265.193 has been installed or the tank is closed. For example, if the owner or operator became subject to the tank standards on August 1, 1995, the owner/operator would be required to conduct the initial leak test by August 1, 1996. If the tank owner/operator opted to conduct the test on July 1, 1996, rather than August 1, 1996, the next test would need to be performed on or before July 1, 1997.

