

protection if the Regional Administrator believes other corrosion protection is necessary to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

(g) The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of paragraphs (b) through (f) of this section, that attest that the tank system was properly designed and installed and that repairs, pursuant to paragraphs (b) and (d) of this section, were performed. These written statements must also include the certification statement as required in § 270.11(d) of this chapter.

[51 FR 25472, July 14, 1986; 51 FR 29430, Aug. 15, 1986, as amended at 71 FR 16905, Apr. 4, 2006]

**§ 264.193 Containment and detection of releases.**

(a) In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this section must be provided (except as provided in paragraphs (f) and (g) of this section):

(1) For all new and existing tank systems or components, prior to their being put into service.

(2) For tank systems that store or treat materials that become hazardous wastes, within two years of the hazardous waste listing, or when the tank system has reached 15 years of age, whichever comes later.

(b) Secondary containment systems must be:

(1) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system; and

(2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(c) To meet the requirements of paragraph (b) of this section, secondary containment systems must be at a minimum:

(1) Constructed of or lined with materials that are compatible with the wastes(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, and the stress of daily operation (including stresses from nearby vehicular traffic).

(2) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(3) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or at the earliest practicable time if the owner or operator can demonstrate to the Regional Administrator that existing detection technologies or site conditions will not allow detection of a release within 24 hours; and

(4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the Regional Administrator that removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.

[NOTE: If the collected material is a hazardous waste under part 261 of this chapter, it is subject to management as a hazardous waste in accordance with all applicable requirements of parts 262 through 265 of this chapter. If the collected material is discharged through a point source to waters of

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the United States, it is subject to the requirements of sections 301, 304, and 402 of the Clean Water Act, as amended. If discharged to a Publicly Owned Treatment Works (POTW), it is subject to the requirements of section 307 of the Clean Water Act, as amended. If the collected material is released to the environment, it may be subject to the reporting requirements of 40 CFR part 302.]

(d) Secondary containment for tanks must include one or more of the following devices:

- (1) A liner (external to the tank);
- (2) A vault;
- (3) A double-walled tank; or
- (4) An equivalent device as approved by the Regional Administrator.

(e) In addition to the requirements of paragraphs (b), (c), and (d) of this section, secondary containment systems must satisfy the following requirements:

(1) External liner systems must be:

(i) Designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;

(ii) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event.

(iii) Free of cracks or gaps; and

(iv) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the waste).

(2) Vault systems must be:

(i) Designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;

(ii) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

(iii) Constructed with chemical-resistant water stops in place at all joints (if any);

(iv) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

(v) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

(A) Meets the definition of ignitable waste under § 261.21 of this chapter; or

(B) Meets the definition of reactive waste under § 261.23 of this chapter, and may form an ignitable or explosive vapor; and

(vi) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(3) Double-walled tanks must be:

(i) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;

(ii) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

(iii) Provided with a built-in continuous leak detection system capable of detecting a release within 24 hours, or at the earliest practicable time, if the owner or operator can demonstrate to the Regional Administrator, and the Regional Administrator concludes, that the existing detection technology or site conditions would not allow detection of a release within 24 hours.

[NOTE: The provisions outlined in the Steel Tank Institute's (STI) "Standard for Dual Wall Underground Steel Storage Tanks" may be used as guidelines for aspects of the design of underground steel double-walled tanks.]

(f) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of paragraphs (b) and (c) of this section except for:

(1) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

(2) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;

(3) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

(4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices) that are visually inspected for leaks on a daily basis.

(g) The owner or operator may obtain a variance from the requirements of this section if the Regional Administrator finds, as a result of a demonstration by the owner or operator that alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous waste or hazardous constituents into the ground water; or surface water at least as effectively as secondary containment during the active life of the tank system *or* that in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not, per a demonstration in accordance with paragraph (g)(2) of this section, be exempted from the secondary containment requirements of this section.

(1) In deciding whether to grant a variance based on a demonstration of equivalent protection of ground water and surface water, the Regional Administrator will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the thickness of soils present between the tank system and ground water; and

(iv) All other factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to ground water or surface water.

(2) In deciding whether to grant a variance based on a demonstration of no substantial present or potential hazard, the Regional Administrator will consider:

(i) The potential adverse effects on ground water, surface water, and land quality taking into account:

(A) The physical and chemical characteristics of the waste in the tank system, including its potential for migration,

(B) The hydrogeological characteristics of the facility and surrounding land,

(C) The potential for health risks caused by human exposure to waste constituents,

(D) The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents, and

(E) The persistence and permanence of the potential adverse effects;

(ii) The potential adverse effects of a release on ground-water quality, taking into account:

(A) The quantity and quality of ground water and the direction of ground-water flow,

(B) The proximity and withdrawal rates of ground-water users,

(C) The current and future uses of ground water in the area, and

(D) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality;

(iii) The potential adverse effects of a release on surface water quality, taking into account:

(A) The quantity and quality of ground water and the direction of ground-water flow,

(B) The patterns of rainfall in the region,

(C) The proximity of the tank system to surface waters,

(D) The current and future uses of surface waters in the area and any water quality standards established for those surface waters, and

(E) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality; and

(iv) The potential adverse effects of a release on the land surrounding the tank system, taking into account:

(A) The patterns of rainfall in the region, and

(B) The current and future uses of the surrounding land.

(3) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of paragraph (g)(1) of this section, at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

(i) Comply with the requirements of § 264.196, except paragraph (d), and

(ii) Decontaminate or remove contaminated soil to the extent necessary to:

(A) Enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and

(B) Prevent the migration of hazardous waste or hazardous constituents to ground water or surface water; and

(iii) If contaminated soil cannot be removed or decontaminated in accordance with paragraph (g)(3)(ii) of this section, comply with the requirement of § 264.197(b).

(4) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of paragraph (g)(1) of this section, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

(i) Comply with the requirements of § 264.196 (a), (b), (c), and (d); and

(ii) Prevent the migration of hazardous waste or hazardous constituents to ground water or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if ground water has been contaminated, the owner or operator must comply with the requirements of § 264.197(b); and

(iii) If repairing, replacing, or re-installing the tank system, provide secondary containment in accordance with the requirements of paragraphs (a) through (f) of this section or re-apply for a variance from secondary containment and meet the requirements for new tank systems in § 264.192

if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and ground water or surface water has not been contaminated.

(h) The following procedures must be followed in order to request a variance from secondary containment:

(1) The Regional Administrator must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in paragraph (g) of this section according to the following schedule:

(i) For existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with paragraph (a) of this section.

(ii) For new tank systems, at least 30 days prior to entering into a contract for installation.

(2) As part of the notification, the owner or operator must also submit to the Regional Administrator a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in paragraph (g)(1) or paragraph (g)(2) of this section;

(3) The demonstration for a variance must be completed within 180 days after notifying the Regional Administrator of an intent to conduct the demonstration; and

(4) If a variance is granted under this paragraph, the Regional Administrator will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the variance.

(i) All tank systems, until such time as secondary containment that meets the requirements of this section is provided, must comply with the following:

(1) For non-enterable underground tanks, a leak test that meets the requirements of § 264.191(b)(5) or other tank integrity method, as approved or required by the Regional Administrator, must be conducted at least annually.

(2) For other than non-enterable underground tanks, the owner or operator must either conduct a leak test as in

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paragraph (i)(1) of this section or develop a schedule and procedure for an assessment of the overall condition of the tank system by a qualified Professional Engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection, and the characteristics of the waste being stored or treated.

(3) For ancillary equipment, a leak test or other integrity assessment as approved by the Regional Administrator must be conducted at least annually.

[NOTE: The practices described in the American Petroleum Institute (API) Publication Guide for Inspection of Refinery Equipment, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used, where applicable, as guidelines for assessing the overall condition of the tank system.]

(4) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with paragraphs (i)(1) through (i)(3) of this section.

(5) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in paragraphs (i)(1) through (i)(3) of this section, the owner or operator must comply with the requirements of §264.196.

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### §264.194 General operating requirements.

(a) Hazardous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.

(b) The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include at a minimum:

(1) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(2) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and

(3) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(c) The owner or operator must comply with the requirements of §264.196 if a leak or spill occurs in the tank system.

### §264.195 Inspections.

(a) The owner or operator must develop and follow a schedule and procedure for inspecting overfill controls.

(b) The owner or operator must inspect at least once each operating day data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.

[NOTE: Section 264.15(c) requires the owner or operator to remedy any deterioration or malfunction he finds. Section 264.196 requires the owner or operator to notify the Regional Administrator within 24 hours of confirming a leak. Also, 40 CFR part 302 may require the owner or operator to notify the National Response Center of a release.]

(c) In addition, except as noted under paragraph (d) of this section, the owner or operator must inspect at least once each operating day:

(1) Above ground portions of the tank system, if any, to detect corrosion or releases of waste.

(2) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

(d) Owners or operators of tank systems that either use leak detection systems to alert facility personnel to