

9484.1987(09)

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

JULY 87

3. Retrofitting for Permitted Surface Impoundments

Section 3005(j) of the Resource Conservation and Recovery Act (RCRA) requires owner/operators of interim status surface impoundments to retrofit the impoundments to meet the minimum technological requirements of RCRA Section 3004(O)(1)(A) by November 8, 1988. Minimum technological requirements include installation of double liners and a leachate collection system between the liners. The alternative to retrofitting, aside from receiving a variance under RCRA Section 3005(j)(5) or (j)(13), is to stop receiving, storing, or treating hazardous waste in the impoundment by November 8, 1988.

Once the facility receives a permit, it becomes subject to the standards under 40 CFR Part 264. 40 CFR 264.221(a) requires permitted surface impoundments to have single liners that are designed to prevent migration of wastes out of the impoundment to adjacent subsurface soil or ground water or surface water at any time during the active life of the impoundment.

The minimum technological requirements for permitted facilities apply to new units, lateral expansions and replacements of existing units, but not existing units (see 40 CFR 264.221(c)).

If a surface impoundment that was previously subject to RCRA Section 3005(j) receives a permit before November 8, 1988, does it escape the double liner/leachate collection system retrofitting requirements?

No, the surface impoundment is still subject to the retrofitting requirements of RCRA Section 3005(j). Receiving a permit by November 8, 1988 is not the factor that determines the impoundment's eligibility under RCRA Section 3005(j). The surface impoundment is subject to the retrofitting requirement because it was under interim status on the date of enactment of the Hazardous and solid Waste Amendments (HSWA) (November 8, 1984). In addition, RCRA Section 3005(c)(2)(A)(i) requires EPA to issue or deny permits by November 8, 1988 for all land disposal units that were under interim status on November 8, 1984. In order to be effective, RCRA Section 3005(j) would have to apply to impoundments that receive permits by November 8, 1988 anyway, since EPA must grant or deny permits by November 8, 1988 for all surface impoundments that were under interim status on the date of enactment of HSWA.

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