

9476.1988(03)

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

APRIL 88

3. Post Closure Plans for Hazardous Waste Tanks

According to Section 264.197(c) an owner or operator of a tank system that does not have secondary containment meeting the requirements of Section 264.193(b) through (f) and is not exempt from the secondary containment requirements in accordance with Section 264.193(g), must have a contingent closure and post-closure plan that meets all closure, post-closure and financial responsibility requirements under Subparts G and H of Part 264. If the facility's permit for an underground tank system specifically states that no post-closure care is required, must a contingent post-closure plan still be prepared and submitted as required by Section 264.197(c)?

No, the facility's permit would shield the owner or operator from the requirement to prepare and submit a contingent post-closure plan. According to Section 270.4(a), compliance with a RCRA permit during its term generally constitutes compliance for purposes of enforcement with Subtitle C of RCRA. However, the facility would also be required to clean close. Alternatively, the Director (in either the Regional Office or the State, as appropriate) could modify the permit under Section 270.41 to require postclosure care and the submission of post-closure plans for cause, such as new information or new regulations. For instance, if the permit was issued before the hazardous waste tank regulations were revised to require post-closure plans (July 14, 1986) and the tank system cannot be clean closed, the Director may modify the permit to require postclosure care as required by Section 264.197(b).

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